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Office of Research and Drafting

Legislative Budget Office

H.B. 166
133rd General Assembly

Bill Analysis

Click here for H.B. 166's Fiscal Analysis

Version: As Passed by the Senate

Primary Sponsor: Rep. Oelslager

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SUMMARY

This analysis is arranged by state agency in alphabetical order. Items that do not directly involve an agency are located under the agency that has regulatory authority over the item, or otherwise deals with the subject matter of the item.

The analysis includes four special chapters for bill provisions that impact multiple agencies or local governments, as follows:

1. H2Ohio Fund, starting on page 190;

2. Temporary Occupational License for Military Member or Spouse, starting on page 408;

3. Local Government, starting on page 414;

4. Miscellaneous, starting on page 424.

The analysis concludes with a note on effective dates, expiration, and other administrative matters.

Within each agency and category, a summary of the items appears first (in the form of dot points) followed by a discussion of their content and operation.

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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,[1] 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;

[1] 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.[2]

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.[3]

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.[4] 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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[2] Sections 207.40 and 809.10 of H.B. 49 of the 132nd General Assembly, not in the bill.

[3] R.C. 125.84 and 125.87, not in the bill.

[4] 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.[5]

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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[5] 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.[6] 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.[7]

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.[8] 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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[6] R.C. 128.02(C), not in the bill.

[7] R.C. 128.01(P), not in the bill.

[8] 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.[9]

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.[10] (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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[9] *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.

[10] "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.[11] 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).[12])

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.[13]

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.[14] 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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[11] 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.

[12] 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.

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

[14] 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.

ADJUTANT GENERAL

Ohio Cyber Reserve

- Requires the Governor to organize and maintain state civilian cyber security reserve forces, to be known as the Ohio Cyber Reserve, to protect government, critical infrastructure, businesses, and citizens from cyber attacks.
- Makes the Reserve part of, and Reserve members civilian volunteers for, the Ohio organized militia under the Adjutant General's department.
- Permits the Reserve to become a civilian component of the Ohio National Guard, but does not authorize the Reserve to be called into national military service.
- Prescribes eligibility requirements for Reserve members.
- Treats Reserve members on state active duty similarly to other members of the Ohio organized militia.
- Requires the Adjutant General to establish Reserve members' rates of pay in state active duty and requires Reserve members to serve in unpaid volunteer status while training.
- Specifies procedures for the Governor to remove Reserve members.
- Allows the Governor to adopt rules governing the Reserve, and requires a copy of the rules to be publicly available in the Adjutant General's office.
- Permits the Governor, for Reserve use, to requisition equipment from the U.S. Department of Defense and make available state armory facilities, equipment, and other premises and property.
- Specifies that members of the Reserve are entitled to the same liability protections as members of the Ohio organized militia.

Eligibility for Ohio organized and unorganized militias

- Allows a person who is permanently handicapped or who is not between the ages of 17 and 67 to serve in the Ohio organized militia if the person meets the eligibility requirements for the particular branch in which the person serves.
- Permits the Adjutant General to excuse a person from duty in the organized or unorganized militia if the person is unable to serve because of a disability.

Ohio National Guard scholarship program

- Removes the exemption for repayment liability of an Ohio National Guard scholarship recipient who fails to complete the term of enlistment due to the recipient's enlistment, warrant, commission, or appointment to the National Guard or an active duty component of the U.S. armed forces.
- Exempts from repayment liability a scholarship recipient who became liable due to enlistment, warrant, commission, or appointment to the National Guard, an active duty

component of the U.S. armed forces, or other service or component of the U.S. armed forces between April 1, 2012, and the provision's effective date.

- Removes outdated language that required the state to return, not later than April 6, 2018, payments already made by scholarship recipients no longer liable for repayments that occurred on or before September 30, 2016.

Ohio Cyber Reserve

(R.C. 5922.01, 5922.02, 5922.03, 5922.04, 5922.05, 5922.06, 5922.07, 5922.08, 5923.01, 5923.03, 5923.12, 5923.37, and 5924.01)

Generally

The bill requires the Governor to organize and maintain Ohio civilian cyber security reserve forces, to be known as the Ohio Cyber Reserve. The Reserve must be able to be expanded and trained to educate and protect state, county, and local government entities; critical infrastructure, including election systems; businesses; and Ohio citizens from cyber attacks. The Governor must expand the Reserve as needed in the case of an emergency proclaimed by the Governor or caused by illicit actors or imminent danger.

Under the bill, the Reserve is to be part of the Ohio organized militia under the Adjutant General's department. Under current law, the Ohio organized militia generally consists of the Ohio National Guard, the Ohio Naval Militia, and the Ohio Military Reserve. Members of the Ohio Cyber Reserve are to be civilian volunteers of the Ohio organized militia. The bill permits the Ohio Cyber Reserve to become a civilian component of the Ohio National Guard, but it does not authorize the Ohio Cyber Reserve to be called or ordered into the military service of the United States.

Membership

Admittance

The bill requires a member of the Ohio Cyber Reserve to be a U.S. national or a lawful permanent resident, and prohibits any person who has been expelled or dishonorably discharged from the armed forces from being accepted into the Reserve. Applicants are subject to an appropriate background check, in accordance with rules adopted by the Governor and Adjutant General, before admittance into the Reserve.

The bill also specifies that no person may be disqualified from acceptance into the Ohio Cyber Reserve on the basis that the person is a state or local government employee or an employee or proprietor of a private entity that conducts business with Ohio or a political subdivision.

State active duty

Under the bill, the Governor, as Commander-in-Chief of the Ohio organized militia, may order individuals or units of the Ohio Cyber Reserve to state active duty to protect state, county, and local government entities and critical infrastructure, including election systems, or

for training as the Governor determines necessary. Upon the request of a business or citizen, the Governor also may order individuals or units of the Ohio Cyber Reserve to state active duty to protect that business or citizen.

Under state active duty, Reserve members function as civilian members of the Ohio organized militia and have the protections afforded by the federal "Servicemembers Civil Relief Act" and the federal "Uniformed Services Employment and Reemployment Rights Act." The bill requires that whenever the Reserve, or any part thereof, is ordered out for active service, the Ohio Code of Military Justice is in full force with respect to those forces.

Rates of pay

The bill requires the Adjutant General to establish the rates of pay for members of the Ohio Cyber Reserve while on state active duty by rule and allows the Adjutant General to revise those rates in the same manner as pay rates for other members of the Ohio organized militia. The pay rates must be commensurate with those specified in pay schedules established by the Director of Administrative Services for state information technology employees who have comparable training, experience, and professional qualifications. While performing any drill or training, members of the Ohio Cyber Reserve must serve in an unpaid volunteer status.

Removal or resignation

The Governor may accept the resignation of any member of the Ohio Cyber Reserve at any time. Additionally, members serve at the pleasure of the Governor and may be removed from the Reserve in accordance with rules adopted by the Governor. The Governor may require reimbursement for training, equipment, and uniforms if a member does not serve the full term of the membership agreement and the inability to serve out the term was not due to disability or a similar disabling medical condition.

Adoption of rules

The bill permits the Governor to adopt rules consistent with the bill's provisions governing the Reserve's membership, organization, administration, equipment, and maintenance. A copy of the rules must be available to the public in the Adjutant General's office.

Equipment requisition

Under the bill, the Governor may requisition equipment from the U.S. Department of Defense for Reserve use. Additionally, the Governor may make available for Reserve use state armory facilities, equipment, and other state premises and property.

Liability protection

The bill specifies that members of the Ohio Cyber Reserve are not liable for any negligent acts performed within the scope of their duties. Under continuing law, members of the Ohio organized militia are entitled to the same liability protection.

Eligibility for Ohio organized and unorganized militias

(R.C. 5923.01 and 5923.02)

The bill allows a person who is permanently handicapped or who is not between the ages of 17 and 67 to serve in the Ohio organized militia (the Ohio National Guard, the Ohio Naval Militia, the Ohio Military Reserve, or the Ohio Cyber Reserve) if the person meets the eligibility requirements for the particular branch in which the person serves. Eligibility to serve in those branches is determined under Ohio laws and administrative rules, which the bill does not change, and under U.S. military regulations. As a result, for example, the bill allows the Governor to adopt rules permitting persons with disabilities or persons older than 67 to serve in the Ohio Cyber Reserve.

Existing law automatically excludes from service in the organized or unorganized militia any person who is permanently handicapped, as defined in the Civil Rights Law, and any person who is not between the ages of 17 and 67. (The Civil Rights Law no longer defines or uses the term "permanently handicapped.") Instead, the bill permits the Adjutant General to excuse a person from duty in the organized or unorganized militia if the person is unable to serve because of a disability, as that term is defined in the Civil Rights Law. And, a person who is not between the ages of 17 and 67 is automatically excluded from service only in the unorganized militia.

Under continuing law, the unorganized militia consists of all citizens who are not members of the organized militia, are between the ages of 17 and 67, and are not exempt from service on the basis of the person's office or employment, being a conscientious objector, or having a disability. The Governor may call the unorganized militia to state active duty to perform the same functions as the organized militia, provided that the Governor must call the organized militia to duty first.

Ohio National Guard scholarship program

(R.C. 5919.34; Sections 603.01 and 603.02)

The bill removes the exemption for repayment liability of an Ohio National Guard scholarship recipient who fails to complete the term of enlistment due to the recipient's enlistment, warrant, commission, or appointment to the National Guard or an active duty component of the U.S. armed forces.

The bill exempts from repayment liability a scholarship recipient who became liable for repayment due to enlistment, warrant, commission, or appointment to the National Guard, an active duty component of the U.S. armed forces, or other service or component of the U.S. armed forces between April 1, 2012, and the provision's effective date.

Additionally, the bill removes outdated language that required Ohio to return, not later than April 6, 2018, payments already made by scholarship recipients no longer liable for repayments that occurred on or before September 30, 2016.

The Ohio National Guard scholarship program provides eligible Ohio National Guard members with tuition scholarships for colleges and universities in Ohio.

DEPARTMENT OF AGING

Background checks

- Requires the Director of Aging or other hiring entity to request a criminal records check before (rather than up to five days after) conditionally employing a person in certain positions involving community-based long-term care or ombudsman services.
- Requires the Department of Aging's procedures to be used for conducting criminal records checks when considering applicants for certain direct-care positions, even if a community-based long-term care provider is also a service provider under a Department of Medicaid-administered program for home and community-based care.

Dementia training materials and program support

- Expands to include other types of dementia (rather than only Alzheimer's disease) that must be covered in Department of Aging training materials and respite care programs funded by the Department.

Notice of certification or discipline decisions

- Requires the Department of Aging to notify a provider of community-based long-term care services of a decision that was reached without a hearing (1) not to certify the provider or (2) to take disciplinary action.

Exception to hearing regarding certification

- Exempts from hearing requirements certain Department of Aging actions regarding the certification of a community-based long-term care provider if the provider's Medicaid provider agreement has been suspended.

Assisted Living and PASSPORT payment rates

- Requires that the rates for each tier of assisted living services provided under the Assisted Living Program during FY 2020 and FY 2021 be at least 5.1% higher than the rates in effect on June 30, 2019.
- Requires that the base and unit rates for home care attendant, personal care, and waiver nursing services provided under the PASSPORT program during FY 2020 and FY 2021 be at least 5.1% higher than the rates in effect on June 30, 2019.
- Establishes the payment rates for home-delivered meals provided under the PASSPORT program during FYs 2020 and 2021.

Background checks

(R.C. 173.27 and 173.38)

Conditional employment

The bill requires the Director of Aging or other hiring entity to request a criminal records check before conditionally employing a person in (1) a community-based long-term care position involving direct-care services for consumers or (2) a state or regional long-term care ombudsman position. Under conditional employment, an applicant may begin employment even though the results of a criminal records check have not yet been received. Current law allows the criminal records check to be requested up to five business days after conditional employment begins.

Procedures for conducting checks

(R.C. 173.38 and 5164.342)

The bill eliminates the option of using the Department of Medicaid's criminal records checks procedures (in lieu of the Department of Aging's procedures) for direct-care positions under a Department of Aging-administered program, such as PASSPORT, when the hiring entity for the program is also a provider of home and community-based services under a Department of Medicaid-administered waiver program. However, the bill retains the authority of hiring entities under a Medicaid-administered waiver program to use the Department of Aging's procedures. The Department of Aging's procedures require investigation of whether a person has been found eligible for intervention in lieu of conviction; the Department of Medicaid's procedures do not.

Dementia training materials and program support

(R.C. 173.04)

Current law requires the Department of Aging to disseminate on its website training materials for licensed health care and social service personnel who provide care for persons who have Alzheimer's disease. To the extent that funds are available, the Department also must administer respite care programs for persons with Alzheimer's disease to provide short-term, temporary care for the person in the absence of the person's regular caregiver. The bill expands these topics and programs to include dementia generally (rather than only Alzheimer's disease).

Notice of certification or discipline decisions

(R.C. 173.391)

Except in certain specified circumstances, current law requires the Department of Aging to hold a hearing where there is a dispute regarding (1) a decision not to certify a provider of community-based long-term care services or (2) a disciplinary action taken against a provider. In cases where a hearing is not required, the bill requires the Department to notify the provider of the decision not to certify or the disciplinary action the Department is taking. Under current law, notifying the provider is permissive rather than mandatory.

Exception to hearing regarding certification

(R.C. 173.391)

Under current law, the Department of Aging is not required to hold a hearing when there is a dispute between the Department and a provider of community-based long-term care services regarding the Department's decision not to certify the provider or to take disciplinary action against the provider if the provider's Medicaid provider agreement has been (1) suspended because of a disqualifying indictment or (2) denied or revoked because the provider or its owner, officer, authorized agent, associate, manager, or employee has been convicted of an offense that caused the provider agreement to be suspended because of a disqualifying indictment. The bill provides that the hearing is not required regardless of whether the provider agreement was suspended because of a disqualifying indictment or a credible allegation of fraud. (See "**Suspension of provider agreements and payments**" in the Department of Medicaid's section of this analysis below.)

Assisted Living and PASSPORT payment rates

(Sections 209.40, 209.50, and 209.60)

The bill requires that the payment rates for each tier of assisted living services provided under the Medicaid-funded and state-funded components of the Assisted Living Program during FY 2020 and FY 2021 be at least 5.1% higher than the rates for the services in effect on June 30, 2019.

The bill also requires that the base and unit payment rates for home care attendant, personal care, and waiver nursing services provided under the Medicaid-funded and state-funded components of the PASSPORT program during FY 2020 and FY 2021 be at least 5.1% higher than the rates for the services in effect on June 30, 2019.

The bill sets the payment rates for home-delivered meals provided under the PASSPORT program during FYs 2020 and 2021 at the following amounts:

- For each meal delivered daily on a per-meal delivery basis by a volunteer or employee of the provider, $7.19;
- For each meal delivered in a chilled or frozen format on a weekly delivery basis by a volunteer or employee of the provider, $6.99;
- For each meal delivered in a chilled or frozen format on a weekly basis by a common carrier used by the provider, $6.50.

DEPARTMENT OF AGRICULTURE

Amusement rides

- Increases by $75 the permit fee for an amusement ride (from $150 to $225).
- Increases by 4% the annual inspection and reinspection fee per ride for kiddie rides (from $100 to $104), roller coasters (from $1,200 to $1,248, aerial lifts or bungee jumping facilities (from $450 to $468), and other rides (from $160 to $166).
- Increases from $105 to $109 the maximum amount of the fee for the inspection and reinspection of inflatable rides that the Director of Agriculture may establish by rule.
- Requires the existing Advisory Council on Amusement Ride Safety, prior to submitting findings or recommendations to the Director, to vote on whether to submit the findings or recommendations.
- Specifies that the Advisory Council may submit only those findings or recommendations that receive a majority vote.
- Requires the Director, by November 1, 2019, and annually thereafter, to submit a detailed financial report to the Speaker of the House and the Senate President regarding the amusement ride safety program.

Qualifications for pet stores

- Revises which retail stores qualify as a pet store by doing both of the following:

  --As one of the qualifications, specifies that a store must sell 40 or more puppies or adult dogs in any calendar year to the public; and

  --Clarifies that a pet store is not a high volume dog breeder or any other dog breeder that maintains and sells dogs from the same premises where the dogs are bred and reared.
- Authorizes the Director to reimburse the license application fee paid by a person for a pet store license if the person both:

  --Holds a valid pet store license on the bill's effective date; and

  --No longer qualifies as an owner or operator of a pet store as a result of the above changes.

High-volume dog breeder – standards of care

- Revises certain standards of care for dogs that are maintained by a high-volume dog breeder, including:

  --Regarding the primary enclosure requirements for housing a dog that are to take effect December 31, 2021, clarifies that a dog includes a puppy that is 12 weeks or older or an adult dog; and

--Regarding the flooring requirements for a dog enclosure that are to take effect December 31, 2021, requires coated metal wire that is used for flooring to measure six gauge or thicker.

Defense for nuisances

- Expands the defense in civil actions for nuisances involving agricultural activities to include:

  --Agricultural activities that are conducted on land devoted exclusively to agriculture that is taxed in accordance with the land's current agricultural use value; and

  --Agricultural activities conducted by a person pursuant to a lease agreement, written or otherwise.

Voluntary nutrient management plans – soil test results

- Increases from three years to four years the amount of time that soil test results are valid for purposes of inclusion in a voluntary nutrient management plan approved by the Director.

Statewide Watershed Planning and Management Program

- Creates the Statewide Watershed Planning and Management Program for the improvement and protection of Ohio's watersheds to be administered by the Director of Agriculture.
- Requires the Director to appoint at least one watershed planning and management coordinator in each watershed region categorized under the bill.
- Requires each coordinator to perform certain duties in the watershed, including assisting each soil and water conservation district to identify sources and areas of water quality impairment.
- Requires the Director, in conjunction with soil and water conservation districts, to collect and aggregate information on conservation practices utilized in Ohio that are funded by public money.
- Requires the Director to assist soil and water conservation districts in watershed planning and management.
- Requires a soil and water conservation district board to consult and work with the coordinator appointed to the watershed region in which the soil and water conservation district is located.

Intent statement

- States that it is the General Assembly's intent to collaborate with organizations representing agriculture, conservation, the environment, and higher education to establish a certification program for farmers that utilize practices designed to minimize impacts to water quality.

Watershed pilot program

- Requires the Department of Agriculture, in consultation with the Lake Erie Commission and the Ohio Soil and Water Conservation Commission, to establish a pilot program that assists farmers, agricultural retailers, and soil and water conservation districts in reducing phosphorus in a watershed to be determined by the Department.
- Requires the funding to be used to support specified purposes, including equipment for subsurface placement of nutrients into the soil and equipment for nutrient placement based on geographic information system data.

Urban sediment and storm water runoff pollution

- Revises the law governing soil and water conservation districts and urban sediment and storm water runoff pollution, including:

  --Requiring the Director to support development and implementation of cooperative programs and working agreements between districts and the Department of Natural Resources and Ohio EPA;

  --Expanding the contracting authority of a soil and water conservation district by allowing contracts or agreements to address storm water runoff pollution, instead of only urban sediment pollution as in current law;

  --Regarding recommendations made by the Ohio Soil and Water Conservation Commission to specified persons or entities, clarifying that the recommendations are to encourage proper soil, water, and other natural resource management *for farm, rural, suburban, and urban land.*

Tree syrup exemption

- Exempts a processor of any kind of tree syrup, rather than only maple syrup as in current law, from specified laws governing retail food establishments and food processing establishments.

Small wineries exemption

- Exempts small wineries (A-2 or A-2f liquor permit holders) from retail food establishment licensure requirements if both:

  --The winery serves commercially prepackaged food and sales of that food do not exceed more than 5% of the total gross receipts of the establishment; and

  --The winery annually produces 10,000 gallons or less of wine.

- Requires the owner or operator of the winery to both:

  --Notify the Director that it is exempt from licensure because it qualifies under the above conditions; and

  --Disclose to customers that the winery is exempt from licensure.

Wine tax diversion to Ohio Grape Industries Fund

- Extends through June 30, 2021, the extra 2¢ per-gallon earmark of wine tax revenue that is credited to the Ohio Grape Industries Fund.

Promotion of Ohio agricultural goods in alcohol

- Authorizes the Department of Agriculture to promote the use of Ohio-produced agricultural goods grown for inclusion in beer, cider, or spirituous liquor through voluntary promotional programs.

Agricultural Society Facilities Grant Program

- Creates the Agricultural Society Facilities Grant Program to provide grants in FY 2020 to county and independent agricultural societies to support capital projects that enhance the use and enjoyment of agricultural society facilities.
- Generally requires each agricultural society that applies for assistance to receive an equal amount appropriated for those purposes.
- Requires the Director of Agriculture or the Director's designee to establish requirements and procedures for the Program, including procedures for reviewing applications and awarding grants.
- Requires each agricultural society to provide a matching grant.
- Requires the Director or designee, after reviewing a grant application and matching grant documentation, to approve the application unless:

  --The project or facility is not a bondable capital improvement project; or

  --The agricultural society does not provide a matching grant.

Ohio Expositions Commission

- Adds the Ohio State University's Dean of the College of Food, Agricultural, and Environmental Sciences as a member of the existing Ohio Expositions Commission.

Amusement rides

Permit and inspection fees

(R.C. 1711.53)

The bill:

- Increases by $75 the permit fee for an amusement ride (from $150 to $225);
- Increases from $105 to $109 the maximum amount of the fee for inspection and reinspection of inflatable rides that the Director of Agriculture may establish by rule; and

- Increases by 4% the annual inspection and re-inspection fee per ride as follows:

Type of ride	Fee amount under current law	Fee amount under the bill
Kiddie ride	$100	$104
Roller coaster	$1,200	$1,248
Aerial lift or bungee jumping facility	$450	$468
Other rides	$160	$166

Advisory Council

(R.C. 1711.52)

Currently, the Advisory Council on Amusement Ride Safety must study any subject pertaining to amusement ride safety, including administrative, engineering, and technical subjects, and make findings and recommendations to the Director. Additionally, prior to the Director adopting or amending any rules regarding amusement ride safety, the Advisory Council must study the proposed rules, advise the Director, and make findings and recommendations to the Director.

The bill requires the Advisory Council to vote on whether to submit findings or recommendations to the Director. The Advisory Council may submit only those findings or recommendations that receive a majority vote.

Safety program financial report

(R.C. 1711.532)

The bill requires the Director, by November 1, 2019, and annually thereafter, to submit a detailed financial report to the Speaker of the House and the Senate President that includes:

- The revenue collected from fees for amusement ride permits, inspections, and reinspections and any other revenue collected for the Department of Agriculture's amusement ride safety program applicable to the 12 months preceding the report's submission;
- Expenses relating to the Department's amusement ride safety program in the 12 months preceding the report's submission;
- Any proposed changes to the amusement ride fee schedule (including annual permit fees, inspection fees, and reinspection fees) that the Director determines is necessary for issuing permits and conducting amusement ride inspections and reinspections;
- The amount expended from any appropriation made for the Department's amusement ride safety program applicable to the 12 months preceding the report's submission;

- Any additional revenue that the Director determines is necessary to meet the expenses of the amusement ride safety program during the 12 months immediately following the submission of the report; and
- Any other information that the Director determines is necessary to include in the report.

Qualifications for pet stores

(R.C. 956.01, 956.051, and 956.20; Section 709.10)

The bill revises which retail stores qualify as a pet store by both:

- Specifying, as one of the qualifications, specifies that a store must sell 40 or more puppies or adult dogs in any calendar year to the public. Current law simply specifies that the store sells dogs to the public.
- Clarifying that a pet store is not a high volume dog breeder or any other dog breeder that maintains and sells dogs from the same premises where the dogs are bred and reared.

The bill also authorizes the Director to reimburse the license application fee paid by a person for a pet store license if both of the following apply:

- The person holds a valid pet store license on the bill's effective date; and
- The person no longer qualifies as an owner or operator of a pet store as a result of the above changes.

High-volume dog breeders – standards of care

(R.C. 956.031)

The bill revises the standards of care for dogs that are maintained by a high-volume dog breeder (breeder) as follows:

- Regarding the primary enclosure requirements for housing a dog that are to take effect December 31, 2021, clarifies that a dog includes a puppy that is 12 weeks or older or an adult dog. An adult dog is a dog that is 12 months or older.
- Regarding the flooring requirements for a dog enclosure that are to take effect December 31, 2021, requires any coated metal wire that is used for flooring to measure six gauge or thicker. Current law does not address the diameter of the wire.
- Regarding the requirement that a dog be provided with an opportunity for daily exercise of at least 30 minutes, excludes an expectant female dog beginning 52 days after the first breeding date until the dog gives birth. Current law exempts expectant female dogs, but does not qualify the exclusion with a beginning and ending date.
- Regarding the requirement that a dog be provided an opportunity to safely access the outdoors during daylight hours, excludes an expectant female dog beginning 52 days after the first breeding date and until the dog gives birth, a female dog that is nursing, or a puppy that is younger than 12 weeks.

Defense for nuisances

(R.C. 929.04)

The bill does the following regarding the complete defense in civil actions for nuisances involving agricultural activities:

- Expands the defense to include both of the following:

--Agricultural activities that are conducted on land devoted exclusively to agriculture that is taxed in accordance with the land's current agricultural use value (current law allows the defense to be claimed only with regard to agricultural activities conducted within an agricultural district); and

--Agricultural activities conducted by a person pursuant to a lease agreement, written or otherwise.

- Eliminates the specification that the plaintiff in a nuisance action not be engaged in agricultural production; and
- Defines "agricultural activities" to mean common agricultural practices, including crop cultivation and raising livestock. Current law does not define "agricultural activities."

Voluntary nutrient management plans – soil test results

(R.C. 905.31)

The bill increases from three years to four years the time that soil test results are valid for inclusion in a voluntary nutrient management plan approved by the Director. Current law authorizes a person who owns or operates agricultural land to operate under a voluntary nutrient management plan, which is a plan for the application of commercial fertilizer on land. Operating in accordance with a plan provides the person applying fertilizer with an affirmative defense in a private civil action for damages caused by the application of fertilizer.

Statewide Watershed Planning and Management Program

(R.C. 939.02, 940.06, and 940.36)

Creation

The bill creates the Statewide Watershed Planning and Management Program for the improvement and protection of Ohio's watersheds. The Director of Agriculture is to administer the program.

Watershed planning and management coordinator

Under the program, the Director must appoint at least one watershed planning and management coordinator in each watershed region categorized under the bill (see below) to coordinate watershed planning in the watershed. A coordinator must have experience or education related to water quality improvement or watershed planning and management.

A watershed planning and management coordinator must do all of the following in the watershed region in which the coordinator is appointed:

1. Assist each soil and water conservation district in identifying sources and areas of water quality impairment, including total phosphorous, dissolved reactive phosphorous, and nitrogen nutrient loading. A coordinator also may assist any political subdivision of the state or organization engaged in water quality improvement activities (hereafter organization) in the watershed region to address water quality impairment.

2. Assist each soil and water conservation district in collecting data for the purpose of quantifying water quality and nutrient best management practices in a statistically valid, randomized manner. The Director must use the data to establish a baseline of the nutrient best management practices that are being utilized in Ohio. The data and any associated records are not public records subject to disclosure under the Public Records Law.

The Director must undertake all actions necessary to ensure that assistance and available funding are provided for purposes of the assistance in collecting data and establishing a baseline described above.

3. Engage in watershed planning, restoration, protection, and management activities, including assisting a political subdivision or organization in the watershed region in developing and formulating a nine-element plan or its equivalent. A nine-element plan generally means a strategic implementation plan that a political subdivision, organization, or individual engaged in water quality improvements may utilize to obtain federal funding for projects that address nonpoint source pollution (pollution from an undefined source, such as runoff from streets and highways).

4. Collaborate with state agencies engaged in water quality activities; and

5. Provide an annual report to the Director about water quality.

The bill states that nothing in it can be construed to prevent or limit a watershed planning and management coordinator from providing assistance for projects or activities that have been determined to improve water quality impaired from point sources of phosphorus, dissolved reactive phosphorus, and nitrogen nutrients.

Watershed regions

The Director must categorize watersheds in Ohio, identified by the specified U.S. Geological Survey six-digit hydrologic unit codes, into the following watershed regions:

Watershed region	Watersheds included in the region
Region 1	Western Lake Erie Basin Watershed, hydrologic unit code 041000.
Region 2	1. Central Lake Erie Basin Watershed, hydrologic unit code 041100; and 2. Conneaut Creek Watershed, hydrologic unit code 041201.
Region 3	1. Wabash River Basin Watershed, hydrologic unit code 051200; 2. Great Miami River Watershed, hydrologic unit code 050800; and 3. Little Miami River Watershed, hydrologic unit code 050902.

Watershed region	Watersheds included in the region
Region 4	Scioto River Watershed, hydrologic unit code 050600.
Region 5	Muskingum River Watershed, hydrologic unit code 050400.
Region 6	Mahoning River Watershed, hydrologic unit code 050301.
Region 7	1. Hocking River and Ohio River Tributaries Watershed, hydrologic unit code 050302; and 2. Raccoon Creek Watershed, hydrologic unit code 050901.

Data collection

As part of the Statewide Watershed Planning and Management Program, the Director, in conjunction with soil and water conservation districts, must collect and aggregate information on conservation practices utilized in Ohio that are funded by public money. The information collected and aggregated is not a public record subject to disclosure under the Public Records Law. However, the Director may share the information with state agencies and state institutions of higher education.

Duties: Director of Agriculture and district boards

The bill assigns additional duties to the Director and boards of supervisors of soil and water conservation districts. Under the Director's current duties regarding soil and water conservation districts, the Director must assist in expediting state responsibilities for watershed development and other natural resource conservation works of improvement. The bill does both of the following: (1) modifies the above duty by requiring the Director to assist in expediting state responsibilities for other soil and water conservation works of improvement, rather than natural resource conservation works of improvement, and (2) requires the Director to assist in watershed planning and management.

The bill also requires a board to consult and work with the watershed planning and management coordinator appointed to the watershed region in which the soil and water conservation district is located.

Intent statement

(R.C. 940.37)

The bill states that it is the General Assembly's intent to collaborate with both of the following to establish a certification program for farmers that utilize practices designed to minimize impacts to water quality:

1. Organizations representing agriculture, conservation, and the environment; and

2. Higher education institutions engaged in water quality research.

The Director must undertake all actions necessary to ensure that assistance and available funding are provided for farmers who participate in the certification program.

Watershed pilot program

(Section 709.21)

The bill requires the Department of Agriculture, in consultation with the Lake Erie Commission and the Ohio Soil and Water Conservation Commission, to establish a pilot program that assists farmers, agricultural retailers, and soil and water conservation districts in reducing phosphorus and dissolved reactive phosphorous in a watershed to be determined by the Department. The Department must fund the program via appropriations in the Department's budget that support water quality initiatives. For the program, funding must be used to support:

1. Equipment for subsurface placement of nutrients into the soil;

2. Equipment for nutrient placement based on geographic information system data;

3. Soil testing;

4. Implementation of variable rate technology;

5. Equipment involved with manure transformation and manure conversion technologies;

6. Tributary monitoring;

7. Water management and edge-of-field drainage management strategies; and

8. Implementation of nutrient best management practices according to data collected by soil and water conservation districts under the bill.

The data and any associated records under the pilot program are not a public record subject to disclosure under the Public Records Law.

Urban sediment and storm water runoff pollution

(R.C. 939.02, 939.04, 940.01, 940.02, 940.06, 1501.20 (repealed), and 6111.03)

The bill does all of the following regarding the law governing soil and water conservation districts and urban sediment and storm water runoff pollution:

- Requires the Director to support the development and implementation of cooperative programs and working agreements between districts and the Departments of Natural Resources and the Ohio EPA. The bill requires the cooperative programs and working agreements to be for the support of farm, rural, suburban, and urban conservation programs. (Current law only requires the Director to coordinate such programs and working agreements between districts and the Department of Agriculture.)

- Allows a board of supervisors of a soil and water conservation district to seek technical guidance and program support from OEPA to address urban sediment and storm water runoff.

- Allows a board of supervisors of a soil and water conservation district to enter into contracts or agreements with OEPA to address storm water runoff pollution (instead of only urban sediment pollution, as in current law).
- Adds that the Director of Environmental Protection may coordinate with a soil and water conservation district board to ensure compliance with rules adopted by the Director that pertain to urban sediment and storm water runoff pollution abatement.
- Adds that a board may enter into contracts or agreements with the Director of Natural Resources for partnership on state programs to assist with local needs relating to the management of wildlife, forestry, waterways, and other natural resources programs.
- Revises the duties of the Ohio Soil and Water Conservation Commission by adding the Directors of Environmental Protection and Natural Resources to the list of people or entities that the Commission must make recommendations to regarding soil and water conservation district operations. The bill specifies that those recommendations must encourage proper soil, water, and other natural resource management *for farm, rural, suburban, and urban land*. Current law does not specify the types of land that the recommendations apply to.
- Eliminates redundant law relating to coordination of the Commission and the Departments of Agriculture and Natural Resources and the Ohio EPA for agricultural and urban sediment pollution.

Tree syrup exemption

(R.C. 3715.021 and 3717.22)

The bill exempts a processor of any kind of tree syrup, rather than only maple syrup as in current law, from:

- The law governing retail food establishments; and
- The Director's rules governing standards and good manufacturing practices for food processing establishments.

Small wineries exemption

(R.C. 3717.22)

The bill exempts small wineries (A-2 or A-2f liquor permit holders) from retail food establishment licensure requirements if both of the following apply:

- The winery serves commercially prepackaged food and sales of that food do not exceed more than 5% of the total gross receipts of the establishment; and
- The winery annually produces 10,000 gallons or less of wine.

The bill also requires the owner or operator of the winery to do both of the following:

- Notify the Director that it is exempt from licensure because it qualifies under the above conditions; and

- Disclose to customers that the winery is exempt from licensure.

Wine tax diversion to Ohio Grape Industries Fund

(R.C. 4301.43)

The bill extends through June 30, 2021, the extra 2¢ per-gallon earmark of wine tax revenue that is credited to the Ohio Grape Industries Fund. Continuing law imposes a tax on the distribution of wine, vermouth, and sparkling and carbonated wine and champagne at rates ranging from 30¢ per gallon to $1.48 per gallon. From the taxes paid, a portion is credited to the fund for the encouragement of the state's grape and wine industry. The remainder is credited to the GRF.

Promotion of Ohio agricultural goods in alcohol

(R.C. 901.172)

The bill authorizes the Department of Agriculture to establish the following programs to promote the use of Ohio-produced agricultural goods grown for inclusion in beer, cider, and spirituous liquor:

- The "Ohio-Proud Craft Beer" program for beer and cider; and
- The "Ohio Proud Craft Spirit" program for spirituous liquor.

The Department's Division of Markets must develop logotypes (similar to the Department's "Ohio Proud" logo for agricultural goods) and issue them to beer, cider, and spirituous liquor producers certified under the programs. The Department must adopt rules establishing reasonable fees and criteria for voluntary participation in the programs. The fees must be credited to the General Revenue Fund and used to finance the programs.[15]

Agricultural Society Facilities Grant Program

(Section 717.11)

The bill creates the Agricultural Society Facilities Grant Program to provide grants in FY 2020 to county and independent agricultural societies to support capital projects that enhance the use and enjoyment of agricultural society facilities by individuals. Agricultural societies may apply to the Director for monetary assistance to acquire, construct, reconstruct, expand, improve, plan, and equip those facilities. Except as discussed below, each agricultural society that applies for assistance must receive an equal amount appropriated for those purposes.

By 90 days after the bill's effective date, the Director or the Director's designee must establish requirements and procedures for the program, including an application form, procedures for reviewing applications and awarding grants, and any other requirements and procedures the Director or designee determines necessary. The program must require that

[15] R.C. 901.172.

each agricultural society provide a matching grant unless the applicant demonstrates that it cannot provide the matching amount. The matching grant may be any combination of funding, materials, and donated labor. Documentation of the matching grant must be submitted with the grant application. An agricultural society must submit the grant application and matching grant documentation by May 30, 2020.

The Director or designee must approve an application unless either of the following applies:

- The project or facility is not a bondable capital improvement project; or
- The agricultural society does not provide a matching grant (unless a demonstration shows that the applicant cannot provide the matching grant).

The Director or designee must award all grants by June 30, 2020, and notify each grant recipient.

Ohio Expositions Commission

(R.C. 991.02)

The bill adds the Ohio State University's Dean of the College of Food, Agricultural, and Environmental Sciences as a member of the existing Ohio Expositions Commission. The Dean must serve on the Commission without compensation. As part of its duties, the Commission is responsible for conducting the Ohio State Fair.

OHIO AIR QUALITY DEVELOPMENT AUTHORITY

- Abolishes the obsolete Advanced Energy Research and Development Fund, which was used to provide grants for advanced energy projects.
- Abolishes the obsolete Advanced Energy Research and Development Taxable Fund, which was used to provide loans for the projects.

Advanced energy projects program funds

(R.C. 166.30, 3706.27, and 3706.30, all repealed, with conforming changes in R.C. 122.075, 166.01, 3706.25, 3706.29, and 4313.02)

The bill abolishes both of the following obsolete funds:

1. The Advanced Energy Research and Development Fund, which was used to provide grants for advanced energy projects. The fund has not had a balance of more than a penny for ten years.

2. The Advanced Energy Research and Development Taxable Fund, which was used to provide loans for these projects. Nearly all of the money in the fund, $7.8 million, was transferred out of the fund in FY 2018.

Because these funds are abolished, the bill also eliminates:

1. The Ohio Air Quality Development Authority's power to issue grants and provide loans for eligible advanced energy projects from the above funds; and

2. The requirement that the Authority conduct minority outreach activities for the eliminated grant and loan program for advanced energy projects.

ATTORNEY GENERAL

Peer-to-peer car sharing

Regulations

- Authorizes personal motor vehicle rentals between vehicle owners and other licensed drivers through a peer-to-peer car sharing program and peer-to-peer car sharing agreements.
- Establishes specific requirements for a peer-to-peer car sharing program, including a requirement that the program collect, verify, and maintain certain records pertaining to the use of each shared vehicle and make certain disclosures to participants.
- Specifies that peer-to-peer car sharing and a peer-to-peer car sharing program agreement are consumer transactions for purposes of the Consumer Sales Practices Law, and authorizes the Attorney General to enforce the requirements related to peer-to-peer car sharing.
- Specifies that any agreement, when the transaction is for purposes that are primarily personal, family, or household, between a motor vehicle leasing dealer and a lessee or a motor vehicle renting dealer and a renter, is a consumer transaction for purposes of the Consumer Sales Practices Law.
- Authorizes the operator of a public-use airport to adopt reasonable standards, regulations, procedures, and fees and requires the peer-to-peer car sharing program, shared vehicle owner, and shared vehicle driver to comply with them.

Insurance

- Makes a general statement that the General Assembly does not intend to limit or restrict an insurer's ability to exclude coverage or underwrite any insurance policy as it relates to peer-to-peer car sharing.
- Establishes certain specific insurance requirements that apply to peer-to-peer car sharing, such as minimum coverage limits, and makes peer-to-peer car sharing program ultimately responsible for ensuring that insurance requirements are met.

Sales taxes

- Specifies that a peer-to-peer car sharing program is a vendor for purposes of collecting and remitting sales taxes.

Organized Crime Investigations Commission

- Allows the Organized Crime Investigations Commission to reimburse political subdivisions for employment related costs, other than workers' compensation, of political subdivision employees who serve as directors and investigatory staff for an organized crime task force under the Commission.

Internet Crimes Against Children Task Force

- Requires the Ohio Internet Crimes Against Children Task Force to coordinate a state network of law enforcement agencies to support investigations into internet crimes against children.
- Requires the Task Force to support the state network of law enforcement agencies, by funding positions, providing investigative training and digital forensic support, and conducting community outreach.
- Authorizes the Attorney General to disburse funds appropriated for the Task Force to certain local agencies affiliated with the Task Force, and to the Office of the Attorney General's Crimes Against Children Initiative.
- Requires the Task Force and the Office of the Attorney General to provide a yearly progress report and summary of expenditures.

Peer-to-peer car sharing

(R.C. 4516.01, 4516.02, 4516.03, 4516.04, 4516.05, 4516.06, 4516.07, 4516.08, 4516.09, 4516.10, 4516.11, 4516.12, 4516.13, 4549.65, and 5739.01; Section 757.301)

The bill authorizes personal motor vehicle rentals between vehicle owners and other licensed drivers in what is known as "peer-to-peer car sharing." The vehicle owners and licensed drivers are connected through a peer-to-peer car sharing program, which is an electronically based business platform that enables vehicle sharing for financial consideration. The service is in some ways similar to Airbnb, but for motor vehicles.

Basic parameters

The bill outlines basic requirements for a peer-to-peer car sharing program operating in Ohio. As part of the basic requirements for operation, a program must collect information from any participant in the program, including names, addresses, driver's license information, insurance information, verification of current vehicle registration, and whether there are any outstanding safety recalls on the shared vehicle.

The program is not permitted to allow a peer-to-peer car sharing program agreement through its platform if the person operating the shared vehicle does not have a valid driver's license or if the shared vehicle is not properly registered.

In addition to the general information about participants in the program, the peer-to-peer car sharing program must collect, verify, and maintain records pertaining to the use of each shared vehicle enrolled in the program. The records must include information about the dates, times, and duration of time that the shared vehicle is in use through the program and that the shared vehicle driver possesses the shared vehicle through the program. The records also must include any fees or financial consideration paid by a shared vehicle driver, any revenues or other financial consideration received by a shared vehicle owner, and any other similar, pertinent information. The program must be capable of providing such records, on

request, to any shared vehicle owner, shared vehicle driver, insurer, or law enforcement for purposes of facilitating an investigation of a claim, incident, or accident. The records must be retained for at least three years.

Peer-to-peer car sharing agreement

The contract at the center of the peer-to-peer car sharing arrangement is the peer-to-peer car sharing agreement. A peer-to-peer car sharing program, a shared vehicle owner, and the shared vehicle driver are all parties to the agreement. The agreement sets forth the parameters of peer-to-peer car sharing, including the location(s) for drop-off and pick-up of the vehicle, the date and time for drop-off and pick-up, whether the time the shared vehicle owner spends delivering the vehicle is paid, and the daily rate, fees, and any insurance costs for the insurance provided by the program (see "**Insurance**" below). In addition to the basic parameters, as a part of the agreement, the program must make a variety of disclosures to the shared vehicle owner and the shared vehicle driver. The disclosures include any right of the program to seek indemnification from the shared vehicle owner or the shared vehicle driver, any insurance coverage or lack of insurance coverage that might occur based on whether the car sharing period is in effect or whose insurance is being used at the time, and emergency contact information.

Equipment and recalls

The bill specifies that the peer-to-peer car sharing program is responsible for any equipment, including GPS or program-specific equipment that facilitates peer-to-peer car sharing, that is installed in the vehicle, unless the shared vehicle driver causes damage to the equipment. Generally, the shared vehicle owner is responsible for addressing any safety recall repairs (issued pursuant to federal law) on the shared vehicle. If a safety recall applies to a shared vehicle, the owner must remove the vehicle from the program. Or, if the vehicle is in operation, the owner must notify the program so that the car sharing period can be terminated and the vehicle returned to the owner for repair. The program, in addition to checking for outstanding recalls on the shared vehicle before the shared vehicle is enrolled in the program, must establish commercially reasonable procedures to check for outstanding recalls after the initial registration of a vehicle with the program. The program also must provide notice to each shared vehicle owner of the owner's responsibilities regarding safety recalls.

Operation at airports

The bill authorizes the operator of a public-use airport to adopt reasonable standards, regulations, procedures, and fees that apply to peer-to-peer car sharing programs. Additionally, the operator is permitted to enter into agreements, including concession agreements, with a peer-to-peer car sharing program. In turn, a peer-to-peer car sharing program, a shared vehicle owner, and a shared vehicle driver must comply with the standards, regulations, procedures, and agreements that are adopted and pay all fees in a timely manner.

Penalties and the Consumer Sales Practices Law

Peer-to-peer car sharing

The bill specifies that peer-to-peer car sharing (in general) and a peer-to-peer car sharing program agreement (in particular) is a consumer transaction, and thus, makes peer-to-peer car sharing subject to the Uniform Commercial Code (U.C.C.), specifically as it relates to consumer sales practices. For purposes of the Consumer Sales Practices Law, the peer-to-peer car sharing program and the shared vehicle owner are considered the "suppliers" and the shared vehicle driver is considered the "consumer." By placing peer-to-peer car sharing programs in the purview of the U.C.C., the programs must comply with general business, contract, and advertising practices (for instance, the peer-to-peer car sharing program agreement cannot specify that the motor vehicle being shared is a luxury vehicle if the motor vehicle is actually a low-cost, small compact vehicle).

Additionally, the bill specifies that any violation of the requirements and regulations pertaining to peer-to-peer car sharing is considered an unfair and deceptive act in violation of the Consumer Sales Practices Law. As such, a person injured by that violation has a cause of action and the Attorney General is authorized to enforce the requirements and regulations in the same manner as the Attorney General enforces the Consumer Sales Practices Law. The specific remedies, fines, and procedures are established in current law.

The bill specifies, however, that a peer-to-peer car sharing program is not liable under the Consumer Sales Practices Law if the violation of that Law results from a shared vehicle owner or shared vehicle driver providing false, misleading, or inaccurate information to the program and the program relies on the information in good faith. (For instance, if the program verifies the registration provided by a shared vehicle owner for one shared vehicle, but the shared vehicle owner swaps out which vehicle is provided to the shared vehicle driver without the program's knowledge, the program is not liable for the shared vehicle owner's deception.)

Motor vehicle leasing and renting dealers

The bill extends the provisions related to the peer-to-peer car sharing program being subject to the U.C.C. and the Consumer Sales Practices Law to motor vehicle leasing dealers, motor vehicle renting dealers, and the agreements between such dealers and their lessees and renters (when the transaction that is the subject of the agreement is for purposes that are primarily personal, family, or household). Additionally, the immunity extended to a program when the program relies on false information in good faith is extended to the dealers when they rely in good faith on false information provided by a lessee or renter. Such dealers are already likely subject to the U.C.C. and Consumer Sales Practices Law (for such agreements) under current federal law and it is unclear whether this provision in the bill affects their current duties or current remedies for lessees and renters.

Insurance

General statements

The bill makes several general statements pertaining to insurance as it applies to a peer-to-peer car sharing program. One such statement conveys that it is not the intent of the

General Assembly to either limit or restrict an insurer's ability to exclude insurance coverage from an insurance policy or an insurer's ability to underwrite an insurance policy.

Additionally, the statements convey that none of the insurance requirements specified by the bill limit the liability of a peer-to-peer car sharing program for its injurious actions or omissions, limit the ability of the program to seek indemnity from a shared vehicle owner or shared vehicle driver, or create, imply, or otherwise grant insurance coverage that is not found in any motor-vehicle liability policy or other policy of insurance.

Assumption of liability

Under the bill, a peer-to-peer car sharing program assumes the liability of a shared vehicle owner for any death, bodily injury, or property damage to a third party or an uninsured or underinsured motorist that is proximately caused by the operation of a shared vehicle during the car sharing period. The amount of liability must be stated in the peer-to-peer car sharing program agreement and cannot be less than the following, which are the minimum amounts required under the Proof of Financial Responsibility Law:

- $25,000 because of bodily injury to or death of one person in any one accident;
- $50,000 because of bodily injury or death of two or more persons in any one accident; and
- $25,000 because of injury to property of others in any one accident.

The assumption of liability does not apply, however, if either of the following occurs:

- The shared vehicle owner makes an intentional or fraudulent material misrepresentation or omission to the program regarding the vehicle owner's motor-vehicle liability policy (or other proof of financial responsibility) or the type or condition of the shared vehicle; or
- The shared vehicle owner and the shared vehicle driver conspire to have the shared vehicle driver fail to return the shared vehicle, in violation of the car sharing agreement.

Vicarious liability

The bill exempts a shared vehicle owner from vicarious liability for harm arising from the use, operation, or possession of the shared vehicle during the car sharing period. The bill states that both a peer-to-peer car sharing program and a shared vehicle owner are exempt from vicarious liability under a federal law that exempts a motor vehicle renting dealer from vicarious liability based on ownership for harm caused by a renter. However, because a program does not have an ownership interest in a shared vehicle (the same way a motor vehicle renting dealer does in a rental vehicle), it is unclear whether the provision actually exempts a program from vicarious liability (although it likely does exempt the shared vehicle owner).

Motor vehicle insurance

The bill requires a peer-to-peer car sharing program to ensure that, during each car sharing period, the shared vehicle owner and shared vehicle driver are each covered by a

motor-vehicle liability policy or other proof of financial responsibility that recognizes their status as a shared vehicle owner or shared vehicle driver and provides coverage for the operation of the shared vehicle during the car sharing period. The policy must be maintained in the liability amounts specified above – the minimum amounts required under the Proof of Financial Responsibility Law. The insurance requirement may be satisfied by any of the following or combination thereof:

- A motor-vehicle liability policy or other proof of financial responsibility that is maintained by the shared vehicle owner;
- A policy or other proof that is maintained by the shared vehicle driver;
- A policy or other proof that is maintained by the peer-to-peer car sharing program.

If the owner or driver of a shared vehicle does not provide the required minimum coverage, the bill provides that insurance maintained by the program must provide such coverage beginning with the first dollar of the claim and must defend the claim. The program's policy or other proof of financial responsibility cannot require the owner's or driver's policy to first deny a claim.

Additionally, if the program is providing at least part of the required insurance coverage and a dispute exists as to who was operating the shared vehicle at the time of the loss (and the program either does not have or cannot quickly produce records showing who was operating the vehicle at the time of the loss), the program must assume liability for that disputed claim. The program may seek indemnity from a shared vehicle owner, however, if the owner is determined to have been the operator of the shared vehicle at the time of the loss.

The bill declares that a policy that meets the bill's insurance requirements satisfies Ohio's proof of financial responsibility requirements for motor vehicles. The program must examine any motor-vehicle liability policy or proof of financial responsibility held by the shared vehicle owner and the shared vehicle driver to determine whether that policy or proof provides for or excludes coverage for peer-to-peer car sharing if the shared vehicle owner or shared vehicle driver (1) refuses the insurance coverage provided by the program, or (2) claims that the policy or proof maintained by that person provides coverage for peer-to-peer car sharing. Additionally, the program is authorized to require increased limits of insurance beyond the minimum set by law.

General liability coverage

In addition to the required motor vehicle insurance coverage, a peer-to-peer car sharing program must maintain at least $1,000,000 in coverage for the program's liability for any act or omission of the program itself that is the proximate cause of death, bodily injury, or property damage to any person in any one accident because of the operation of a shared vehicle through the program. The program can maintain that coverage in any form of insurance; it does not have to be maintained by a specific policy of insurance.

Sales taxes

The bill specifies that the operator of any technology platform that connects a consumer with another person who is providing a service subject to the sales tax, including a transportation network company (e.g., Uber or Lyft) or a peer-to-peer car sharing program, is a vendor for purposes of collecting and remitting sales taxes. Under current law, such services (i.e., transportation network company services) are subject to the sales tax; however, it is unclear who is responsible for paying those taxes (see "**Sales and use taxes**" under **Department of Taxation**).

Organized Crime Investigations Commission

(R.C. 177.02)

The bill allows the Organized Crime Investigations Commission to reimburse a political subdivision for costs incurred by the political subdivision as an employer while the political subdivision's employee is serving as a director or investigator on an organized crime task force established by the Commission. Employment costs that the Commission may reimburse include, but are not limited to, the employee's compensation and the employer's contributions to retirement funds. If the Commission reimburses a political subdivision for employment costs, it must do so from the Organized Crime Commission Fund created under continuing law.[16]

Under continuing law, the Commission establishes an organized crime task force and selects the task force director from a local law enforcement agency within the task force's investigatory jurisdiction or from the Bureau of Criminal Identification and Investigation. The director selects investigatory staff from the prosecutors' offices and local law enforcement agencies within the task force's jurisdiction or from the Bureau. During the task force's investigation, the director and investigators are considered employees of the state and Commission for purposes of workers' compensation premiums and tort liability. For all other employment related purposes, the director and investigators remain employees of the state or local agency from which they were selected. Current law requires the Commission to pay for necessary and actual expenses but it is silent regarding compensation and other employment costs incurred by the employing agency.

Internet Crimes Against Children Task Force

(R.C. 195.01 and 195.02)

The bill establishes certain duties of the Ohio Internet Crimes Against Children Task Force. The Task Force began in northeast Ohio with the help of a federal grant from the U.S. Department of Justice.[17] Federal law facilitated the establishment of a national network of coordinated task forces representing state and local law enforcement.[18] These task forces have

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[16] R.C. 177.011, not in the bill.

[17] Ohio ICAC website, http://ohioicac.org/en-US/about.aspx.

[18] 34 U.S.C. 21112.

certain duties under federal law, such as a duty to engage in proactive investigations, forensic examinations, and effective prosecutions of internet crimes against children, and a duty to develop multijurisdictional, multiagency responses and partnerships to internet crimes against children offenses through ongoing support to other law enforcement agencies.[19]

The bill requires the Task Force to do all of the following:

- Consistent with its federal duties, coordinate a state network of local law enforcement agencies that assist federal, state, and local law enforcement agencies in investigations, forensic examinations, and prosecutions related to technologically facilitated sexual exploitation of children, internet crimes against children, and victim identification;
- Consistent with available funding, support the state network of law enforcement agencies by funding personnel with agencies who have demonstrated the ability to investigate and prosecute internet crimes against children;
- Support the state network of law enforcement agencies by coordinating and providing investigative training and digital forensic support through on-scene forensic facilities, laboratory computer forensic services, or by funding computer forensic hardware and software licensing to agencies who employ trained computer forensic personnel; and
- Conduct or support internet safety presentations and community outreach events throughout Ohio aimed at educating the public about the dangers of the internet and how to keep children safe while they are online.

Attorney General disbursement of funds

The bill requires the Attorney General to use money appropriated to the Task Force to support its operation including equipment, personnel, and training only and for no other purpose. The bill also requires that the Attorney General disburse money appropriated for the purposes of the Task Force in the following manner:

1. 60% to the Task Force;

2. 20% in coordination with the Task Force, to local internet crimes against children affiliated agencies in good standing with the Task Force; and

3. 20% to the crimes against children initiative within the Office of the Attorney General for investigations, forensic examinations, and prosecutions related to technologically facilitated sexual exploitation of children, internet crimes against children, and victim identification.

Progress report

Annually, by January 31, the bill requires the Task Force and the Office of the Attorney General to compile and provide to the General Assembly a summary of the previous calendar year's expenditures, including any money appropriated for the Task Force in a previous year

[19] 34 U.S.C. 21114.

that is carried over, and progress in combating internet crimes against children. The Task Force and the Office must include in the report annual statistics, including statistics from affiliated agencies, consistent with the reporting requirements of the U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention's Internet Crimes Against Children Task Force Program.

AUDITOR OF STATE

Independent auditors

- Removes the Auditor of State's authority to contract with a public accountant to audit a public office as an independent auditor; the Auditor has continuing authority to contract with a *certified* public accountant.
- Instead of ensuring independent auditors comply with Generally Accepted Auditing Standards as under current law, requires the Auditor of State to ensure independent auditors comply with Generally Accepted *Government* Auditing Standards.

Costs of audits

- Until July 1, 2023, specifies that, for any audit the Auditor of State has authority to conduct, the Auditor may charge a state agency, local public office, or private entity for the cost of the audit in the manner provided for under continuing law.
- Allows the Auditor to determine which costs of an audit of a state agency or local public office will be charged to the agency or office.
- Specifies that costs of an audit include both direct and indirect costs.
- Allows the Auditor to offset charges billed to a local public office using resources from the Local Government Audit Support Fund, the General Revenue Fund, or other state sources the Auditor has for this purpose.
- Until July 1, 2023, removes the Auditor's responsibility to pay for any costs the Auditor incurs auditing a medical assistance recipient or examining records regarding medical assistance programs.

Local Government Audit Support Fund

- Creates the Local Government Audit Support Fund to be used by the Auditor to offset the cost of audits of local public offices.
- Requires the OBM Director to credit monthly a portion of total tax revenue credited to the General Revenue Fund equal to $^{1}/_{12}$ of the annual fiscal appropriation from the Local Government Audit Support Fund and requires the Director to develop a schedule identifying the specific tax revenue sources to be used to make the monthly transfers.
- Prohibits the Controlling Board from authorizing additional spending from the Local Government Audit Support Fund.

Auditing Medicaid providers and comprehensive risk contracts

- Allows the Auditor to audit Medicaid providers and Medicaid comprehensive risk contracts as those terms are defined under federal law.

Audit of Auditor of State's Office

- Allows the Governor and Finance Committee chairpersons to select designees to recommend an accountant for appointment, rather than requiring the Governor and chairpersons to evaluate accountants themselves as under current law.
- Requires OBM to provide staff services to the Governor and Finance chairpersons or to their designees.

Performance audits of state institutions of higher education

- Authorizes the Auditor of State to conduct performance audits of any and all state institutions of higher education.

Independent auditors

(R.C. 117.115 with conforming changes in R.C. 102.02, 117.11, 1724.05, and 1726.11)

Upon request of a local public office under current law, the Auditor of State may contract with an independent auditor to conduct an audit of the local public office. Currently, a public accountant, certified public accountant, or an official governmental audit organization may serve as an independent auditor. The bill eliminates the reference to a public accountant, thereby allowing the Auditor to contract with only a certified public accountant or an official governmental audit organization as independent auditors. And, the bill requires any independent auditor to comply with Generally Accepted *Government* Auditing Standards (GAGAS) rather than Generally Accepted Auditing Standards (GAAS) as under current law.

Costs of audits

(R.C. 117.13; Section 701.55)

The bill specifies that, until July 1, 2023, for any audit the Auditor of State has authority to conduct, the Auditor may charge a state agency, local public office, or private entity for the cost of the audit in the manner provided for under continuing law.[20]

The bill allows the Auditor of State to determine which audit costs to recover from a state agency or local public office. Currently, the Auditor collects the "costs of all audits" from a state agency and certain, specified costs (compensation paid to assistant auditors and their expenses, costs of experts, and others) from a local public office. The bill also specifies that the costs of an audit include both direct and indirect costs. The Auditor may offset the costs of audits of local public offices using resources from the Local Government Audit Support Fund (created under the bill – see below), GRF dollars, or other state sources provided to the Auditor for this purpose.

[20] See R.C. 117.13.

Regarding the rates to be charged to state agencies and local public offices for an audit, the bill requires the Auditor to determine and publish those rates annually instead of establishing those rates by rule as under current law. The bill also requires the rates to take into consideration federal cost recovery guidelines.

Instead of charging a local public office's audited funds as under current law, the bill allows the public office's fiscal officer to allocate money from appropriate funds using a methodology provided by the Auditor.

Finally, the bill removes until July 1, 2023, the Auditor's responsibility under current law to pay for any costs the Auditor incurs auditing a medical assistance recipient or examining records regarding medical assistance programs.[21]

Local Government Audit Support Fund

(R.C. 117.131 and 131.511)

The bill creates the Local Government Audit Support Fund in the state treasury to be used by the Auditor to offset the costs of audits of local public offices. On a monthly basis, the Director of OBM must credit a portion of total tax revenue credited to GRF equal to $^{1}/_{12}$ of the annual fiscal appropriation from the Local Government Audit Support Fund. The Director must develop a schedule identifying the specific tax revenue sources to be used to make the monthly transfers and may revise the schedule as necessary. The bill specifies that appropriations for the Fund must remain at the amount designated by the General Assembly. The Controlling Board is not allowed to authorize additional spending from the Fund.

Auditing Medicaid providers and comprehensive risk contracts

(Section 701.55)

Continuing law permits the Auditor to audit the accounts of any person or government entity with a valid Medicaid provider agreement.[22] The bill provides that, until July 1, 2023, the Auditor also may conduct audits of (1) any individual or entity that is engaged in the delivery of services, or ordering or referring for those services, and is legally authorized to do so by the state in which it delivers the services and a risk contract between a state and a managed care organization that covers comprehensive services. A risk contract covers comprehensive services if it covers inpatient hospital services and any of the following services or covers any three or more of the following services: (1) outpatient hospital services, (2) rural health clinic services, (3) federally Qualified Health Center services, (4) other laboratory and X–ray services, (5) nursing facility services, (6) early and periodic screening; diagnostic, and treatment services, (7) family planning services, (8) physician services, and (9) home health services.

[21] See R.C. 5130.23, not in the bill.

[22] R.C. 117.10(C), not in the bill.

Audit of Auditor of State's Office

(R.C. 117.14)

Continuing law requires an annual audit of the Office of the Auditor of State by an independent accountant. Currently, the Governor and Finance Committee chairpersons must evaluate and appoint the independent accountant. The bill allows the Governor and chairpersons to select designees to *evaluate and recommend* an independent accountant, but the Governor and chairpersons must make the appointment. Additionally, the bill requires OBM to provide staff services to the Governor and chairpersons (or their designees) to assist with these duties.

Performance audits of state institutions of higher education

(R.C. 117.46)

The bill authorizes the Auditor of State, at the Auditor's discretion, to conduct performance audits of state institutions of higher education. Under current law, the Auditor is required to conduct at least four performance audits of state administrative departments or agencies, each biennium, and may include among those four, one audit of a state institution of higher education. Under the bill, the Auditor still must conduct four performance audits per biennium, not including a performance audit of a state institution of higher education, and may conduct performance audits of any state institution of higher education at the Auditor's discretion.

A "performance audit" is a nonrecurring examination of the *economy* (keeping the cost low), *efficiency* (getting the most out of available resources), and *effectiveness* (meeting the objectives set) of government programs and functions. The Auditor of State refers to these principles as the "Three Es."[23]

Ohio law specifies that in conducting a performance audit, the Auditor must determine the scope of the audit, but must consider, if appropriate, supervisory and subordinate level operations in the institution. A performance audit may not include review or evaluation of an institution's academic performance.

For purposes of performance audits and LEAP loans (see below), a "state institution of higher education" means any state university of college, community college, state community college, university branch, or technical college. By contrast, for cost limits, "state university or college" means only the following: the University of Akron, Bowling Green State University, Central State University, the University of Cincinnati, Cleveland State University, Kent State University, Miami University, Ohio University, Ohio State University, Shawnee State University, the University of Toledo, Wright State University, and Youngstown State University, and the Northeast Ohio Medical University.[24]

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[23] https://www.ohioauditor.gov/performance.html.

[24] Cross-referencing R.C. 3345.011, not in the bill.

Continuing law requires an audited state institution of higher education to accept comments regarding the audit from interested parties and make all comments available to the public.[25] Also, the institution must implement the audit recommendations within three months after the end of the comment period or must (1) file a report explaining why the institution has not commenced implementation of the recommendations, and (2) provide testimony explaining why the institution has not commenced implementation of the recommendations to House and Senate committees. An institution that does not fully implement an audit recommendation within one year after the end of the comment period must file a report justifying why the recommendation has not or will not be implemented.[26]

Additionally, under ongoing law, the Auditor's annual performance audit report must describe whether a state institution of higher education has implemented the audit recommendations and how much money was saved as a result of the implementation.[27]

Costs and loans

Current law sets cost limits on a performance audit of a "state university or college," but does not appear to apply the cost limits to performance audits of community colleges, state community colleges, university branches, or technical colleges. The costs limits may be exceeded on agreement between the Auditor and the institution.[28]

Under law unchanged by the bill, state institutions of higher education may apply for and receive loans from the Auditor of State through the Leverage for Efficiency, Accountability, and Performance (LEAP) Fund to pay the Auditor's costs for conducting their performance audits.[29]

[25] R.C. 117.461, not in the bill.

[26] R.C. 117.462, not in the bill.

[27] R.C. 117.463, not in the bill.

[28] R.C. 117.464(B)(1) to (3) and 117.465, not in the bill.

[29] R.C. 117.47, not in the bill.

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.

CAPITAL SQUARE REVIEW AND ADVISORY BOARD

- Exempts buildings that are under the management and control of the Capitol Square Review and Advisory Board from the Ohio Facilities Construction Commission's authority.

OFCC authority

(R.C. 123.21)

The bill exempts from the Ohio Facilities Construction Commission's (OFCC) authority buildings that are under the management and control of the Capitol Square Review and Advisory Board (CSRAB). Under continuing law, OFCC administers the design and construction improvements for state agency facilities. CSRAB is responsible for maintaining and operating the Capitol Square complex and its facilities.[30]

[30] R.C. 105.41 and 123.20, not in the bill.

DEPARTMENT OF COMMERCE

D-5l liquor permit

- Authorizes the Division of Liquor Control to issue the D-5l liquor permit (for sales of beer and intoxicating liquor in a revitalization district) to a premises that is located in a municipal corporation with less than 10,000 people, provided the municipal corporation is located in a county with more than one million people.

Unclaimed funds

- Explicitly authorizes a notice of unclaimed funds to be published electronically.

Real estate services for medical marijuana licensees

- Provides that licensed real estate brokers and salespersons are not subject to professional discipline solely because they provide real estate services to medical marijuana licensees.

Real estate license fees

- Increases several fees related to the licensing of real estate brokers and salespersons paid to the Superintendent of the Division of Real Estate and Professional Licensing.
- Establishes a three-year renewal fee for real estate brokers and real estate salespersons paid to the Superintendent.
- Eliminates the annual renewal fee for real estate brokers and real estate salespersons.

Real estate license criminal records check

- Requires a person seeking a real estate broker or salesperson license to pass a criminal records check, in addition to other continuing licensure requirements.

Real Estate Recovery, Real Estate Appraiser Recovery Funds

- Replaces the current tiered assessments to fund the Real Estate Recovery Fund that the Real Estate Commission imposes on real estate broker and salesperson license renewals with a required assessment, up to $10, if the fund falls below $250,000.
- Authorizes the OBM Director, upon a request from the Director of Commerce during the biennium, to transfer funds, with Controlling Board approval, from the Real Estate Recovery Fund to the Division of Real Estate Operating Fund to reduce the former fund's balance to no less than $250,000.
- Reduces from $500,000 to $200,000 the threshold balance in the Real Estate Recovery Fund that triggers the Director of Commerce's authority to request money be moved from the Real Estate Appraiser Operating Fund to the Real Estate Appraiser Recovery Fund and requires Controlling Board approval for such transfers.
- Authorizes the OBM Director, upon a request from the Director of Commerce during the biennium, to transfer funds, with Controlling Board approval, from the Real Estate

Appraiser Recovery Fund to the Real Estate Appraiser Operating Fund to reduce the former fund's balance to no less than $200,000.

Appraisers' removal from appraiser panels

- Requires an appraisal management company that wishes to remove an appraiser from its appraiser panel to provide the appraiser with a written explanation and an opportunity to respond in all cases, instead of only when the appraiser has been on the panel for more than 30 days.

Construction and Manufacturing Mentorship Program

- Creates the Construction and Manufacturing Mentorship Program to expose minors who are 16- or 17-years old to construction and manufacturing occupations in Ohio through temporary employment with an employer.
- Requires an employer employing a minor under the Mentorship Program to assign the minor a mentor, provide the minor with required training unless the minor has completed the training during the six-month period before beginning employment, and take other specified actions.
- Requires the Director of Commerce to specify a list of tools that a minor employed under the program may operate.
- Prohibits an employer from either (1) permitting a minor from operating a tool described above unless the minor is employed under the Mentorship Program, or (2) permitting a minor who is employed under the Mentorship Program from operating a tool prohibited for use by minors of that age under federal and state law.
- Establishes a civil penalty for whoever violates the bill's prohibitions.

Hazardous occupations prohibited for minors

- Prohibits the Director from adopting any rule to prohibit a 16- or 17-year old minor employed by an employer under the program from being employed in a construction and manufacturing occupation if the minor's employment in the occupation is permitted under federal law.

Division of Industrial Compliance: building code

- Authorizes the Superintendent of the Division of Industrial Compliance to administer and enforce the building code on behalf of political subdivisions, pursuant to contract.

Oil and gas land professionals: civil penalties

- Expands the civil enforcement authority of the Superintendent of Real Estate and Professional Licensing relative to oil and gas land professionals.

Structural steel welding and inspection requirements

- Requires a contractor, subcontractor, or project manager who is responsible for the structural steel welding on a construction project to ensure that standards related to welding and welding inspections be met in construction projects.
- Exempts from the bill's structural steel welding requirements certain buildings and any welding that is required by the American Society of Mechanical Engineers to have its own certification.

Fireworks license moratorium

- Extends the moratorium on issuing a fireworks manufacturer or wholesaler license and approving the geographic transfer of those licenses to December 31, 2020.

D-5l liquor permit

(R.C. 4303.181)

The bill modifies the population requirements for issuance of a D-5l liquor permit. The D-5l permit authorizes the sale of beer, wine, mixed beverages, and spirituous liquor for on-premises consumption, and beer, wine, and mixed beverages for off-premises consumption.

Under current law, a D-5l permit may be issued to a premises to which all of the following apply:

- The premises has gross annual receipts from the sale of food and meals that constitute not less than 75% of its total gross annual receipts;
- The premises is located within a revitalization district;
- The premises is located in a municipal corporation or township in which the number of D-5 liquor permits issued equals or exceeds the quota limit for those permits that may be issued in the municipal corporation or township; and
- The premises meets one of several population criteria.

The bill adds a new population criterion by authorizing the Division of Liquor Control to issue the D-5l permit to a premises that meets the first three criteria and that is located in a municipal corporation with less than 10,000 people, provided the municipal corporation is located in a county with more than one million people.

Unclaimed funds

(R.C. 169.06)

Under continuing law, holders of unclaimed funds must file reports with the Director of Commerce when they are in possession of items that qualify as unclaimed funds. Based on these reports, the Director must then publish a notice of unclaimed funds in a local newspaper in an attempt to notify the owner of the whereabouts of the owner's unclaimed funds. The

Director also may publish additional notices. The bill explicitly allows both of these notices to be published electronically.

Real estate services to medical marijuana licensees

(R.C. 4735.18)

The bill explicitly states that a licensed real estate broker or salesperson is not subject to disciplinary action by the Ohio Real Estate Commission solely for the reason that the broker or salesperson is providing services for a sale, purchase, exchange, lease, or management of real estate that is or will be used in the cultivation, processing, dispensing, or testing of medical marijuana under the Medical Marijuana Control Program, or for receiving, holding, or disbursing funds from a real estate brokerage trust account in connection with such a transaction.

Real estate license fees

(R.C. 4735.06, 4735.09, 4735.13, 4735.15, 4735.182, 4735.27, and 4735.28)

The bill increases by 35% (rounded to the nearest dollar) several fees related to the licensing of real estate brokers and real estate salespersons. The fee changes are as follows:

Fee	Current Law	The Bill
Real estate broker license application	$100	$135
Real estate salesperson license application	$60	$81
Transfer from broker license to salesperson license	$25	$34
Notice of intention by real estate broker to join a business entity	$25	$34
Reactivation or transfer of a broker's license into or out of business entity	$25	$34
Reactivation or transfer of a salesperson's license	$25	$34
Branch office license	$15	$20
Foreign real estate salesperson's license and renewal	$50	$68
Additional fee for an education course provider or course provider applicant whose fee was returned	$100	$135

Fee	Current Law	The Bill
Foreign real estate dealer examination	$75	$101
Foreign real estate salesperson examination	$50	$68
Cap of foreign real estate dealer's fee for each salesperson employed by the dealer	$150	$203

In addition, the bill replaces the annual renewal fee for real estate brokers and salespersons with a three-year renewal fee. The three-year fees likewise reflect a 35% increase, as follows:

Fee	Current – Annual	The Bill – 3-Year
Renewal of 3-year real estate broker's license	$60	$243
Renewal of 3-year real estate salesperson's license	$45	$182
Additional 50% penalty for late renewal of real estate broker's license	$30	$121.50
Additional 50% penalty for late renewal of real estate salesperson's license	$22.50	$91

Real estate license criminal records check

(R.C. 109.572 and 4735.143)

One of the requirements under continuing law for a real estate broker or salesperson license is that the person not be convicted of a felony or crime of moral turpitude. The Superintendent of Real Estate and Professional Licensing may, if the Superintendent has reason to believe that an applicant has been convicted of a criminal offense, request the Bureau of Criminal Identification and Investigation (BCII) to conduct a criminal records check of the applicant.

The bill requires that every applicant pass a criminal records check to be licensed as a real estate broker or salesperson. The Superintendent must request BCII, or a vendor approved

by BCII, to conduct a criminal records check based on fingerprints the applicant has submitted to BCII. Any fee must be paid by the applicant.

If the applicant discloses that on the application he or she has been convicted of a criminal offense, then the applicant can only take the examination after the results of the criminal records check have been received by the Superintendent and the Superintendent has made a determination to disregard the conviction. The Superintendent can disregard the conviction if the applicant has proven to the Superintendent that the applicant's activities and employment record since the conviction show that the applicant is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant again will violate the laws involved.

If no conviction was indicated on the application and all other requirements are met for licensure, then the applicant can sit for the examination prior to the Superintendent's receipt of the criminal records check results. If the applicant receives a passing score and meets the other licensure requirements, the Superintendent must issue a provisional license. If the results subsequently confirm that the licensee has no conviction, the provisional status must be removed. If it is determined that the licensee has been convicted of a criminal offense, the Superintendent may immediately suspend the license.

The bill also requires that any entity offering the prelicensure education, prior to a student's enrollment in a class, notify the student (1) that a conviction of a criminal offense may disqualify an individual from obtaining a real estate license and (2) the student's rights to request a determination as to whether such a conviction will disqualify the student.

Real Estate Recovery, Real Estate Appraiser Recovery Funds

(R.C. 4735.12 and 4763.16; Section 243.30)

Real Estate Recovery Fund assessments and transfers

Under continuing law, the Real Estate Recovery Fund is maintained to satisfy judgments against real estate brokers and salespeople who engage in professional misconduct. To support the fund, existing law requires the Real Estate Commission to impose special assessments on brokers and salespersons renewing their licenses based on the fund's balance on the July 1 preceding the renewal. If the balance is less than $500,000, the assessment can be $10 or less. If the balance is between $1 million and $2 million, the assessment can be $5 or less. No assessments are permitted if the balance exceeds $2 million.

The bill eliminates this tiered structure by requiring an assessment, up to $10, if the Real Estate Appraiser Recovery Fund's balance is less than $250,000 on the July 1 preceding the license renewal and prohibiting assessments if the balance exceeds $250,000 on that date. The bill also grants the Director of Commerce authority to request, during the biennium, that the OBM Director transfer funds from the Real Estate Recovery Fund to the Real Estate Operating Fund if the Recovery Fund's balance exceeds $250,000. Such a transfer may reduce the Recovery Fund's balance to no less than $250,000 and must receive Controlling Board approval.

Real Estate Appraiser Recovery Fund transfers

Under continuing law, the Real Estate Appraiser Recovery Fund is maintained to satisfy judgments against real estate appraisers who violate the Real Estate Appraiser Law. The Superintendent of Real Estate is required to ascertain the fund's balance on October 1, every year.

Under existing law, if the Real Estate Appraiser Recovery Fund's balance is less than $500,000, the Superintendent may request that the OBM Director transfer funds from the Real Estate Appraiser Operating Fund to the Real Estate Appraiser Recovery Fund to reestablish that balance. The bill reduces the threshold at which a request may be made, and to which the balance may be restored, to $200,000, and specifies that the request may be made if the threshold is met at any time.

The bill also grants the Director of Commerce authority, during the biennium, to request that the OBM Director transfer funds in the opposite direction, from the Real Estate Appraiser Recovery Fund to the Real Estate Appraiser Operating Fund if the Recovery Fund's balance exceeds $200,000. Such a transfer may reduce the Recovery Fund's balance to no less than $200,000.

Finally, the bill requires Controlling Board approval before any transfers can be made between the Real Estate Appraiser Recovery Fund and Real Estate Appraiser Operating Fund.

Appraisers' removal from appraiser panels

(R.C. 4768.09)

If an appraisal management company wishes to remove an appraiser from its appraiser panel, the bill requires the company to provide the appraiser with written notice that explains the reasons for removal and an opportunity to respond in all cases. Existing law limits this requirement to the removal of appraisers who have been on the panel for more than 30 days.

Construction and Manufacturing Mentorship Program

(R.C. 4109.22 and 4109.99)

The bill creates the Construction and Manufacturing Mentorship Program to expose minors who are 16- or 17-years old to construction occupations and manufacturing occupations in Ohio through temporary employment with an employer (a person who employs any individual in a construction occupation and manufacturing occupation). An employer employing a minor under the Mentorship Program must:

- Determine the duration of the minor's employment;
- Assign a mentor to provide direct and close supervision to the minor while the minor is engaged in any workplace activity;
- Provide the minor with the training described under "**Training**," below;
- Encourage the minor to participate in a career-technical education program after the minor's employment ends if the minor is not participating in such a program when the minor begins employment;

- Comply with all state and federal laws and regulations relating to the employment of minors.

A minor who is employed by an employer under the Mentorship Program may work in any construction or manufacturing occupation that is not prohibited for minors of that age by Ohio's Minor Labor Law[31] or rules adopted under the Law.

For purposes of the bill, a "construction occupation" is employment consisting of the construction, reconstruction, enlargement, alteration, repair, remodeling, renovation, demolition, or painting of a building or other structure, and includes preparing a site for new construction. A "manufacturing occupation" is employment consisting of the mechanical, physical, or chemical transformation of materials, substances, or components into new products for sale, and includes assembling component parts into a finished product.

Training

The bill requires an employer to provide a 16- or 17-year old minor employed in a construction or manufacturing occupation under the Mentorship Program with training that includes all of the following:

- A ten-hour course in construction or general industry safety and health hazard recognition and prevention approved by the U.S. Department of Labor's Occupation Safety and Health Administration (OSHA) (the minor may participate in an OSHA-approved 30-hour course if the minor has already successfully completed a ten-hour course);
- Instructions on how to operate the specific tools the minor will use during the minor's employment;
- The general safety and health hazards that the minor may be exposed to at the minor's workplace;
- The value of safety and management commitment; and
- Information on the employer's drug testing policy.

The employer must pay any costs associated with providing a minor with the training. The employer is not required to provide the training if the minor shows proof of completing the training during the six-month period before beginning employment.

List of approved tools

The bill requires the Director of Commerce, in consultation with employers, to adopt rules in accordance with the Administrative Procedures Act listing the tools that a minor employed under the Mentorship Program may operate. The Director must use the "Field Operations Handbook" issued by the U.S. Department of Labor for guidance. Nothing in the bill

[31] R.C. Chapter 4109.

requires the Director to include a tool on the list if the federal Fair Labor Standards Act[32] (FLSA) hazardous occupation orders and Ohio's Minor Labor Law or rules adopted under it specifically permit 16- or 17- year olds to operate the tool.

Prohibitions

The bill prohibits an employer from:

- Permitting a 16- or 17-year old minor to operate a tool a minor of that age is permitted to operate under the rules unless the minor is employed by the employer under the Mentorship Program;
- Permitting a 16- or 17-year old minor employed under the program to operate a tool that a minor of that age is prohibited from using by the FLSA and Ohio's Minor Labor Law or rules adopted under it.

Penalty for violation

Under continuing law, the Director is required to designate enforcement officials to enforce Ohio's Minor Labor Law. An enforcement official who discovers a violation of the Law is required to file a complaint against an offending employer in any court of competent jurisdiction after providing notice to the employer of the violation. An employer found to have violated the Law by the court may be assessed a penalty, which is paid into the fund of the school district in which the violation was committed.[33]

Under the bill, an employer who violates the bill's prohibitions is assessed a civil penalty of up to $1,730 for each violation.

Hazardous occupations prohibited for minors

(R.C. 4109.05)

Continuing law requires the Director, after consulting with the Director of Health, to adopt rules prohibiting the employment of minors in occupations that are hazardous or detrimental to the health and well-being of minors. The Director of Commerce must consider the hazardous occupation orders issued pursuant to the FLSA when adopting the rules. The bill prohibits the Director from adopting any rule that would prohibit a minor who is 16- or 17-years old and employed by an employer under the Construction and Manufacturing Mentorship Program from being employed in a construction or manufacturing occupation if the hazardous occupation orders issued pursuant to the FLSA permit the minor's employment in the construction or manufacturing occupation.

[32] 29 U.S.C. 201 *et seq.*

[33] R.C. 4109.13, not in the bill.

Interaction between federal and state minor labor laws

An employer or employee may be subject to the FLSA or Ohio's Minor Labor Law, or both laws, depending on the employer type and size and whether the employer or employee engages in interstate commerce. Where an employer or an employee is subject to both and the laws differ, the law that provides the most protection for the minor applies.[34] For example, federal and Ohio law prohibit a minor from using hammering machines such as a power hammer.[35] If Ohio law were amended to permit the minor to use a hammering machine that is prohibited under the FLSA, the federal law would control because it is more restrictive of the minor's activity. Therefore, it appears that a minor's employment would be limited in certain occupations that are prohibited under the federal law, even if Ohio law were amended to permit the minor's employment in those occupations.

Division of Industrial Compliance: building code

(R.C. 121.083 and 3781.10)

The bill grants the Superintendent of the Division of Industrial Compliance new authority to contract with health districts and certified building departments to administer and enforce the building code on their behalf. It also adds certified officers and employees of the Division to the list of persons upon whom local governmental entities may rely for administration and enforcement.

Under continuing law, enforcement authority for the state's building codes, that is, authority to approve plans and specifications and to conduct inspections, is granted to townships, municipal corporations, and county building departments certified by the Division, as well as certain health districts. Also under continuing law, those governmental bodies may rely on specifically listed persons and entities, who have also been certified by the Division, to administer and enforce the codes.

Oil and gas land professionals: civil penalties

(R.C. 4735.023 and 4735.052; R.C. 4735.01(I)(1)(h) and (i), not in the bill)

The bill permits the Superintendent of the Division of Real Estate and Professional Licensing to investigate and begin disciplinary proceedings against independent oil and gas land professionals who commit a violation of the law's requirements for them.

An "**oil and gas land professional**" is someone who regularly engages in the preparation and negotiation of agreements for exploring for, transporting, producing, or developing oil and gas mineral interests, including oil and gas leases and pipeline easements. Employee oil and gas land professionals are not considered real estate brokers and, as a result, are exempt from licensing under the Real Estate Brokers Law.

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[34] 29 U.S.C. 218 and 29 Code of Federal Regulations (C.F.R.) 570.50.

[35] 29 C.F.R. 570.59 and Ohio Administrative Code (O.A.C.) 4101:9-2-11.

Oil and gas land professionals working as independent contractors (i.e., not as employees) can also be exempt from real estate broker licensing under continuing law if they meet certain requirements, including registration with the Superintendent and membership in a qualifying professional organization. Existing law states that independent contractor oil and gas land professionals who fail to register with the Superintendent, or to notify the Superintendent of a lapse in necessary membership, are subject to penalties for unlicensed practice. The bill maintains these provisions, but corrects two cross-references to reference the appropriate enforcement provisions – the oil and gas land professional enforcement provisions, rather than the general provisions.

Structural steel welding and inspection requirements

(R.C. 3781.40, 3781.06, and 3781.061)

The bill requires a contractor, subcontractor, or construction manager whose workers are welding the structural steel on a construction project to ensure that:

- The workers performing the structural steel welding have been tested by and hold a valid certification from a facility that or individual who has been accredited by the American Welding Society (AWS) to test and certify welders and welding inspectors.
- All structural steel welds performed for the project are listed in the project's job specifications and meet specifications, guidelines, tests, and other methods used to ensure that all structural steel welds satisfy, at minimum, the codes and standards for those welds established in the AWS Structural Steel Welding Code D1.1 and the Ohio Building Code (which governs commercial buildings).
- All structural steel welding inspections listed in the project's job specifications are completed by a certified welding inspector (a person who has been certified by AWS to inspect structural steel welding projects and conduct welder qualification tests).

Except as described below, the requirements listed above apply to all construction projects that involve structural steel welding which, under the bill, is structural welds, weld repair, the structural system, and the welding of all primary steel members of a structure in accordance with the AWS Code D1.1.

Exempt welds and structures

The welding and inspection requirements do not apply to welding that is required by the American Society of Mechanical Engineers (ASME) to have its own certification. For example, ASME provides its own certification governing the design, fabrication, assembly, and inspection of boiler and pressure vessel components.[36]

The bill's requirements also do not apply to:

[36] American Society of Mechanical Engineers, *Boiler and Pressure Vessel Certification*, https://www.asme.org/shop/certification-accreditation/boiler-and-pressure-vessel-certification.

- A building or structure that is incidental to the agricultural use of the land on which the building or structure is located, provided the building or structure is not used to conduct retail business;
- An existing single-family, two-family, or three-family home for which the owner has applied to the ODJFS Director for a license to operate a type A family day-care home as defined in continuing law; or
- Any building or structure for which a county zoning inspector or a township zoning inspector has issued a zoning certificate declaring the building or structure to be for agriculture use.

Other laws

The welding and inspection requirements may not be construed to limit the Division of Industrial Compliance's power to adopt rules governing manufactured home parks under the Manufactured Homes Law.

Penalty

A person who recklessly fails to comply with the bill's structural steel welding requirements is subject to the following penalty:

- If the violation is not detrimental to the health, safety, or welfare of any person, a fine of not more than $100;
- If the violation is detrimental to the health, safety, or welfare of any person, a minor misdemeanor.[37]

Fireworks license moratorium

(R.C. 3743.75)

The bill extends the moratorium on issuing a fireworks manufacturer or wholesaler license and approving the geographic transfer of those licenses from December 31, 2019, to December 31, 2020.

[37] R.C. 3781.99, not in the bill.

COSMETOLOGY AND BARBER BOARD

- Allows an individual to practice a branch of cosmetology without a license or registration if the individual does so for free for the purpose of researching or developing a cosmetic.

Research and development exemption

(R.C. 4713.16)

The bill allows an individual to practice a branch of cosmetology without a license or registration if the individual does so for free for the purpose of researching or developing a cosmetic. A "cosmetic" is an article intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to any human body part for cleansing, beautifying, promoting attractiveness, or altering appearance. It includes an article that is intended for use as a component of any of those articles but it does not include soap.[38]

Currently, if an individual engages in the practice of esthetics, which is the application of cosmetics, tonics, antiseptics, creams, lotions, or other preparations for the purpose of skin beautification, that individual must have a license under the Cosmetology Law. If in individual practices makeup artistry, which is the application of cosmetics for the purpose of skin beautification, the individual must be registered under that Law.[39]

[38] R.C. 3715.01, not in the bill.

[39] R.C. 4713.14 and R.C. 4713.01 and 4713.69, not in the bill.

COUNSELOR, SOCIAL WORKER, AND MARRIAGE AND FAMILY THERAPIST BOARD

- Permits an applicant for a professional clinical counselor's license or a professional counselor's license to have a degree from any counseling program accredited by the Council for Accreditation of Counseling and Related Educational Programs (CACREP), rather than from specified CACREP programs as under current law.
- Requires an applicant for a professional clinical counselor's license or a professional counselor's license to participate in a clinical counseling internship rather than a counseling internship as required under current law.
- Allows the Counselors Professional Standards Committee of the Counselor, Social Worker, and Marriage and Family Therapist Board to issue a license by endorsement to a person who does not have a graduate degree in counseling if the person is authorized to practice in another state and meets specified requirements.
- Requires the Board to establish a schedule of deadlines for biennially renewing a license or certificate of registration.
- Eliminates a requirement that a counselor, social worker, or marriage and family therapist prominently display the person's license in a particular location and manner.

Licensure of counselors

(R.C. 4757.18, 4757.22, 4757.23, and 4757.25)

Degree requirement

The bill allows an applicant for a professional clinical counselor license or a professional counselor license to have a graduate degree from a counseling program accredited by the Council for Accreditation of Counseling and Related Educational Programs (CACREP) instead of specific types of counseling programs as under current law. Under current law, if an applicant has a graduate degree from a mental health counseling program in Ohio, it must be either temporarily approved by the Counselor, Social Worker, and Marriage and Family Therapist Board in accordance with rules adopted by the Board or be from one of the following CACREP programs:

- A clinical mental health counseling program;
- A clinical rehabilitation counseling program;
- An addiction counseling program.

Under continuing law, an applicant also must satisfy additional requirements to receive a license, including completing specialized counselor classwork, participating in an internship, and passing an examination.

Clinical internship

Under continuing law an applicant for a professional clinical counselor license or a professional counselor license must complete specified training. The bill requires an applicant to include participation in a "*clinical* counseling internship" as part of those training requirements. Currently, an applicant must participate in a "counseling internship."

Licensure by endorsement

The bill allows the Board's Counselors Professional Standards Committee to issue a license by endorsement to a person who does not have a graduate degree in counseling if the person is authorized to practice in another state and meets all of the following requirements:

- The person has a graduate degree that demonstrates an education in the diagnosis and treatment of mental and emotional disorders with coursework comparable to that which is required for a clinical mental health counseling degree from a CACREP accredited program;
- The person has continuously engaged in the practice of professional counseling in the other state and has not been disciplined by the state regulatory authority for a period of five years or more immediately preceding the application date;
- The person engaged in a scope of practice in the other state comparable to the scope of practice associated with the license the person is requesting;
- The person's authorization to practice in the other state is in good standing;
- The person achieves a passing score on the examination required by the Board for licensure as a professional clinical counselor or a professional counselor.

In the case of an out-of-state applicant seeking a professional clinical counselor's license, the bill requires the applicant to complete at least 750 hours of supervised experience approved by the committee.

Under current law, the Board may enter into a reciprocal agreement with any state that regulates individuals practicing in the same professions regulated by Ohio law, if it finds that the state has requirements substantially equivalent to Ohio's. Under a reciprocal agreement, the Board grants a license or certificate to a resident of the other state whose practice is currently authorized by that state, and that state's regulatory body agrees to authorize the appropriate practice of any Ohio resident who is authorized to practice in Ohio. The Board's professional standards committees also may, by endorsement, issue the appropriate license or certificate of registration to a resident of a state with which the Board does not have a reciprocal agreement, if the person submits satisfactory proof that the person is licensed, certified, registered, or otherwise authorized to practice by that state.

Renewal schedule

(R.C. 4757.10 and 4757.32; Section 747.20)

The bill requires the Board to establish a schedule of deadlines for biennially renewing the licenses and certificates of registration it issues. (Currently, a license or certificate expires

two years after it is issued.) The bill specifies that a license or certificate is valid without further recommendation or examination until it is revoked or suspended or until it expires for failure to renew in accordance with the Board's schedule.

A license or certificate in effect on the provision's effective date continues in effect until the first biennial renewal date established in the Board's rules. No license or certificate in effect on the provision's effective date is valid for more than three years after the effective date.

License display

(R.C. 4757.13)

The bill eliminates a requirement that a counselor, social worker, or marriage and family therapist prominently display the person's license in an easy to see and read manner and in a conspicuous place either in the person's office or the place where the person conducts a major portion of the person's practice.

DEVELOPMENT SERVICES AGENCY

Opportunity zones and business investment credits

- Authorizes a nonrefundable tax credit equal to 10% of a taxpayer's investment in an Ohio Opportunity Zone fund.
- Limits individual credits to $1 million per fiscal biennium and total credits to $50 million per biennium.
- Reduces the total biennial cap on the existing small business investment credit from $100 million to $50 million and otherwise modifies that credit.

Motion picture tax credit

- Extends eligibility for the motion picture tax credit to certain live theater productions.
- Adds post-production, advertising, and promotional expenses to the kinds of expenditures for which the credit may be claimed.
- Disqualifies productions that do not begin within a specified period after being certified as eligible for the credit.
- Stipulates that tax credit certificates are to be awarded in two rounds – in July and January – each fiscal year.
- Requires each round's applications to be ranked on the basis of the economic and workforce development impact of the production and granted tax credits in the order of the ranking.
- Terminates a tax credit recipient's authority to transfer its right to claim the credit to a third party.

Community reinvestment areas

- Specifies that an amendment that adds affordable housing requirements to the terms of a community reinvestment area (CRA) in existence on July 21, 1994, will not subject the CRA to state law requirements that subsequently became effective.

Rural Industrial Park Loan Fund

- Reinstitutes the Rural Industrial Park Loan Fund, which was repealed in 2015 and has not received appropriations since FY 2010-2011.
- Requires the fund to support the Rural Industrial Park Loan Program.
- Appropriates $25 million to the fund.

Sports event grant program

- Authorizes the Development Services Agency to award a sports event grant on the basis of an Ohio sporting event that had been held in Ohio within the two preceding years.

TechCred Program

- Creates the TechCred Program to provide reimbursements to eligible employers for training costs for both incumbent and prospective employees to earn a microcredential, which generally is an industry-recognized credential or certificate that may be completed in not more than one year.
- Allocates not less than 15% of the awardable funds appropriated in each fiscal year for reimbursements under the program to businesses in three categories based on the number of employees employed by a business.

Industry sector partnership grant program

- Requires the Director to develop a grant program to support regional industry sector partnerships in consultation with the Governor's Office of Workforce Transformation.

Opportunity zone investment credit

(R.C. 107.036, 122.84, 122.86, 5747.82, and 5747.98)

The bill authorizes a nonrefundable income tax credit for taxpayers that invest in Ohio opportunity zones. The credits enhance existing federal and Ohio tax benefits for investments in such zones.

Opportunity zone background

Beginning in 2018, federal law allows states to designate economically distressed areas that meet certain criteria as "opportunity zones."[40] Once the zone is certified by the Secretary of the Treasury, certain investments made to benefit the zone are eligible for preferential federal tax treatment. Specifically, when a taxpayer reinvests capital gains (i.e., income from the sale of stock or other asset) in an "opportunity zone fund" – an investment fund that holds at least 90% of its assets in property, stock, or ownership interests that benefit opportunity zones – the tax on those capital gains is deferred until the investment is sold or exchanged from the fund.[41]

Moreover, if the investment is held in the opportunity zone fund for five years, the investment's basis is increased by 10% of such deferred gain (effectively a 10% decrease in tax on the original gain). If held for at least seven years, the basis is increased by 15%. If held for

[40] 26 U.S.C. 1400Z-1. The Opportunity Zone law was enacted in December of 2017 by the federal "Tax Cut and Jobs Act." A map of opportunity zones designated in Ohio is available at https://development.ohio.gov/bs/bs_censustracts.htm.

[41] 26 U.S.C. 1400Z-2. To qualify, the capital gains must be reinvested in the fund within 180 days after the gain is realized.

ten years, not only is the basis increased by 15%, but any capital gains accrued while the investment was held in the opportunity zone fund is exempt from tax.[42]

Because Ohio law uses federal adjusted gross income as a starting point for Ohio income tax liability, the federal deferral and reduction in capital gain taxes also defers or reduces a taxpayer's Ohio income tax. These federal and Ohio tax benefits are available regardless of where the zone is located.

Ohio income tax credit

The bill adds to these existing incentives a new Ohio income tax credit for investments that entirely benefit Ohio-designated zones. To qualify for the credit, a taxpayer must invest in an opportunity zone fund that in turn holds 100% of its invested assets in opportunity zones in Ohio (referred to in the bill as an "Ohio qualified opportunity fund"). Unlike the federal tax incentives, the bill's credit is available even for investors that do not have capital gains to reinvest.

The credit equals 10% of the taxpayer's investment. The taxpayer may claim the credit in the year in which the Ohio qualified opportunity fund invests the taxpayer's investment in a project located in an Ohio opportunity zone, or in the following year (in case the taxpayer's credit is approved after the tax filing deadline for the year in which the investment was made).

The credit is nonrefundable, but any unused credit can be carried forward for up to five subsequent taxable years. The total amount allowed to a particular taxpayer in any fiscal biennium is limited to $1 million. The total amount of credits available for all taxpayers is limited to $50 million per biennium. Because of this limit, investors must apply for the credit.

Application process

The taxpayer must apply to the Development Services Agency (DSA) between January 1 and February 1 following the year in which an investment is made. The taxpayer must include in the application (1) the total investment the taxpayer made in Ohio qualified opportunity funds and (2) a statement from an employee or officer of each fund certifying the amount the taxpayer invested in that fund, the amount of that investment that the fund directed to opportunity zone projects, and a description of each project funded by the investment.

DSA must consider applications in the order in which they are received. If the taxpayer qualifies for the credit, DSA will issue the taxpayer a credit certificate that lists the amount of the credit. The taxpayer must file a copy of the certificate with the taxpayer's return.

Qualifying Ohio opportunity zones

The bill provides details for determining whether an opportunity zone fund's assets are invested in an Ohio-designated zone for the purposes of the credit. In the case of assets in the form of tangible property, the property must be used exclusively in the opportunity zone during the fund's holding period of the property. In the case of assets in the form of stock or

[42] 26 U.S.C. 1400Z-2.

partnership interests in a business, all of the business' tangible property must be used exclusively in the Ohio zone during the fund's holding period of the stock or interest. (These are stricter investment standards than those that federal law requires for an investment to qualify for the federal tax [and Ohio flow-through tax] benefits: federal law requires only 90% of a fund's investments to be in an opportunity zone, and requires "substantially all," instead of all, of a business' tangible property to be used in a zone during "substantially all" of the time the fund holds its investment in the property or business. Under the proposed Treasury regulations, "substantially all," when used in reference to the percentage of a business' tangible property it uses in an opportunity zone, may be as little as 70%.)

Transfer of credits

A credit certificate may be transferred once to another person, but the credit must be claimed within the original five-year carryforward period even if transferred.

Annual report

The bill requires DSA to issue an annual report that includes information about the number of taxpayers that applied for, and were awarded, credits during the preceding year; the amount of credits awarded; the projects funded by taxpayer investments; and the opportunity zones in which those projects are located.

Biennial forecast of foregone revenue

Continuing law requires that every main biennial budget bill include detailed estimates of the state revenue that will be foregone due to "business incentive" tax credits in the current biennium and future biennia. The bill adds the new opportunity zone investment credit to the list of tax credits that are included in these estimates.

Small business investment credit

(R.C. 122.86)

The bill modifies an existing income tax credit for investments in smaller businesses, principally by reducing the total biennial limit on the credit allotment. Currently, the amount of the credits awarded each fiscal biennium is limited to $100 million; the bill reduces the limit to $50 million.

The bill also modifies qualifications a business must satisfy in order for a taxpayer's investment to qualify for the credit. Whereas current law requires a business to employ at least 50 full-time equivalent employees, the bill specifies that this requirement is to be satisfied throughout the two-year period leading up to a taxpayer's investment.

Current law also requires the business to incur costs for payroll or for one or more of four different categories of assets in an amount equal to, or more than, the taxpayer's investment amount for which the credit is granted, and to do so within six months of the taxpayer's investment. The categories include real property, tangible personal property, vehicles used primarily in the business, and intangible property (e.g., royalties, trademarks, licenses).

The bill modifies these qualifications as follows:

- Eliminates the requirement that the business' costs equal the amount of the investment for which the credit is claimed, requiring only that some such costs be incurred.
- Modifies the payroll qualification by permitting increased pay for owners, officers, or managers to count toward payroll, and by disallowing pay for retained employees to count toward payroll. Only the pay of employees hired after the investment would count. (Under current law, the payroll qualification refers to the pay of "new employees," but expressly allows pay for retained employees to count as pay for new employees. The bill removes reference to retained employees' pay.)
- Allows the business to count installation costs toward the cost of tangible personal property.
- Replaces the cost of intangible property with the cost of leasehold improvements or construction.

The bill also modifies the administration of the credit. As under current law, taxpayers must apply to DSA to qualify for the credit, or the business may apply on a taxpayer's behalf. The bill specifies that, in either case, the application must be made within 60 days after the investment is made and within the same fiscal biennium in which the investment is made. And, whereas under current law the right to claim a credit is represented by a "certificate," which may be used to claim the tax credit once the investment's required two-year holding period concludes, the bill refers to this right as an "allocation," which may be converted to a certification once the holding period is over, allowing the credit to be claimed thereafter. Credit allocations are made only once an applicant provides DSA with all documentation needed to demonstrate that a business satisfies the qualifications.

Under both current law and the bill, the credit is available for investments in businesses having assets of $50 million or less, or annual sales of $10 million or less, and employing no more than 50 full-time-equivalent employees or employing more than 50% of their U.S. employees in Ohio.

The bill's changes apply to investments made on or after July 1, 2019.

Motion picture tax credit

(R.C. 122.85, 107.036, 5726.98, 5733.98, 5747.98, and 5751.98; Section 757.250)

The bill modifies the motion picture tax credit – a refundable credit for companies that produce all or part of a motion picture in Ohio and incur at least $300,000 in Ohio-sourced production expenditures. The credit equals 30% of the company's Ohio-sourced expenditures for goods, services, and payroll involved in the production and may be claimed against the commercial activity tax (CAT), the financial institutions tax (FIT), or the personal income tax. A company seeking the credit must first apply to the Director of Development Services for certification of the project as a "tax credit-eligible production." Then, upon completion of the project, the company must hire an independent certified public accountant to compile a report of the company's Ohio-sourced expenditures and apply to the Director for a tax credit certificate based on that amount (or the amount of expenditures estimated in the company's initial application, whichever is less).

Broadway theatrical productions

The bill extends eligibility for the motion picture tax credit to "Broadway theatrical productions" that are directly associated with New York City's Broadway Theater District and are rehearsed or performed by a professional cast and crew at a qualified production facility – an Ohio facility that is used in the development or presentation to the public of live stage theater. Such a theatrical production qualifies for the credit if (1) the production is scheduled for presentation in New York City's Broadway Theater District after it is performed in Ohio (a "pre-Broadway production"), (2) the production is scheduled to be performed in Ohio for more than five weeks with an average of at least six performances per week (a "long run production"), or (3) the activities comprising the technical period of the production are conducted in Ohio before the beginning of a performance tour (a "tour launch").

The procedures for certifying Broadway theatrical productions as "tax credit-eligible" and awarding a tax credit certificate upon the completion of the production are mostly the same as those that apply to motion pictures. However, the bill makes a few adjustments to the information that is required to be submitted with the application for certification of the project (see, "**Application requirements**," below).

Eligible expenditures

The bill broadens the types of expenses upon which the credit is based to include postproduction, advertising, and promotional expenditures. Under current law, only expenditures for goods, services, and payroll used directly for the production itself may be included in computing the amount of the credit and in meeting the $300,000 minimum expenditure threshold. The Director must adopt rules as to the specifics of what constitutes "postproduction" activities.

Application requirements

The bill makes several adjustments to the information that is required to be submitted in order for a motion picture or Broadway theatrical production to be certified as eligible for the credit. All applicants are required to submit an estimate of the amount of state and local taxes that will be generated from the project and of the project's overall economic impact. Furthermore, in addition to the list of preproduction and production dates required under continuing law, the application must include a list of the post-production dates associated with the motion picture or Broadway theatrical production.

If the application concerns a Broadway theatrical production, the application need not include the percentage of the production "being shot in Ohio" or the shooting script. In lieu of submitting an address for an Ohio production office, the company may provide the address of the qualified production facility at which the Broadway theatrical production will be rehearsed or performed. Lastly, the application must include a list of each scheduled performance of the production at that facility.

Rescinding certification

The bill requires the Director to rescind certification of a production if the production process does not begin within a specified period. The production process for motion pictures

and Broadway theatrical productions that are certified as credit-eligible on or after the bill's 90-day effective date must begin within 90 days of such certification unless the production company demonstrates that the delay is due to unforeseeable circumstances beyond its control or due to action or inaction by a government agency. The production process for previously certified motion pictures must begin within one year of such certification or before the bill's 90-day effective date, whichever is later.

Continuing law requires production companies to submit "sufficient evidence of reviewable progress" within 90 days of the eligibility certification and any time thereafter at the Director's request. The Director may (but is not required to) revoke a production's eligibility if a company fails to report sufficient progress. If eligibility is revoked, the company may reapply for the eligibility certification.

Awarding tax credits

The bill requires the Director to award tax credit certificates in two rounds each fiscal year. The first round of applications would be approved by July 31, and the second round would be approved by January 31. The amount of credits awarded in the first round of applications is limited to $20 million plus any credit allotment that was not used in the previous fiscal year. Under continuing law, the maximum amount of credits that may be awarded in any fiscal year is $40 million.

For each round, the Director must rank the applications on the basis of the extent of positive economic impact a production would have and the effect of the production on developing a permanent Ohio workforce in the motion picture or live theater industries. Priority must be given to television series and miniseries. For the purposes of ranking applications, the "economic impact" of a production is determined based on the production company's total expenditures in Ohio that are directly associated with the production. The production's impact on developing a permanent Ohio workforce in the motion picture and live theater industries is determined "first by the number of new jobs created and second by the amount of payroll added" for Ohio employees.

After ranking the applications, the Director would award tax credits to productions in the order of their ranking, starting with the productions that had the greatest economic and workforce development impact. The bill requires the Director to adopt rules prescribing a schedule and deadlines for applications to be submitted and reviewed.

Current law specifies that applications concerning television series and miniseries are to be prioritized, but does not otherwise specify how and when certificates are to be awarded. Based on the Development Services Agency's website, it appears that the Director currently awards credits whenever they are available (i.e., when the annual credit cap resets) in the order in which applications are received.[43]

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[43] Ohio Development Services Agency, "Ohio Film Office – Tax Credit Overview and Frequently Asked Questions," https://development.ohio.gov/filmoffice/Incentives.html.

Transferability of credits

The bill terminates the authority for a credit recipient to transfer the authority to claim all or part of the credit to another person. Under current law, a motion picture company may transfer such authority to a third party only if the company provides certain details of the transfer to the Director. A transferred credit must be claimed by the transferee for the same tax period for which the company could have claimed the credit. A motion picture company may divide portions of a transferred credit between different transferees but may not transfer the same portion of the credit to more than one transferee.

The bill specifies that credits transferred to a third party before the bill's 90-day effective date may continue to be claimed to the extent authorized under that transfer.

Application of changes

The bill's modifications to the process of ranking applications and awarding credits – including the requirement that credits be awarded in two annual cycles – apply to fiscal years beginning on or after the bill's 90-day effective date. The Director is required to adopt rules necessary to implement those modifications on or before the first day of that fiscal year. The other changes made by the bill apply to productions that are certified as tax credit-eligible productions on or after the bill's 90-day effective date.

Community reinvestment areas

(R.C. 3735.661)

Under continuing law, a municipal corporation or county may amend the ordinance or resolution governing a Community Reinvestment Area (CRA) that was in existence on July 21, 1994, in specified ways, without subjecting the CRA to state law requirements that became effective after that date. The bill adds to the list of specified amendments that will not bring a CRA under the newer state law requirements. Specifically, the bill allows municipal corporations and counties to require that developers and property owners agree to provide affordable housing as a condition of receiving tax benefits through a CRA that existed on July 21, 1994, without bringing that CRA under the law's subsequently enacted requirements.

Rural Industrial Park Loan Fund

(R.C. 122.26; Sections 259.10 and 259.50)

The bill reinstitutes the Rural Industrial Park Loan Fund and appropriates $25 million to it from the Facilities Establishment Fund. Under the bill, the Director of Development Services must use the Rural Industrial Park Loan Fund to support the Rural Industrial Park Loan Program, which allows loans and loan guarantees for the development and improvement of industrial parks in rural areas of Ohio. There have been no appropriations to the program since FY 2011.

The Rural Industrial Park Loan Fund was repealed in 2015. It had a zero balance at the time of its repeal.[44]

Under current law, the Director of Development Services must adopt rules governing the program, including rules governing criteria for evaluating applications for assistance and reporting and monitoring procedures. The Director also must establish fees, interest rates, payment schedules, and local match requirements; require each applicant for assistance to develop a project marketing plan and management strategy; inform local governments of the availability of the program; and issue an annual report regarding program activities. Generally, an applicant, as a condition of receiving assistance under the program, must agree, for a period of five years, not to relocate jobs from inside Ohio to a site that is developed or improved with assistance from the program.[45]

Sports event grant program

(R.C. 122.121)

Under continuing law, grants may be awarded by the Director of Development Services to counties, municipalities, or nonprofit organizations acting on behalf of a county or municipality to support the selection of a site for a national or international sports competition. Grants may be used solely to defray the county's, municipality's, or local organizing committee's cost to host the event pursuant to an agreement with the event's sponsor.

Under current law, a sporting event is disqualified for a grant if it has been held in Ohio in either of the last two years. The bill removes the two-year restriction, allowing grants to be awarded even for events that have been held in the two-year period preceding the new event.

TechCred Program

(R.C. 122.178; Sections 259.10 and 259.20)

The bill creates the TechCred Program to provide reimbursements to eligible employers for training costs for both incumbent and prospective employees to earn a microcredential, which is an industry-recognized credential or certificate that an individual may complete in not more than one year and that is approved by the Chancellor of Higher Education. DSA must develop the program in consultation with the Governor's Office of Workforce Transformation (OWT) and the Department of Higher Education. The bill allocates not less than 15% of the awardable funds appropriated in each fiscal year for reimbursements under the program to businesses in three categories based on the number of employees employed by a business.

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[44] See Am. Sub. H.B. 1, 128th General Assembly (2009) and Am. Sub. H.B. 64, 131st General Assembly (2015).

[45] R.C. 122.24, not in the bill.

Employer eligibility

For an employer to be eligible to participate in the TechCred Program, the employer must meet all of the following requirements:

- Be registered to do business in Ohio;
- Be current on all tax obligations to the state;
- Be in compliance with all environmental regulations applicable to the employer.

Reimbursement application

An eligible employer seeking reimbursement for training costs for an incumbent or prospective employee under the TechCred Program must submit an application to the Director. The application must include all of the following information for each employee:

- The employee's position at the time of submitting the application or the position for which the employee will be qualified after earning the microcredential;
- The training provider from which the employee will receive or received the microcredential;
- The cost that will be incurred by the employer for the training.

Before receiving reimbursement for an approved application, the employer must submit both of the following to the Director:

- Evidence that the employee earned a microcredential;
- If the employee at the time of receiving the training was a prospective employee, evidence that the employer hired the employee for a position located in Ohio.

An eligible employer may only apply for reimbursement for training costs for employees who are Ohio residents.

Application approval

The Director must approve reimbursement applications based on the priority guidelines established by the Director. For each microcredential an employee receives, the employer receives at least $500 but not more than $2,000.

Director powers and duties

The Director may do all of the following regarding the operation of the TechCred Program:

- Create a reimbursement application;
- Establish guidelines for prioritizing approval for reimbursement applications, including the efficiency of a wage increase for an incumbent employee or expected wage for a prospective employee;
- Establish additional requirements for an employer to be eligible for a reimbursement;

- Create a website with the application for and information regarding the TechCred Program and the grant program to support industry sector partnerships described below.

The bill allows the Director, in consultation with the Chancellor, to adopt rules as the Director considers necessary to administer the program, including designating eligible training providers for purposes of the TechCred Program.

Industry sector partnership grant program

(R.C. 122.179; Sections 259.10 and 259.20)

The bill requires the Director to develop a grant program to support regional industry sector partnerships in consultation with OWT and it makes an appropriation for grants under the program. An "industry sector partnership" is a collaborative relationship between two or more employers and two or more of the following:

- A school district;
- A state institution of higher education;
- An Ohio technical center;
- An education service center;
- An OhioMeansJobs training center;
- A nonprofit organization specializing in workforce training;
- Any other organization the Director approves.

The Director may adopt rules as the Director considers necessary to administer the program.

Grant applications and awards

Under the bill, the Director must establish a system for evaluating and scoring grant applications. The Director must award a grant to an industry sector partnership that submits a complete application for funding that does both of the following:

- Describes the activities under "**Permissible grant uses**," below, that the partnership will use the grant funds to support;
- Meets the scoring criteria established by the Director.

Permissible grant uses

An industry sector partnership may use a grant awarded under the program to do any of the following activities:

- Hire employees to coordinate industry sector partnership activities;
- Develop curricula or other educational resources to support the industry sector partnership;

- Market the industry sector partnership and opportunities the partnership creates for workforce development activities;
- Any other activity approved under rules adopted by the Director.

DEPARTMENT OF DEVELOPMENTAL DISABILITIES

County DD board projections and plans

- Requires each county board of developmental disabilities (county DD board) to annually submit to the Department of Developmental Disabilities a five-year projection of revenues and expenditures.
- Authorizes the Department to conduct additional reviews to assess a county DD board's fiscal condition.
- Requires each county DD board to develop an annual plan, instead of a three-calendar year plan, and generally limits the information in the annual plan to information regarding waiting lists and home and community-based services.

Annual cost report audits

- Eliminates the requirement that the Department audit the annual cost reports of all county DD boards and regional councils, and instead gives it discretion to conduct an audit.

Quality assurance reviews

- Eliminates a requirement that county DD board service and support administrators perform quality assurance reviews as a distinct function of service and support administration.

Information about services and providers

- Requires the Department to make available on its website an up-to-date list of all providers of intermediate care facilities for individuals with intellectual disabilities (ICF/IID) services and a pamphlet describing all items and services covered by Medicaid as ICF/IID and home and community-based services.
- Requires county DD boards to include on their websites certain information about ICF/IID and home and community-based services.
- Requires a county DD board, when contacted about services, to provide information about the different types of services that are offered, including ICF/IID and home and community-based services.
- Requires a county DD board to inform an individual of the option to receive ICF/IID services before placing the individual on a waiting list for home and community-based services.

Right to receive ICF/IID services from willing provider

- Codifies in state law a federal requirement that individuals with developmental disabilities who are eligible to receive ICF/IID services have the right to receive the services from any willing and qualified provider.

- Requires the Department to determine whether county boards violate this right.
- Permits individuals with developmental disabilities who are eligible for both ICF/IID and home and community-based services to choose which services to receive.

County DD boards' waiting lists

- Provides that a county DD board's duty to establish a waiting list for home and community-based services applies if the board determines that available resources are insufficient to enroll all individuals who have been assessed as needing the services *and have requested the services*.

ICF/IID services are not residential services

- Provides that ICF/IID services are not residential services.

Criminal records checks for conditionally employed applicants

- Requires the Department, or other hiring entity, to request a criminal records check before conditionally employing an applicant.

Ohio STABLE Account Program Advisory Board

- Changes the name of Ohio's ABLE Account Program Advisory Board to the STABLE Account Program Advisory Board.

Disciplinary actions against supportive living certificates

- Permits the Director of Developmental Disabilities (DD Director), for good cause, to suspend a supported living certificate holder's authority to expand or add supported living services.
- Authorizes the DD Director to issue a summary order suspending a supported living certificate holder's authority to provide supported living to one or more identified individuals under certain circumstances.

Medicaid rates for ICF/IID services

- Provides that the mean FY 2020 and FY 2021 Medicaid rates for all ICFs/IID in peer groups 1-B and 2-B as determined under an older formula after certain modifications are made cannot exceed $290.10.
- Requires the Department to reduce the FY 2020 and FY 2021 Medicaid rates for ICFs/IID in peer groups 1-B and 2-B as determined under an older formula if the federal government requires that the ICF/IID franchise permit fee be reduced or eliminated.
- Delays the addition of the quality incentive payment to the Medicaid payment rates, for ICFs/IID, from July 1, 2020, to July 1, 2021.
- Requires the DD Director to establish a workgroup to recommend new quality indicators to be used to determine ICF/IIDs' quality incentive payments.

- Eliminates the current quality indicators and instead requires that new quality indicators be created based on the recommendations made by the workgroup.
- Modifies the formula to be used to determine the relative weight point value used in determining an ICF/IID's quality incentive payment.
- Provides for ICFs/IID to continue to receive direct support personnel payments when they begin to receive quality incentive payments but at a reduced amount.
- Permits the Department to pay an ICF/IID a rate add-on for outlier services that the ICF/IID provides.
- Requires that to be eligible to receive outlier ICF/IID services, an individual must be a Medicaid recipient, be determined to need intensive behavioral support services, and meet any other requirements specified by the Department.
- Requires the Department to negotiate the amount of the rate add-on with the Department of Medicaid.

ICF/IID franchise permit fee

- Increases the rate of the franchise permit fee imposed on ICFs/IID from $18.02 to $23.95 for FY 2020 and to $24.89 for each fiscal year thereafter.
- Provides for the franchise permit fee to be assessed quarterly instead of annually.
- Provides that an ICF/IID's franchise permit fee for a quarter is to equal the franchise permit fee rate multiplied by the number of the ICF/IID's inpatient days for the quarter.

County share of nonfederal Medicaid expenditures

- Requires the DD Director to establish a methodology to estimate in FY 2020 and FY 2021 the quarterly amount each county DD board is to pay of the nonfederal share of the Medicaid expenditures for which the board is responsible.

County subsidies used for nonfederal share

- Requires, under certain circumstances, that the DD Director pay the nonfederal share of a claim for ICF/IID services using subsidies otherwise allocated to county boards.

Medicaid rates for homemaker/personal care services

- Provides for the Medicaid rate for each 15 minutes of routine homemaker/personal care services provided to a qualifying enrollee of the Individual Options waiver program to be, for 12 months, 52¢ higher than the rate for services to an enrollee who is not a qualifying enrollee.

Direct support professional rate increase

- Requires that the Medicaid rate for homemaker/personal care services provided by direct support professionals under a Medicaid waiver administered by the Department be $12.82 per hour for calendar year 2020 and $13.23 per hour for the first half of calendar year 2021.

Developmental center services

- Permits a developmental center to provide services to persons with developmental disabilities living in the community or to providers of services to those persons.

Innovative pilot projects

- Permits the DD Director to authorize, in FY 2020 and FY 2021, innovative pilot projects that are likely to assist in promoting the objectives of state law governing the Department and county DD boards.

Central intake/referral system for home visiting programs

- Excludes services provided under Part C of the federal Individuals with Disabilities Education Act from the central intake and referral system used to refer families to those services as well as home visiting programs.

Specialized treatment units for minors

- Permits the managing officer of an institution, with the concurrence of the chief program director, to admit into a specialized treatment unit children ages 10-17 who are in behavior crisis and have serious behavioral challenges.
- Requires a child's parent or legal guardian to enter into a memorandum of understanding with the county DD board and the Department specifying each party's responsibilities and the duration of admission.
- Limits the initial duration of admission to 180 days, but permits the child's parent or guardian to petition the Department to extend admission to a maximum of one year.

Citizen's advisory council

- Reduces the membership of a citizen's advisory council appointed for an institution under the Department's control to seven members (from 13).
- Increases the term of advisory council officers and permits a member to serve as an officer until no longer a council member.
- Designates an institution's managing director as the individual responsible for nominating persons to fill council vacancies.

Employment first task force

- Requires, rather than permits, the DD Director to establish an employment first task force.
- Removes the sunset provisions that would, on January 1, 2020, eliminate the task force.

Interagency Workgroup on Autism

- Requires, rather than permits, the DD Director to establish an interagency workgroup on autism.

Reimbursement for workgroup members' travel expenses

- Permits the DD Director to provide for reimbursement for travel expenses for a workgroup's official members who represent families or are advocates of individuals with developmental disabilities if certain conditions are met.
- Provides that the amount of reimbursement cannot exceed the rates the Director of Budget and Management establishes in rules for the travel expenses of officers, members, employees, and consultants of state agencies.

County DD boards' projections and plans

(R.C. 5126.053 and 5126.054 with conforming changes in 5123.046, 5126.056, and 5166.22)

Five-year projection of revenues and expenditures

Beginning April 1, 2020, the bill requires each county board of developmental disabilities (county DD board) to annually submit to the Department of Developmental Disabilities a five-year projection of revenues and expenditures. Each projection must be both in the format established by the Department (in consultation with the Ohio Association of County Boards of Developmental Disabilities) and approved by the superintendent of the county DD board. Projections must be submitted by April 1 each year.

The Department must review each five-year projection and may require a county DD board to do any of the following:

- Submit additional information or a revised projection;
- Permit the Department to visit the county DD board to review documents and other relevant records;
- Complete any reasonable accounting action the Director considers necessary.

If a county DD board fails to submit a five-year projection, the superintendent must provide an explanation of the circumstances that prevented the submission. If the Department finds the explanation to be sufficient, the Department may grant an extension. If the Department finds the explanation to be insufficient, or if no explanation is submitted, the Department may conduct further reviews to complete the projection at full cost to the board or revoke the superintendent's certification.

If a county DD board willfully provides erroneous, inaccurate, or incomplete data as part of its projection, the Department may complete the projection at full cost to the board or may revoke the superintendent's certification.

Additional assessments of a board's fiscal condition

The bill permits the Department, or another entity designated by or under contract with it, to conduct additional reviews as necessary to assess any county DD board's fiscal condition. Prior notice of an additional review must be provided to the board.

The Department may issue recommendations to discontinue or correct fiscal practices or budgetary conditions that prompted, or were discovered by, an additional review. The superintendent of a county DD board must respond in writing to any recommendations within 90 days.

Annual plans

The bill requires county DD boards to develop and submit to the Department annual plans, instead of three-year plans. Under current law, a board must develop a three-calendar year plan that must include three components: (1) an assessment related to wait-listed individuals who need care provided by an intermediate care facilities for individuals with intellectual disabilities (ICF/IID) and may seek home and community-based services, and the sources of funds available to pay the nonfederal share of certain Medicaid expenditures, (2) a preliminary implementation for the first year the plan is in effect, and (3) an implementation of Medicaid case management services and home and community-based services after the plan is approved. The bill replaces the three-calendar year plan with an annual plan requirement and largely eliminates the components that were required in the three-calendar year plan.

Annual plans required under the bill must be submitted by December 31 and specify: (1) the number of individuals with developmental disabilities in the county who are placed on the board's waiting list, the service needs of those individuals, and the projected annualized cost for services, (2) the projected number of individuals to whom the county DD board intends to provide home and community-based services based on available funding as projected in the five-year projection discussed above, and (3) how the services are to be phased in over the period the plan covers.

The bill generally applies other provisions of existing law pertaining to the three-year plans to the annual plans, such as permitting the Department to take action against a county DD board if the plan is not submitted, is disapproved, or is not implemented.

Annual cost report audits

(R.C. 5126.131)

The bill gives the Department discretion whether to audit annual cost reports submitted by county DD boards and regional councils. County DD boards and regional councils are required to submit an annual cost report to the Department, which, under current law, is required to audit every cost report received.

Quality assurance reviews

(R.C. 5126.15, primary; R.C. 5126.055)

The bill eliminates a requirement that a service and support administrator perform quality assurance reviews as a distinct function of service and support administration. It also eliminates a requirement that a service and support administrator incorporate the results of those reviews into amendments of an individual's service plan.

County DD boards employ or contract for the services of service and support administrators. Continuing law requires a service and support administrator to perform only those duties that are specified in the law.

Information about services and providers

(R.C. 5126.047 (primary), 5123.0425, 5126.042, 5126.046, and 5126.05)

Information available online

The bill requires the Department to make available to the public on its website an up-to-date list of all providers of ICF/IID services. Continuing law requires the Department to include on its website an up-to-date list of providers of home and community-based services, non-Medicaid residential services, and non-Medicaid supported living. The list of ICF/IID providers must include the number of each ICF/IID's vacancies. Providers are to report their vacancies to the Department. The bill also requires the Department to make available on its website a pamphlet describing all of the items and services covered by Medicaid as ICF/IID and home and community-based services that continuing law requires the Department to make it available to ICFs/IID.[46]

County DD boards are required by the bill to include on their websites links to the pages of the Department's website that have the lists of providers and the pamphlet regarding ICF/IID and home and community-based services. If a county DD board lists on its website the types of programs and services offered under state law governing the boards and the education of children with disabilities, the board must include on the list ICF/IID services. If a county DD board lists on its website specific programs and services so offered, it must include on the list all ICFs/IID that are located in the county that it serves and contiguous counties.

County DD board duties when contacted about services

The bill requires a county DD board, when an individual with a developmental disability or a person acting on such an individual's behalf contacts the board about programs and services offered pursuant to state law governing county DD boards and the education of children with disabilities, to inform the individual or person about the different types of programs and services so offered, including both ICF/IID and home and community-based services. When informing the individual or person about ICF/IID and home and community-based services, the county DD board, at a minimum, must both:

- Provide a copy of the Department's pamphlet describing all of the items and services covered by Medicaid as ICF/IID and home and community-based services; and
- Provide assistance in accessing the list of providers of ICF/IID and home and community-based services that the bill requires the Department to make available on its website.

[46] R.C. 5124.69, not in the bill.

If an individual with a developmental disability or a person acting on such an individual's behalf contacts a county DD board to express interest in ICF/IID services, the board is required to provide contact information for all ICFs/IID located in the county that the board serves and contiguous counties.

County DD board duty when placing an individual on a waiting list

The bill requires a county DD board to inform an individual of the option to receive ICF/IID services before placing the individual on a waiting list for home and community-based services. A county DD board also must provide the individual with the contact information for all ICFs/IID located in the county the board serves and contiguous counties and direct the individual to the list of ICF/IID providers that the bill requires the Department to include on its website.

Right to receive ICF/IID services from willing provider

(R.C. 5126.046 (primary) and 5123.044)

The bill codifies a federal requirement specifying that an individual with developmental disabilities who is eligible to receive ICF/IID services has the right to receive those services from any willing and qualified provider. Additionally, an individual who is eligible to receive both home and community-based services and ICF/IID services has the right to choose whether to receive home and community-based services or ICF/IID services. The bill requires the Department to determine whether a county DD board violates these rights.

County DD boards' waiting lists

(R.C. 5126.042)

A county DD board is required by current law to establish a waiting list for home and community-based services available under Medicaid waivers administered by the Department if the board determines that available resources are insufficient to enroll all individuals who are assessed as needing the services. The bill provides that a county DD board is required to establish such a waiting list if it determines that available resources are insufficient to enroll all individuals who have been assessed as needing the services *and have requested the services*.

Continuing law requires the Department to adopt rules regarding county DD boards' waiting lists for home and community-based services. Current law requires that the rules establish criteria that a county DD board must use to determine the date an individual was assessed as needing the services. The bill requires that the rules establish criteria a county DD board must use to determine the date an individual who has been assessed as needing the services requests the services.

ICF/IID services are not residential services

(R.C. 5126.01 (primary) and 5123.042)

The bill provides that ICF/IID services are not residential services. Current law defines "residential services" as services to individuals with developmental disabilities to provide housing, food, clothing, habilitation, staff support, and related support services necessary for the health, safety, and welfare of the individuals and the advancement of their quality of life.

The bill makes a corresponding change to a provision of current law that requires each person and government entity seeking to develop new or modify existing residential services to submit to the Department a plan for the development or modification. Under the bill, a plan also must be submitted for the development of new or modification of existing ICF/IID services.

Criminal records checks for conditionally employed applicants

(R.C. 5123.081)

The bill requires the Department, a county DD board, providers, and subcontractors to request a criminal records check on an applicant before conditionally employing the applicant to a position with the Department or a county DD board. Current law requires a criminal records check, but does not require the hiring entity to request it before the conditional employment begins.

Ohio STABLE Account Program Advisory Board

(R.C. 113.55 and 113.56)

The bill changes the name of Ohio's ABLE Account Program Advisory Board to the STABLE Account Program Advisory Board. Under federal law, eligible individuals with disabilities may be designated as a beneficiary of an ABLE account. Amounts in the account can be used by a beneficiary for qualified disability expenses and are excluded from consideration in determining eligibility for means-tested public assistance programs, such as SSI, Medicaid, and food assistance. The Board is responsible for reviewing the work of the Treasurer of State as it relates to Ohio's program.

Disciplinary actions against supportive living certificates

(R.C. 5123.166 (primary), 5123.0414, and 5123.0612)

Current law requires a person to have a certificate issued by the DD Director in order to provide supported living services to an individual with a developmental disability.[47] The Director may, for good cause, take action against a certificate, including refusing to issue or renew a certificate, revoking a certificate, or suspending the certificate holder's authority to continue to provide supported living or begin to provide supported living. The bill adds that the DD Director also may suspend a certificate holder's authority to expand or add supported living.

Generally, action against a certificate must be taken in accordance with the Administrative Procedure Act (R.C. Chapter 119) which requires prior notice and an opportunity for a hearing; however, current law specifies limited circumstances under which the DD Director may summarily suspend (i.e., take action without first providing notice and opportunity for a hearing) an existing certificate holder's authority to continue or begin to provide supported living. Current law specifies certain procedures under the Administrative Procedure Act that apply to summary suspensions. The bill generally maintains those provisions

[47] R.C. 5123.16, not in the bill.

and applies them to a summary suspension issued under the bill's authority to issue summary suspensions regarding expanding or adding services, except as follows:

--The bill requires the DD Director to send a provider notice of the order by certified mail, instead of registered mail as under current law;

--The bill requires that the date for a hearing be within 30 days after receipt of the hearing request only if a provider's written, timely request includes a request for a hearing within that time.

The bill authorizes the DD Director to issue a summary order suspending a supported living certificate holder's authority to provide supported living to one or more identified individuals if the DD Director determines that (1) the certificate holder's noncompliance with one or more requirements of state law or rules causes or presents an immediate danger of causing serious injury, harm, impairment, or death to the individual or individuals and (2) the certificate holder does not remove the conditions that caused or presented those conditions before the order is issued. The order is to apply only to the individual or individuals the DD Director determines experienced or are in immediate danger of experiencing serious injury, harm, impairment, or death. The order takes immediate effect upon notification to the certificate holder. The county DD board for the county where the individual or individuals identified in the order reside is required to arrange for an alternative method of providing services to them until the order is lifted.

The DD Director is required to notify, by telephone, the certificate holder and the county DD board for the county in which the individual or individuals identified in the order reside of the order immediately after issuing it. The DD Director also must provide written notice of the order by electronic or regular mail. Both notices must inform the certificate holder of the right to request a reconsideration of the order. Such a request may be made within 24 hours after receiving the telephone notice. The DD Director must reconsider the order within 24 hours after receiving the request. The reconsideration may be conducted in person, by telephone, or by review of the certificate holder's written submission that accompanies the request, whichever method the certificate holder chooses. The DD Director is required to issue a decision within 24 hours following the conclusion of the meeting, telephone conversation, or review.

The DD Director must lift the order if the DD Director determines that the certificate holder has removed the conditions that led to the order and that the conditions will not recur.

The bill provides that the order does not constitute an action under current law that authorizes the DD Director to take disciplinary action against a supported living certificate holder and is not subject to that law or the Administrative Procedure Act. The DD Director's order under this provision of the bill does not preclude the DD Director from taking other action against a certificate holder authorized by that current law.

Medicaid rates for ICF/IID services

(R.C. 5124.15, 5124.24, and 5124.26; Sections 261.230 and 601.03 to 601.05, amending Section 261.168 of H.B. 49 of the 132nd G.A.)

Under current law, an ICF/IID's Medicaid payment rate is the higher of two rates determined under older and newer formulas. The older formula predates H.B. 24 of the 132nd General Assembly, which enacted the newer one. The older formula expires beginning with FY 2022 at which time an ICF/IID's rate is to be the rate determined under the newer formula.

Revisions to older formula

The bill makes two revisions to the law that requires the Department to make certain modifications to the older of the two formulas used to determine the FY 2020 and FY 2021 Medicaid payment rates for ICFs/IID in peer groups 1-B and 2-B.[48]

The first revision concerns the target amount. The Department must adjust the total per Medicaid day rate for all ICFs/IID in peer groups 1-B and 2-B if the mean total rate for those facilities is other than a target amount. The target amount is $290.10 or, at the Department's sole discretion, a larger amount. If an adjustment is to be made, it must equal the percentage by which the mean total per Medicaid day rate is greater or less than the target amount. The bill sets the target amount at $290.10, thereby eliminating the Department's authority to use a larger target amount and requiring it to make the adjustment if the mean total rate as determined under the older formula after the modifications are made is greater than that amount.

The second revision concerns the franchise permit fee that continuing law requires ICFs/IID to pay. The bill provides that if the U.S. Centers for Medicare and Medicaid Services requires that the franchise permit fee be reduced or eliminated, the Department must reduce the Medicaid payment rate for ICFs/IID in peer groups 1-B and 2-B as determined under the older formula after the modifications are made. The reduction in the rate is to reflect the loss to the state of the revenue and federal Medicaid funds generated from the franchise permit fee.

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[48] Peer group 1-B consists of ICFs/IID with a Medicaid-certified capacity exceeding eight. Peer group 2-B consists of ICFs/IID with a Medicaid-certified capacity not exceeding eight, other than ICFs/IID in peer group 3-B. Peer group 3-B consists of each ICF/IID (1) that was certified as an ICF/IID after July 1, 2014, (2) that has a Medicaid-certified capacity not exceeding six, (3) that has a contract with the Department that is for 15 years and includes a provision for the Department to approve all admissions to, and discharges from, it, and (4) whose residents are admitted directly from a developmental center or have been determined by the Department to be at risk of admission to a developmental center. (R.C. 5124.01(OO)(2).) The modifications to the older formula do not apply when determining the Medicaid payment rate of an ICF/IID in peer group 3-B.

Direct support personnel and quality incentive payments

An ICF/IID's total Medicaid payment rate under the newer formula is the sum of its rates for the various cost components (capital, direct care, indirect care, and other protected) and until FY 2021 a direct support personnel payment equal to 3.04% of the ICF/IID's per Medicaid direct care costs. A quality incentive payment is to replace the direct support personnel payment beginning with FY 2021.

Under the bill, quality incentive payments are not to begin to be paid until FY 2022, and ICFs/IID will continue to receive a direct support personnel payment after FY 2021. The amount of the direct support personnel payment is to be reduced to 2.04% (from 3.04%) of an ICF/IID's per Medicaid direct care costs beginning with FY 2022.

The amount of an ICF/IID's quality incentive payment is to be based in part on the number of points it earns for meeting quality indicators. Current law establishes the following 13 quality indicators:

- Creating and promoting diverse opportunities for residents to participate in the broader community;
- Offering residents multiple opportunities for off-site day programming activities, including resident-specific activities;
- Ensuring that all adult residents who are interested in employment have an identified place on the path to community employment specified in the Department's rules;
- Having an active advocacy group that is driven by residents or fosters residents' participation in a community-wide group;
- Having bedrooms that are designed and arranged to enhance privacy, promote personalization, and meet residents' needs and encouraging residents to bring their own home and room décor;
- Having and following a policy specifying how the ICF/IID seeks direction from residents;
- Having a policy for (a) evaluating each hospital emergency department visit by residents to identify precipitating factors that lead to the visit and (b) developing a plan to mitigate any identified precipitating factors;
- Adopting recommendations for resident health screenings that the Department publishes on its website;
- Offering each month at least the number of wellness and fitness activities specified in the Department's rules;
- Having a number of staff who were trained in positive behavior support strategies, trauma-informed care, and similar topics that is at least the number specified in the Department's rules;
- Having staff involved in orienting and mentoring new staff;

- Having a ratio of direct care staff to residents that is at least the ratio specified in the Department's rules;
- Having a direct care staff retention percentage that is at least the percentage specified in the Department's rules.

The bill eliminates these quality indicators and instead requires that the quality indicators be based on recommendations contained in a report to be issued by the ICF/IID Quality Indicators Workgroup that the bill requires the DD Director to establish. The workgroup is to consist of at least one representative from each of the following as appointed by the DD Director:

- The Department;
- The Ohio Health Care Association;
- The Ohio Provider Resource Association;
- The Arc of Ohio;
- The Values of Faith Alliance;
- The Ohio Association of County Boards of Developmental Disabilities.

Members of the workgroup are to serve without compensation or reimbursement, except to the extent that serving on the workgroup is part of their usual job duties.

Not later than December 31, 2019, the workgroup must submit to the DD Director a report containing recommended quality indicators. In making its recommendations, the workgroup is required to do all of the following:

- Recommend not more than five quality indicators;
- Recommend quality indicators that address aspects of ICF/IID services that individuals receiving services, their families, and their guardians consider to be important;
- Recommend quality indicators that can be calculated using data the Department already collects or that the Department can collect with minimal additional administrative burden on ICFs/IID;
- Consider utilizing a consumer satisfaction survey for one or more of the quality indicators and consider whether the National Core Indicators could be used for this purpose or if a new survey should be developed;
- Consider whether any quality indicators that the workgroup recommends should be adjusted for acuity and whether to recommend different quality indicators for ICFs/IID of different sizes or serving different populations.

The workgroup is to cease to exist when it submits its report.

Continuing law provides for the amount of an ICF/IID's quality incentive payment to be the product of (1) the relative weight point value and (2) the number of points the ICF/IID earns. Under current law, the relative weight point value is to be determined as follows:

1. Determine for each ICF/IID the product of (1) the number if its inpatient days and (2) the number of points it earned for meeting quality indicators;

2. Determine the sum of all of the products determined under (1) for all ICFs/IID;

3. Determine the amount equal to 3.04% of the direct care costs of all ICFs/IID;

4. Divide the amount determined under (3) by the sum determined under (2).

The bill revises the third step in determining the relative weight point value. Instead of determining the amount equal to 3.04% of the direct care costs of all ICFs/IID, 1% of those costs is to be determined.

Outlier services rate add-on for intensive behavioral support services

Continuing law permits the Department to pay an ICF/IID a separate rate add-on for ventilator-dependent outlier ICF/IID services. The bill also permits the Department to pay a separate rate add-on for outlier ICF/IID services provided to residents identified as needing intensive behavioral support services. The Department is to negotiate with the Department of Medicaid the amount of the new rate add-on, if any, or the method by which that amount is to be determined.

Payment of the new rate add-on is conditioned on an ICF/IID applying for it and the Department approving the application. The Department is permitted to approve an application if (1) the ICF/IID submits to the Department a best practices protocol for providing the outlier ICF/IID services and the Department determines that the protocol is acceptable and (2) the ICF/IID meets all other eligibility requirements for the rate add-on to be established in the Department's rules. An ICF/IID that receives approval must provide the services in accordance with the best practices protocol and requirements regarding the services to be established in the Department's rules.

The bill provides that a resident is qualified to receive the outlier ICF/IID services if the resident is a Medicaid recipient, needs intensive behavioral support services, and meets all other eligibility requirements to be established in the Department's rules.

ICF/IID franchise permit fee

(R.C. 5168.60, 5168.61, 5168.62, 5168.63, and 5168.64; Section 812.20)

Continuing law imposes a franchise permit fee on ICFs/IID. Under current law, the franchise permit fee is assessed on a yearly basis and determined as follows:

1. Multiply an ICF/IID's Medicaid-certified capacity on the first day of May of the calendar year in which the assessment is determined by the number of days in the fiscal year for which the fee is assessed;

2. Multiply the product determined under (1) by the franchise permit fee rate.

The bill increases the franchise permit fee rate from $18.02 to $23.95 for FY 2020 and to $24.89 for FY 2021 and thereafter.

The bill provides for the franchise permit fee to be assessed quarterly instead of annually. As a result, the fee is to be determined by multiplying the franchise permit fee rate by the number of an ICF/IID's inpatient days for a quarter. Each ICF/IID is required by the bill to submit to the Department a monthly report containing the number of its inpatient days for that month. A report is due not later than fifteen days after the last day of the month for which it is submitted. Reports must be submitted in a manner the Department is to prescribe. The Department is permitted to review the data included in a report for accuracy. If an ICF/IID fails to submit a report for a month, the number of its inpatient days for that month is to be determined by multiplying the ICF/IID's Medicaid-certified capacity by the number of days in the month.

Under current law, the Department must determine the amount of each ICF/IID's annual franchise permit fee not later than the fifteenth day of each August and notify each ICF/IID of the amount not later than the first day of each September. The bill requires instead that the Department notify each ICF/IID of the amount of its quarterly fee not later than the last day of each October, January, April, and July. Although the fee is currently assessed annually, ICFs/IID are required by current law to pay the fee in quarterly installment payments not later than 45 days after the last day of each September, December, March, and June. The bill requires that ICFs/IID pay their quarterly fees not later than 45 days after the last day of each October, January, April, and July.

The bill repeals a law that requires the Department to redetermine an ICF/IID's franchise permit fee for the second half of a fiscal year if, during the period beginning on the first day of May of a calendar year and ending on the first day of January of the immediately following calendar year, an ICF/IID converts some but not all of its beds to providing home and community-based services and the ICF/IID's Medicaid-certified-capacity is reduced as a consequence. The bill also repeals a law that requires the Department to report annually to the Department of Medicaid the number of beds in each ICF/IID on the preceding first day of May.

County share of nonfederal Medicaid expenditures

(Section 261.130)

The bill requires the DD Director to establish a methodology to estimate in FY 2020 and FY 2021 the quarterly amount each county DD board is to pay of the nonfederal share of the Medicaid expenditures for which the board is responsible. With certain exceptions, continuing law requires the board to pay this share for waiver services provided to an individual who the board determines is eligible for its services. Each quarter, the DD Director must submit to the board written notice of the amount for which the board is responsible. The notice must specify when the payment is due.

County subsidies used for nonfederal share

(Section 261.200)

The bill requires the DD Director to pay the nonfederal share of a claim for ICF/IID services using funds otherwise appropriated for subsidies to county DD boards if (1) Medicaid covers the services, (2) the services are provided to a Medicaid recipient who is eligible for

them and the recipient does not occupy a bed that used to be included in the Medicaid-certified capacity of another ICF/IID certified before June 1, 2003, (3) the services are provided by an ICF/IID whose Medicaid certification was initiated or supported by a county DD board, and (4) the provider of the services has a valid Medicaid provider agreement for the services for the time that they are provided.

Medicaid rates for homemaker/personal care services

(Section 261.210)

The bill requires that the total Medicaid payment rate for each 15 minutes of routine homemaker/personal care services that a Medicaid provider provides to a qualifying enrollee of the Individual Options Medicaid waiver program be 52¢ higher than the rate for services that are provided to an enrollee who is not a qualifying enrollee. The higher rate is to be paid only for the first 12 months, consecutive or otherwise, that the services are provided during the period beginning July 1, 2019, and ending July 1, 2021.

An Individual Options enrollee is a qualified enrollee if all of the following apply:

- The enrollee resided in a developmental center, converted ICF/IID,[49] or public hospital immediately before enrolling in the Individual Options Medicaid waiver program.
- The enrollee did not receive before July 1, 2011, routine homemaker/personal care services from the Medicaid provider that is to receive the higher Medicaid rate.
- The DD Director has determined that the enrollee's special circumstances (including diagnosis, service needs, or length of stay at the developmental center, converted ICF/IID, or public hospital) warrant paying the higher Medicaid rate.

Direct support professional rate increase

(Section 261.220)

The bill requires that the Medicaid payment rate for homemaker/personal care services provided during calendar year 2020 by direct support professionals under a Medicaid waiver administered by the Department of Developmental Disabilities be $12.82 per hour. The rate for such services provided during the first half of calendar year 2021 is to be $13.23 per hour. Homemaker/personal care services are the coordinated provision of a variety of services, supports, and supervision that (1) are necessary to ensure the health and welfare of an individual with a developmental disability who lives in the community, (2) advance the individual's independence within the individual's home and community, and (3) help the individual meet daily living needs. A direct support professional is an individual who works directly with people with developmental disabilities.

[49] A converted ICF/IID is an ICF/IID, or former ICF/IID, that converted some or all of its beds to providing services under the Individual Options Medicaid waiver program.

Developmental center services

(Section 261.150)

The bill permits a residential center for persons with developmental disabilities operated by the Department (i.e., a developmental center) to provide services to persons with developmental disabilities living in the community or to providers of services to these persons. The Department may develop a method for recovery of all costs associated with the provision of the services.

Innovative pilot projects

(Section 261.160)

For FY 2020 and FY 2021, the bill permits the DD Director to authorize the continuation or implementation of innovative pilot projects that are likely to assist in promoting the objectives of state law governing the Department and county DD boards. Under the bill, a pilot project may be implemented in a manner inconsistent with the laws or rules governing the Department and county DD boards; however, the Director cannot authorize a pilot project to be implemented in a manner that would cause Ohio to be out of compliance with any requirements for a program funded in whole or in part with federal funds. Before authorizing a pilot project, the Director must consult with entities interested in the issue of developmental disabilities, including the Ohio Provider Resource Association, Ohio Association of County Boards of Developmental Disabilities, Ohio Health Care Association/Ohio Centers for Intellectual Disabilities, the Values and Faith Alliance, and ARC of Ohio.

Central intake/referral system for home visiting programs

(R.C. 3701.611)

Under law enacted in 2016 by S.B. 332 of the 131st General Assembly, which enacted recommendations of the Commission on Infant Mortality, the Departments of Health and Developmental Disabilities were required to create a central intake and referral system to serve as a single point of entry for access, assessment, and referral of families to appropriate home visiting services and services provided under Part C of the federal Individuals with Disabilities Education Act (IDEA). Part C of IDEA is also known as the "Program for Infants and Toddlers with Disabilities" and is a federal grant program that assists states in operating a comprehensive statewide program of early intervention services for infants and toddlers (ages birth through age 2) with disabilities and their families.[50] The Department of Developmental Disabilities is the lead agency that administers this federal grant program in Ohio.[51]

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[50] Early Childhood Technical Assistance Center, *Part C of IDEA*, available at http://ectacenter.org/partc/partc.asp.

[51] Ohio Department of Developmental Disabilities, *About Ohio Early Intervention*, available at https://ohioearlyintervention.org/about.

The bill excludes early intervention services from the central intake and referral system. Associated with this change, it eliminates the requirement that the two departments share any funding available to each for local outreach and child find efforts.

Specialized treatment units for minors

(R.C. 5123.691)

The bill permits the managing officer of an institution, with the concurrence of the chief program director, to admit children ages 10-17 into a specialized treatment unit within an institution. To be admitted, a child must be in behavior crisis, have serious behavioral challenges, and have either an intellectual disability or autism spectrum disorder. Admission is based on the availability of beds and the clinical treatment needs of the child.

Before a child may be admitted into a specialized treatment unit, the child's parent or legal guardian is required to enter into a memorandum of understanding with the county DD board and the Department. The memorandum must specify each party's responsibilities regarding the care and treatment of the child and the duration of admission.

The bill limits the initial duration of a child's admission into a specialized treatment unit to 180 days, but permits the child's parent or legal guardian to petition the Department to extend the child's length of stay. The Department may grant or deny a petition for extension, but the total duration of admission cannot exceed one year.

The managing officer of an institution has the power to discharge a child from a specialized treatment unit if the chief program director conducts a comprehensive examination of the child and concludes that institutionalization is no longer advisable or that a discharge would be the most effective use of the institution.

Citizen's advisory council membership

(R.C. 5123.092; Section 751.10)

The bill reduces the number of members serving on a citizen's advisory council to seven (from 13). Current law requires that a citizen's advisory council exist for every institution under the Department's control. The bill's reduction in membership is achieved by not filling vacancies on advisory councils as those vacancies arise.

Terms for advisory council officers are increased to three years under the bill and members are permitted to serve as an officer for as long as they are on the council. Currently, officers serve one-year terms and are limited to serving no more than two consecutive one-year terms.

The bill designates an institution's managing director as the individual responsible for nominating persons to fill vacancies on a council. Under current law, nominations are made by the remaining council members.

The bill eliminates a current law provision that permits a member's removal from the council based on several successive, unexcused absences from council meetings.

Employment First Task Force

(R.C. 5123.023)

The bill requires the DD Director to establish an Employment First Task Force for the purpose of improving the coordination of the state's efforts to address the needs of individuals with developmental disabilities who seek community employment. Under current law, the Director is permitted but not required to establish this Task Force.

The bill also removes sunset provisions from current law that would, on January 1, 2020, eliminate the Task Force.

Interagency Workgroup on Autism

(R.C. 5123.0419)

The bill requires the DD Director to establish an Interagency Workgroup on Autism for the purpose of improving the state's efforts to address the service needs of individuals with autism spectrum disorders and their families. Under current law, the Director is permitted but not required to establish this Workgroup.

Reimbursement for workgroup members' travel expenses

(R.C. 5123.0424)

The bill permits the DD Director to provide for an official member of an official workgroup to be reimbursed for actual and necessary travel expenses the member incurs in the performance of the member's duties on the workgroup, including attending the workgroup's meetings, if certain conditions exist. The conditions are:

- The official member must serve on the official workgroup as a representative of the families of, or advocates for, individuals with developmental disabilities.
- The official member cannot receive reimbursement for the travel expenses from any other source.
- The official member cannot receive wages or other compensation from any other source for performing the member's duties on the workgroup.
- No statute prohibits the workgroup's official members from being reimbursed for travel expenses.

The amount the DD Director provides for an official member to be reimbursed cannot exceed the rates the Director of Budget and Management, under continuing law, establishes in rules for the travel expenses of officers, members, employees, and consultants of state agencies.

To be an official member of an official workgroup, a member must have been appointed by the DD Director. An official workgroup is a workgroup, task force, council, committee, or similar entity that has been established by the Director under the Director's express or implied statutory authority.

DEPARTMENT OF EDUCATION

I. School financing

Funding for FY 2020 and FY 2021

- Requires the Department of Education to pay each city, local, exempted village, and joint vocational school district an amount equal to the district's aggregate annualized payments for FY 2019, as of the second payment in June 2019.
- Requires the Department to make an additional payment to each city, local, or exempted village school district, with at least 50 enrolled students, that experiences an average annual percentage change in its enrollment between FY 2016 and FY 2019 that is greater than zero.
- Requires the Department, for each student enrolled in a community school or STEM school, to deduct from the amount computed for the student's resident district and pay to the school the amount prescribed by current law.
- Specifies that, for purposes of computing other payments for FY 2020 and FY 2021 for which a district's "state share index" or "state share percentage" is a factor, the Department must use the state share index or state share percentage computed for the district for FY 2019.
- Specifies that, for purposes of open enrollment, College Credit Plus, and any other payments for which the "formula amount" is used, the formula amount for FY 2020 and FY 2021 equals the formula amount for FY 2019 ($6,020).

Student wellness and success funding

- Provides student wellness and success funds on a per pupil basis to city, local, and exempted village school districts based on quintiles of the percentages of children residing in the districts with family incomes below 185% of the Federal Poverty Guidelines.
- Provides student wellness and success funds, on a full-time equivalency basis, to joint vocational school districts, community schools that are not Internet- or computed-based community schools (e-schools), and STEM schools based on the per-pupil amount of this funding that is paid to each student's district of residence.
- Specifies that each school district, community school that is not an e-school, and STEM school must receive a minimum payment of student wellness and success funds of $25,000 for FY 2020, and $30,000 for FY 2021.
- Provides student wellness and success funds to each e-school in an amount equal to $25,000 for FY 2020, and $30,000 for FY 2021.
- Requires each district and school to spend wellness and success funds and enhancement funds for specified purposes and to develop a plan for utilizing the funding in coordination with one or more specified organizations.

- Requires each district and school to submit a report to the Department at the end of each fiscal year describing the initiatives on which the district's or school's student wellness and success funds were spent.

Funding adjustments for districts with TPP value changes

- Eliminates the requirement that the Department deduct funds from a school district with more than a 10% increase in the taxable value of utility tangible personal property (TPP) subject to taxation in the preceding tax year when compared to the second preceding tax year.
- Requires the Department to credit districts for funds deducted due to such valuation increases between tax years 2017 and 2018.

Per-pupil funding guarantee for certain districts

- Beginning with FY 2022, guarantees each city, local, and exempted village school district at least as much funding per pupil as the statewide per pupil amount paid for chartered nonpublic schools in Auxiliary Services funds and for administrative cost reimbursement.

Funding adjustment for career-technical education

- Requires the Department to adjust the amounts paid to certain school districts for FY 2020 and FY 2021 to account for the decrease in career-technical education students served by a city, local, or exempted village school district and the corresponding increase in students served by a joint vocational school district beginning in FY 2020.
- Specifies that the amount of this adjustment equals the aggregate amount of career-technical education funds paid to the city, local, or exempted village school district as of the second payment in June 2019 minus those funds deducted from the district for students enrolled in community and STEM schools.
- Prohibits the Department, when making this adjustment, from increasing the aggregate amount of foundation aid paid to school districts.

School Climate Grants

- Creates School Climate Grants for FY 2020 and FY 2021 to provide grants to school districts, community schools, or STEM schools to implement positive behavior intervention and support frameworks or social and emotional learning initiatives.

Funding for preschool students, Montessori community schools

- Requires the Department to pay each community school that operates a preschool program using the Montessori method as its primary method of instruction an amount equal to the formula amount for FY 2019 ($6,020) for each student younger than age four.

Quality Community School Support Program

- Establishes the Quality Community School Support Program, under which "community schools of quality" receive an additional $1,150 or $650 per year for each full-time student.

Funding for groups of STEM schools

- Requires the Department to pay all funds for each STEM school that operates within a group directly to the governing body of the group, and requires the governing body of the group to distribute to each STEM school within the group the full amount determined by the Department for that school.
- Requires the Department to assign a separate internal retrieval number to each STEM school within a group.

Report on partnership with educational service centers

- Requires the Department submit annual reports to the General Assembly describing the manner in which the Department partnered with educational service centers in the delivery of certain services during previous fiscal year.

Study of e-school funding models

- Requires the Department to study and make recommendations on the feasibility of new funding models for Internet- or computer-based community schools (e-schools) by December 31, 2019.

II. High school graduation and testing requirements

High school graduation requirements

- Beginning with the class of 2023, requires students enrolled in public and chartered nonpublic schools to qualify for a high school diploma by attaining a competency score on the English language arts II and Algebra I end-of-course exams and earning two state diploma seals.
- Permits students who do not attain a competency score on the English language arts II or Algebra I end-of-course exams to, under certain circumstances, to qualify for a high school diploma using an alternative demonstration of competency.
- Requires the Governor's Executive Workforce Board, in consultation with the Superintendent of Public Instruction and the Chancellor of Higher Education, to determine a competency score on the English language arts II and Algebra I end-of-course exams by March 1, 2020.
- Requires the State Board of Education to develop a system of state diploma seals for the purpose of allowing students to qualify for a high school diploma.

Policy regarding at-risk students

- Requires each school district, community school, STEM school, college-preparatory boarding school, and chartered nonpublic school to, by June 30, 2020, adopt a policy regarding students who are at risk of not qualifying for a high school diploma.
- Specifies a policy must include criteria and procedures for identifying at-risk students and a process for providing written notification to the parent, guardian, or custodian of at-risk students.
- Requires each district or school to assist at-risk students with additional instructional and support services.

Graduation plans

- Stipulates that each district or school must develop, and subsequently update, a graduation plan for each student enrolled in 9th through 12th grade and that the plan must be used to help identify at-risk students.

Recommendations regarding students retaking 12th grade

- Requires the state Superintendent, in collaboration with the Chancellor and the Governor's Office of Workforce Transformation, to establish a committee to develop policy recommendations regarding students who completed 12th grade, but did not qualify for a high school diploma.
- Specifies that the committee must develop its recommendations and issue a report to the State Board and the General Assembly by October 1, 2020.

Changes to end-of-course exams

- Eliminates the English language arts I and, if a federal waiver is received, geometry end-of-course exams.
- Specifies students must complete the English language arts II, Algebra I, science, American history, and American government end-of-course exams, but only the English language arts II and Algebra I end-of-course exams are required for graduation.
- Stipulates that the State Board, in determining five ranges of scores for the end-of-course exams, must consult with the standing committees of the House and Senate that consider primary and secondary legislation.
- Prohibits the State Board from setting a new minimum cumulative performance score for the end-of-course exams after the bill's effective date.
- Prohibits requiring a student to retake the English language arts II and Algebra I end-of-course exams in 9th through 12th grade if the student received a proficient score or higher or achieved a competency score prior to 9th grade.

III. State report cards

Value-added progress dimension[52]

- Changes the grading scale used to determine letter grades assigned for the value-added progress dimensions on the report card
- In its benchmarks for assigning letter grades, permits the State Board to award a district or building an overall value-added progress dimension grade of "A" if the grades for the district or building's subgroup value-added dimension score is a "C" or higher, instead of a "B" or higher as under current law.

Study committee

- Establishes a study committee to evaluate how performance measures, components, and the overall grade on the state report card are calculated and to report its findings to the General Assembly by December 15, 2019.

IV. Community schools

Community school mergers

- Establishes a procedure by which two or more community schools may merge that includes adopting a resolution, notifying the Department, and entering into a new contract with the surviving community school's sponsor.
- Clarifies that participating in a merger does not exempt a community school from the issuance of report card ratings or the laws regarding permanent closure.
- Makes ineligible to participate in a merger a community school that (1) has received certain failing grades on one of two most recent report cards or (2) has been notified of the for-cause termination or nonrenewal of the school's sponsorship contract.

Community school sponsor evaluations

- Decreases the frequency of the Department of Education's evaluation of any community school sponsor rated "effective" or "exemplary" for three or more consecutive years to once in each three-year period.
- Requires the Department to recalculate the rating for the 2017-2018 school year for the sponsor of a dropout recovery community school that itself receives a recalculated rating for the that school year based on the bill's revised test passage report card measure.

[52] The changes regarding the value-added progress dimension were included in an amendment adopted by the Senate Finance Committee but, due to an engrossing error, do not appear in the bill.

Conversion schools reclassified as "start-up" schools

- Reclassifies as a "start-up" community school a "conversion" community school that later enters into a sponsorship contract with an entity that is not a school district or educational service center.

Community school closure criteria

- Changes the number of years of statutorily specified underperformance necessary for closure of community schools (including dropout recovery schools) from two of three most recent school years to three consecutive school years.

Dropout recovery school report cards

- Specifies that the state test passage rate measure on the dropout recovery report card must include the percentage of 12th grade students who have attained the "designated" passing score on all high school assessments or the "cumulative" performance score on the end-of-course exams, whichever applies.
- Requires the Department of Education to reissue 2017-2018 and 2018-2019 overall ratings for each dropout recovery community school using the new state test passage rate measure and provides a limited exemption from closure based upon the reissued ratings.

Annual e-school reports

- Requires each Internet- or computer-based community school (e-school) to prepare and submit an annual report to the Department on classroom size, teacher – student ratios, and in-person meetings with a student.
- Requires the Department to submit to the State Board a report regarding the information received by e-schools.

Lists of community school closures and "challenged" districts

- Requires the Department, by October 1 each year, to publish separate lists regarding community school closures, community schools at risk of closure, and "challenged" school districts.

V. Other provisions

Assessment requirements for chartered nonpublic schools

- Permits chartered nonpublic schools that participate in state scholarship programs to administer an alternative assessment rather than the state achievement assessments for grades 3-8.
- Permits a chartered nonpublic school to develop a written plan to excuse a student with a disability from taking state assessments if certain conditions apply.

Educational Choice (Ed Choice) scholarship

- Specifies that if the number of applicants for an Ed Choice scholarship for a school year exceeds 90% of the maximum number prescribed by statute, the Department must increase the limit by 5% for the next year.
- Qualifies for the Ed Choice scholarship students enrolled in 8th grade in a chartered nonpublic school without a state scholarship in the school year prior to the first school year for which a scholarship is sought.
- Expands eligibility for income-based Ed Choice scholarships to all students entering grades K-12 for the first time, beginning with the 2020-2021 school year.
- Specifies that a student's Ed Choice scholarship must be computed prior to the application of any other sources of financial aid received by the students.
- Beginning with the 2020-2021 school year, requires the Department to conduct a priority application period between January 1 and May 1 of each school year in order to award Ed Choice scholarships.
- Requires the Department to continue awarding Ed Choice scholarships after the priority application period ends, prorating the amount if the student receives a scholarship after the school year begins, and in the case of income-based scholarships, award them only if appropriated funds remain available.

Cleveland scholarship applications

- Requires the Department, beginning with the 2020-2021 school year, to conduct two application periods for the Cleveland Scholarship Program.
- Specifies that the Department need not conduct a second application period if the scholarships awarded in the first period used the entire amount appropriated for a school year.

Educational service centers

- Specifically permits an ESC to apply for state or federal grants on behalf of school districts and community schools with which it has voluntary service agreements.
- Permits an ESC to enter into a contract to purchase supplies, materials, equipment, and services on behalf of a school district or political subdivision.
- Permits ESCs to participate in the school component of the Medicaid Program.

School breakfast programs

- Requires the Department to establish a program under which qualifying higher-poverty public schools must offer breakfast to all enrolled students before or during the school day.
- Permits a district or school to choose not to establish a school breakfast program for financial reasons or if it already has a successful breakfast program or partnership in place.

- Requires the Department to submit a report on the breakfast program to the General Assembly and the Governor annually by December 31.

Student transportation

- Prohibits a school district board of education from reducing the transportation it provides to students the district is not required to transport after the first day of the school year.
- Specifies that the annual medical examination for school bus drivers required under rules adopted by the State Board may be performed by the same individuals who may perform medical examinations for school bus drivers who are subject to State Highway Patrol rules.
- Requires the task force to report its findings by December 31, 2020, to the Speaker and the Senate President.

Involuntary lease or sale of school district property

- Requires a school district to offer to lease or sell to community schools, STEM schools, and college-preparatory boarding schools located in the district real property that the district has not used for school operations for one year (rather than two years as under current law).

State minimum teacher salary schedule

- Increases the minimum base salary for beginning teachers with a bachelor's degree from $20,000 to $30,000 and proportionally increases the minimum salaries for teachers with different levels of education and experience.

Alternative resident educator licenses

- Requires applicants for an alternative resident educator license to have either a cumulative undergraduate grade point average (GPA) of 2.5 out of 4.0 or a cumulative graduate school GPA of 3.0 out of 4.0.
- Replaces the option to satisfy the training prerequisite for alternative resident educator licensure by completing a summer training institute offered by a nonprofit organization with the option to complete preservice training approved by the Chancellor of Higher Education.

"Properly certified or licensed" teachers, paraprofessionals

- Repeals the prohibition against school districts, community schools, and STEM schools employing teachers to provide instruction in a core subject area who are not "properly certified or licensed" teachers.
- Repeals the prohibition against school districts, community schools, and STEM schools employing paraprofessionals to provide support in a core subject area in a program supported by federal Title I funds who are not "properly certified" paraprofessionals.

Computer science teachers

- Permits a school district, community school, or STEM school, for the 2019-2020 and 2020-2021 school years, to allow an individual with a valid educator license in any of grades 7-12 to teach a computer science course if the individual first completes a professional development program approved by the district superintendent or school principal.
- Requires a district superintendent or school principal to approve any professional development program endorsed by the organization that creates and administers the national Advanced Placement examinations (the College Board) as appropriate for the course the individual will teach.

Bright New Leaders for Ohio Schools

- Eliminates the provision of law that establishes the nonprofit corporation that initially created and implemented the Bright New Leaders for Ohio Schools Program and, instead, establishes the Ohio State University Fisher College of Business and College of Education and Human Ecology as the administrators for the program.
- Requires the State Board to issue a professional administrator license for grades pre-kindergarten through 12 to individuals who complete the program.

School child day-care programs

- Clarifies that child day-care centers that serve preschool children and child day-care centers that serve school-age children must meet or exceed the standards adopted by the Director of Job and Family Services.

Behavioral prevention initiatives

- Requires public schools to annually report to the Department on the types of behavioral prevention initiatives being used to promote healthy behavior and decision-making by students.
- Permits the Department to use these reports as a factor in distribution of funding for prevention-focused behavioral initiatives.

Student immunizations, chartered nonpublic schools

- Permits a chartered nonpublic school to deny admission to or refuse to enroll a student whose parent or guardian declines to have the student immunized for reasons of conscience, including religious convictions.

Excessively absent students

- Specifies that when determining whether a student is “excessively absent” a school district or school must consider only that student’s nonmedical excused absences and unexcused absences, rather than *all* excused and unexcused absences as under current law.

Storm shelter requirement

- Prohibits the Board of Building Standards from requiring the installation of storm shelters in public schools having undergone state-funded construction or renovation prior to September 15, 2021.

Consolidated school mandate report

- Eliminates training on crisis prevention and intervention and the establishment of a wellness committee from the consolidated school mandate report that each district annually must file with the Department to denote compliance or noncompliance with the items contained in the report.

Athletics transfer rules

- Requires a school district, interscholastic conference, or organization that regulates interscholastic athletics to have uniform transfer rules for public and nonpublic schools.

International students in athletics

- Permits any international student attending an Ohio elementary or secondary school and who holds an F-1 U.S. visa to participate in interscholastic athletics, regardless of whether the student's school began operating a dormitory prior to 2014 (as provided under current law).

English learners

- Changes references of "limited English proficient student" to "English learner" to align with federal law.

I. School financing

(R.C. 3314.088, 3317.0219, 3317.163, 3317.26, and 3326.42; Sections 265.210, 265.215, 265.220, 265.225, 265.230, and 265.235)

The current school funding system specifies a per-pupil formula amount and then uses that amount, along with a district's "state share index" (which depends on valuation and, for some districts, also on median income), to calculate a district's base payment (called the "opportunity grant"). The system also includes payments for targeted assistance (based on a district's property value and income) and supplemental targeted assistance (based on a district's percentage of agricultural property), categorical payments, a capacity aid payment, and payments for a graduation bonus, a third-grade reading bonus, and student transportation.

The bill retains the current school financing system, but it suspends use of that formula for school districts for FY 2020 and FY 2021 and, instead, provides for payments to be made based on FY 2019 funding. The bill also provides for deductions and transfers for community school and STEM school students as prescribed under current law. For a more detailed description of the bill's school financing system, see the LBO Redbook for the Department of Education and the LSC Comparison Document for the bill. From the LSC home page,

www.lsc.ohio.gov, click on "Budget Central," then on "Main Operating – H.B. 166," and then on "EDU" under "Redbooks" or on "Comparison Document."

Funding for FY 2020 and FY 2021

(Sections 265.210, 265.215, 265.220, 265.225, 265.230, and 265.235)

School districts

For FY 2020 and FY 2021, the bill requires the Department of Education to pay each city, local, exempted village, and joint vocational school district an amount equal to the district's aggregate annualized payments for FY 2019, as of the second payment in June 2019.

The bill also requires the Department to make an additional payment for FY 2020 and FY 2021 to each city, local, and exempted village school district, with at least 50 enrolled students, that experiences an average annual percentage change in its enrollment between FY 2016 and FY 2019 that is greater than zero.

Community schools and STEM schools

For FY 2020 and FY 2021, the bill requires the Department, for each student enrolled in a community school or STEM school, to deduct from the amount computed for the student's resident district under the bill's provisions and pay to the school an amount for the student in the manner prescribed by current law. For this purpose, the bill specifies that (1) the "formula amount," which is used to calculate the "opportunity grant" for each school, equals the formula amount for FY 2019 ($6,020) and (2) the amounts deducted and paid for targeted assistance and economically disadvantaged funds, which are computed based on an amount calculated for a student's resident district, must be the same per-pupil amounts deducted and paid for FY 2019.

Additionally, for FY 2020 and FY 2021, the bill requires the Department to pay each community school and STEM school graduation and third-grade reading bonuses equal to the school's payments for those bonuses for FY 2019.

Other payments

The bill specifies that, for purposes of computing other payments for FY 2020 and FY 2021 for which a district's "state share index" or "state share percentage" is a factor, the Department must use the state share index or state share percentage computed for the district for FY 2019.

Additionally, the bill specifies that, for purposes of open enrollment, College Credit Plus, and any other payments for which the "formula amount" is used, the formula amount for FY 2020 and FY 2021 equals the formula amount for FY 2019 (as with payments for community schools and STEM schools under the bill).

Student wellness and success funding

(R.C. 3314.088, 3317.0219, 3317.163, 3317.26, and 3326.42; Section 265.210)

The bill requires the Department to make a new payment for student wellness and success to all school districts, community schools, and STEM schools. These funds must be

spent for specified purposes that are outlined below. The Department must pay half of these funds by October 31 of the fiscal year for which the payment is calculated and the other half by February 28 of that fiscal year. The Department is prohibited from later reconciling or adjusting the payment.

City, local, and exempted village school districts

The bill requires the Department to pay student wellness and success funding to city, local, and exempted village school districts on a per pupil basis. For purposes of this payment, a district's total student count is the total number of students who were enrolled in the district at the time of the second school funding payment in June of the preceding fiscal year.

The per-pupil amounts for this payment range from $20 to $250 for FY 2020, and $25 to $300 for FY 2021. To determine each district's per pupil amount, the Department must group the districts into quintiles each fiscal year based on the percentages of children residing in the districts with family incomes below 185% of the Federal Poverty Guidelines, using the most recent five-year estimates published by the U.S. Census Bureau in the American Community Survey as the resource. Districts in the highest quintile are paid the highest per-pupil amount, and districts in the other four quintiles are paid a smaller per pupil amount based on a sliding scale calculation. Each district must, however, receive a minimum aggregate payment of $25,000 for FY 2020, and $30,000 for FY 2021 (unless the district has fewer than five enrolled students).

Joint vocational school districts, community and STEM schools

The bill requires the Department to pay student wellness and success funding, on a full-time equivalency basis, to joint vocational school districts, community schools that are not Internet- or computer-based community schools (e-schools), and STEM schools. This funding is calculated by determining, for each student enrolled in the district or school at the time of the school funding payment in June of the preceding fiscal year, the per-pupil amount of student wellness and success funding paid to the student's district of residence and multiplying that amount by the student's full-time equivalency. Each district or school must receive a total minimum aggregate payment of $25,000 for FY 2020, and $30,000 for FY 2021.

The bill does not provide a per-pupil payment for e-schools. Instead, it requires the Department to pay each e-school $25,000 for FY 2020, and $30,000 for FY 2021.

Requirements for spending student wellness and success funds

The bill requires districts and schools to spend student wellness and success funds for any of the following initiatives or a combination of any of them:

- Mental health services;
- Services for homeless youth;
- Services for child welfare involved youth;
- Community liaisons;
- Physical health care services;

- Mentoring programs;
- Family engagement and support services;
- City Connects programming;
- Professional development regarding the provision of trauma informed care;
- Professional development regarding cultural competence;
- Services for child nutrition and physical health, fitness, and wellness; and
- Student services provided prior to or after the regularly scheduled school day or any time school is not in session.

The bill also specifies that they must develop plans for utilizing student wellness and success funding in coordination with at least one of the following community partners: a board of alcohol, drug, and mental health services; an educational service center; a county board of developmental disabilities; a community-based mental health treatment provider; a board of health of a city or general health district; a county board of job and family services; a nonprofit organization with experience serving children; or a public hospital agency.

Finally, the bill requires each district and school, at the end of each fiscal year, to submit a report to the Department describing the initiative or initiatives on which the district's or school's student wellness and success funds were spent.

Payments prior to the bill's effective date

(Section 265.210)

As with the past three biennial budget acts, the bill requires the Superintendent of Public Instruction, prior to the bill's effective date, to make operating payments in amounts "substantially equal" to those made in the prior year, "or otherwise," at the Superintendent's discretion.

Funding adjustments for districts with TPP value changes

(R.C. 3317.028)

The bill eliminates the requirement that the Department deduct funds from a school district with more than a 10% increase in the taxable value of utility tangible personal property (TPP) subject to taxation in the preceding tax year when compared to the second preceding tax year.

Currently, the Department must recompute, for each fiscal year, the state aid of each district with such an increase by replacing the "three-year average valuations" used throughout the school funding formula with the "total taxable value for the preceding tax year." It then must deduct from the district's state aid for that fiscal year the *lesser* of:

- The difference between the district's state aid prior to the recomputation and the district's recomputed state aid; or

- The increase or decrease in taxes charged and payable on the district's total taxable value for the preceding tax year and the second preceding tax year.

The bill does not, however, make any changes to the existing requirement that the Department make a payment to a school district with more than a 10% decrease in the taxable value of utility TPP subject to taxation in the preceding tax year when compared to the second preceding tax year.

Per-pupil funding guarantee for certain districts

(R.C. 3317.28)

Beginning with FY 2022, the bill guarantees each city, local, and exempted village school district at least as much funding per pupil as the statewide per pupil amount paid for chartered nonpublic schools in Auxiliary Services funds[53] and for administrative cost reimbursement.[54] (For FY 2019, the statewide per pupil amount paid for chartered nonpublic schools in Auxiliary Services funds and for administrative cost reimbursement was approximately $1,305.)

Funding adjustment for career-technical education

(Section 265.227; conforming changes in Sections 265.220 and 265.225)

The bill requires the Department of Education to adjust the amounts paid to certain school districts for FY 2020 and FY 2021 to account for the decrease in career-technical education students served by a city, local, or exempted village school district and the corresponding increase in students served by a joint vocational school district. In order to qualify for this adjustment, a city, local, or exempted village school district must provide a career-technical education program in FY 2019 that meets standards adopted by the State Board of Education but, beginning in FY 2020, enters into an agreement to become a member of a joint vocational school district that meets standards adopted by the State Board and provides that program instead.

The bill specifies that the amount of this adjustment equals the aggregate amount of career-technical education funds paid to the city, local, or exempted village school district as of the second payment in June 2019 minus those funds deducted from the district as of the June 2019 payment for students enrolled in community and STEM schools.

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[53] Auxiliary Services funds are used to purchase goods and services for students who attend chartered nonpublic schools, such as textbooks, digital texts, workbooks, instructional equipment, library materials, tutoring and other special services, provision of language and academic support services and other accommodations for English language learners, and procurement of security services through a county sheriff, police force, or other certified police officer (R.C. 3317.06).

[54] Each chartered nonpublic school may be reimbursed for administrative and clerical costs incurred as a result of complying with state and federal recordkeeping and reporting requirements (R.C. 3317.063, not in the bill).

The bill prohibits the Department, when making this adjustment, from increasing the aggregate amount of foundation aid paid to school districts.

School Climate Grants

(Section 265.325)

For FY 2020 and FY 2021, the bill creates a School Climate Grants program to provide grants to school districts, community schools, and STEM schools to implement positive behavior intervention and support frameworks, social and emotional learning initiatives, or both, in school buildings that serve any of grades K-3.

Grant application

The bill requires the state Superintendent to prescribe an application form, establish procedures for consideration and approval of grant applications, and determine the amount of the grant awards.

Grant distribution

The state Superintendent must award grants based on the following order of priority:

First, to eligible applicants whose proposal serves one or more eligible school buildings whose percentage of economically disadvantaged students, as determined by the state Superintendent, is greater than the statewide average percentage of economically disadvantaged students;

Second, to eligible applicants whose grant proposal serves one or more eligible school buildings with high suspension rates, as determined by the state Superintendent; and

Third, to eligible applicants who have yet to receive a School Climate Grant in the order in which the application was received.

If the amount appropriated in a fiscal year is insufficient to provide grants to eligible applicants with the top priority level, the state Superintendent must first award grants within that level to eligible applicants whose proposal serves one or more eligible schools that previously have not been served through a School Climate Grant.

Grant amount

The bill specifies a maximum grant amount of $5,000 may be awarded in each fiscal year for each eligible school building in an applicant's grant proposal, for up to ten schools per proposal.

Grant agreement

The state Superintendent may enter into a grant agreement with a grant recipient that includes terms and conditions governing the use of the funds. The Superintendent may monitor a recipient's use of the funds to ensure the award is used in accordance with the agreement.

Grant recipients may use grant awards for grant-related expenses incurred for a period no longer than two years from the date of the award.

Appropriation

The bill appropriates $2 million in each of FY 2020 and FY 2021 from the Lottery Profits Education Fund for grants under the program

Funding for preschool students, Montessori community schools

(R.C. 3314.06; Section 265.20)

The bill requires the Department to pay each community school that operates a preschool program using the Montessori method as its primary method of instruction an amount equal to the formula amount for FY 2019 ($6,020) for each student younger than age four. It prohibits, however, these schools from using early childhood education funding (which is paid under an uncodified provision of the bill) for these students.

Currently, payments for nondisabled preschool students are not authorized in the Revised Code. Instead, these payments historically have been paid under an uncodified provision of the biennial budget act.[55]

Quality Community School Support Program

(Section 265.335)

The bill creates for FY 2020 and FY 2021 the Quality Community School Support Program. Under the program, the Department must pay each "community school of quality" $1,150 in each fiscal year for each student identified as economically disadvantaged and $650 in each fiscal year for each student who is not identified as economically disadvantaged.

"Community school of quality" designation

The bill designates four separate types of "community schools of quality," each with its own indicators. A school designated as a "community school of quality" maintains that designation for two fiscal years. The indicators for type of community school of quality are described in the table below.

Indicators of quality	Type 1	Type 2	Type 3	Type 4
School's sponsor is rated "exemplary" or "effective" on sponsor's most recent evaluation.	✓	✓	✓	✓
School's two most recent performance index scores are higher than the school district in which school is located.	✓			

[55] See, for example, Section 265.20 of H.B. 49 of the 132nd General Assembly and Section 263.20 of H.B. 64 of the 131st General Assembly, which are similar to Section 265.20 of the bill.

Indicators of quality	Type 1	Type 2	Type 3	Type 4
School's most recent overall grade for value added is "A" or "B" or school is in its first or second year of operation and did not receive a value-added grade.	✓			
At least 50% of enrolled students are economically disadvantaged.	✓			✓
The school is in its first year of operation.		✓		
The school replicating the operational and instructional model used by a **Type 1** school of quality.		✓		
School contracts with an operator that operates schools in separate states.			✓	✓
One of the operator's schools received funding through the Federal Charter School Program or the Charter School Growth Fund.			✓	
One of the operator's out-of-state schools performed better than the school district in which the in-state school is located, as determined by the Department.				✓
Operator is in good standing in all states.				✓
Operator does not have financial viability issues preventing it from effectively operating a community school in Ohio.				✓

Payment calculation

With one exception, the payment must be calculated using the final adjusted full-time equivalent number of students enrolled in a community school for the previous fiscal year. For a school in its first year of operation, the payment must be calculated using the adjusted full-time equivalent number of students enrolled in the school as of the date the payment is made.

The Department must make the payment to each community school of quality by January 31 each year.

Study of e-school funding models

(Section 265.470)

The bill requires the Department to study and make recommendations on the feasibility of new funding models for Internet- or computer-based community schools (e-schools). In doing so, the Department must consider (1) models based on student subject matter competency and course completion and (2) models of other states, including Florida and New Hampshire. The Department must submit the study to the General Assembly by December 31, 2019. Currently, an e-school's per-pupil funding is calculated by comparing the total number of hours of learning opportunities offered to a student with the number of documented hours the student actually spent participating in learning activities.[56]

Law enacted in August of 2018, created a legislative committee to study and make recommendations regarding a payment system for e-schools based on student subject matter competency by November 15, 2018. That committee also was required to examine the funding models of other states when compiling its results.[57]

Funding for groups of STEM schools

(R.C. 3326.031; conforming changes in R.C. 3326.33, 3326.34, 3326.36, 3326.37, and 3326.41)

Current law authorizes STEM schools that operate from multiple facilities located in one or more school districts to operate within a group directed by a single governing body. The bill makes two changes regarding this type of STEM school as explained below.

The bill requires the Department to pay all funds for each STEM school that operates within a group to the governing body of the group, rather than directly to each school as under current law. The governing body of the group then must distribute to each STEM school within the group the full amount determined by the Department for that school.

The bill requires the Department to assign a separate internal retrieval number (IRN) (building identification number) to each STEM school within a group.

Report on partnership with educational service centers

(Section 265.505)

The bill requires the Department, by December 31, 2020, and 2021, to submit reports to the General Assembly describing the manner in which the Department partnered with educational service centers (ESCs) in delivery of services regarding academic standards, accountability and report cards, literacy improvement, and educator preparation for which state funding was provided to ESCs for the previous fiscal year.

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[56] See R.C. 3314.08 and 3314.27, not in the bill; Page 11 of the Community School Full Time Equivalency (FTE) Review Manual, Office of School Finance.

[57] Section 10 of S.B. 216 of the 132nd General Assembly.

II. High school graduation and testing requirements

High school graduation requirements

(R.C. 3301.0712, 3301.0714, 3313.618, and 3313.6114; conforming in R.C. 3313.6110, 3314.03, 3326.11, and 3328.24)

The bill establishes a new set of high school graduation requirements for students attending school districts, community schools, STEM schools, college-preparatory boarding schools, and chartered nonpublic schools. Students in the class of 2023 and after must meet the new requirements to qualify for a high school diploma. However, the bill also permits students in the classes of 2018 through 2022 to qualify for a diploma by meeting the new requirements, rather than the requirements specified under current law (see "**Background**" below).

Under the new graduation requirements, a student must demonstrate competency in English language arts and math by attaining a "competency score" on the English language arts II and Algebra I end-of-course exams. If a student fails to attain a competency score on one or both of the required end-of-course exams, the student, under certain circumstances, still may meet the requirements through specified alternative demonstrations of competency. Finally, each student also must earn two state diploma seals from a system of state diploma seals prescribed by the State Board of Education, at least one of which must be statute-defined (see "**State diploma seals**" below).

Under the bill, the Governor's Executive Workforce Board, in consultation with the Superintendent of Public Instruction and the Chancellor of Higher Education, must determine a competency score for the English language arts II and Algebra I end-of-course exams by March 1, 2020. Additionally, the individualized education program of a student receiving special education services must specify the manner in which the student will participate in assessments related to the new graduation requirements.

Alternative demonstrations of competency

The bill permits a student who does not attain a competency score on one or both of the English language arts II and Algebra I end-of-course exams to still qualify for a high school diploma using an alternative demonstration of competency. However, prior to being allowed to do so, the student's district or school must offer remedial support to the student and the student must re-take any end-of-course exam on which the student did not attain a competency score. If the student fails to attain a competency score on a second administration of an end-of-course exam, the student is then permitted to use a specified alternative demonstration of competency.

The alternative demonstrations included in the bill are (1) earning course credit through the College Credit Plus program in the failed subject area, (2) providing evidence that the student has enlisted in the U.S. armed forces, or (3) completing both a "foundational" option and either another "foundational" option or a "supporting" option.

Under the bill, a "foundational" option includes:

- Earning a score of proficient or higher on four state technical assessments in a single career pathway;
- Obtaining an industry-recognized credential;
- Completing a pre-apprenticeship or apprenticeship in the student's chosen career field; or
- Providing evidence of acceptance into an apprenticeship program after high school that is restricted to participants 18 years of age or older.

A "supporting" option includes:

- Completing 250 hours of work-based learning with evidence of positive evaluations;
- Obtaining an OhioMeansJobs-readiness seal; or
- Attaining a workforce readiness score, as determined by the Department of Education, on the national-recognized job skills assessment (the WorkKeys assessment) selected by the State Board under continuing law.

State diploma seals

The bill requires the State Board to establish a system of state diploma seals, which may be attached to the high school diploma of a student enrolled in a public or chartered nonpublic school, for the purpose of qualifying for graduation.

The system consists of twelve state diploma seals. Two of the state diploma seals, the State Seal of Biliteracy and the OhioMeansJobs-readiness seal, are established under continuing law. The ten new state diploma seals, created under the bill, can be separated into two categories: *statute-defined seals*, which generally have requirements that are specified in statute, and *school-defined seals*, which have requirements that are largely aligned with guidelines adopted by a student's district or school. (For more information on the individual seals, see the table below.) A student must attain at least two state diploma seals to qualify for graduation, and at least one of those seals must be the State Seal of Biliteracy, the OhioMeansJobs-readiness seal, or a statute-defined seal.

Of the ten new state diploma seals, seven are statute-defined and three are school-defined. A district or school must develop guidelines establishing a requirement for at least one of the school-defined seals. A district or school also must maintain appropriate records to identify students who have met the requirement of a new state diploma seal and attach a seal to the diploma and transcript of a student enrolled in the district or school that meets the seal's requirement. However, the Department must provide each district or school with an appropriate mechanism to assign a new state diploma seal and a student must not be charged a fee to be assigned a new state diploma seal.

State diploma Seal	Continuing law, statute-defined, or school-defined	Requirements
State seal of Biliteracy[58]	Continuing law	Meet the requirements and criteria, including assessments of foreign language and English proficiency, set by the State Board.
OhioMeansJobs-readiness[59]	Continuing law	Meet the requirements and criteria, including demonstration of work-readiness and work ethic competencies such as teamwork, problem-solving, reliability, punctuality, and computer technology competency, set by the state Superintendent, in consultation with the Chancellor and the Governor's Office of Workforce Transformation.
Industry-recognized credential	Statute-defined	Attain an industry-recognized credential that is aligned with an in-demand job.
College-ready	Statute-defined	Attain a score that is remediation-free, in accordance with standards adopted under continuing law, on a nationally standardized assessment (ACT or SAT).
Military enlistment	Statute-defined	Complete either: 1. Provide evidence of enlistment in a branch of the U.S. armed forces; or 2. Participate in a Junior Reserve Officer Training program approved by Congress under federal law.
Citizenship	Statute-defined	Complete any of the following: 1. Attain a proficient score or higher on both the American history and American government end-of-course exams; 2. Attain a score that is the equivalent of proficient or higher on appropriate Advanced Placement or International Baccalaureate examinations; or 3. Attain a final course grade that is the

[58] R.C. 3313.6111, not in the bill.

[59] R.C. 3313.6112, not in the bill.

State diploma Seal	Continuing law, statute-defined, or school-defined	Requirements
		equivalent of a B or higher in "appropriate courses" taken through the College Credit Plus Program.
Science	Statute-defined	Complete any of the following: 1. Attain a proficient score or higher on the science end-of-course exam; 2. Attain a score that is the equivalent of proficient or higher on an appropriate Advanced Placement or International Baccalaureate examination; or 3. Attain a final course grade that is the equivalent of a B or higher in an "appropriate course" taken through the College Credit Plus Program.
Honors diploma	Statute-defined	Meet the additional criteria for an honors diploma that are set by the State Board under continuing law.
Technology	Statute-defined	Complete any of the following: 1. Attain a score that is the equivalent of proficient or higher on an appropriate Advanced Placement or International Baccalaureate examination; 2. Attain a final course grade that is the equivalent of a B or higher in an appropriate course taken through the College Credit Plus Program; or 3. Complete a course offered through the district or school that meets guidelines developed by the Department. (A district or school is not required to offer a course that meets those guidelines.)
Community service	School-defined	Complete a community service project that is aligned with guidelines adopted by a school district board of education or a school governing authority.

State diploma Seal	Continuing law, statute-defined, or school-defined	Requirements
Fine and performing arts	School-defined	Demonstrate skill in the fine or performing arts according to an evaluation that is aligned with guidelines adopted by the district board or school governing authority.
Student engagement	School-defined	Participate in extracurricular activities such as athletics, clubs, or student government to a meaningful extent, as determined by guidelines adopted by the district board or school governing authority.

Related EMIS changes

The bill specifies that the guidelines adopted by the State Board regarding the education management information system (EMIS) must include collecting data regarding all of the following:

- The number of students earning each state diploma seal;
- The number of students who use an alternative demonstration of competency to qualify for a high school diploma; and
- The number of students who complete each "foundational" and "supporting" option as part of an alternative demonstration of competency.

Policy regarding at-risk students

(R.C. 3313.617; conforming changes in 3314.03, 3326.11, and 3328.24)

The bill requires that, by June 30, 2020, each school district, community school, STEM school, college-preparatory boarding school, and chartered nonpublic school adopt a policy regarding students who are at risk of not qualifying for a high school diploma. The policy must include all of the following:

1. Criteria for identifying at-risk students. The criteria must include a student's lack of adequate progress in meeting the terms of a graduation plan (see "**Graduation plans**" below) and may include other factors such as issues regarding excessive absences or misconduct.

2. Procedures for identifying at-risk students. The procedures must include a method for determining if a student is not making adequate progress in meeting the terms of a graduation plan and allow for a student to be identified as at risk in 9th through 12th grade. Additionally, the procedures may allow for a student to be identified as at risk in other grades.

3. A notification process. The notification process must include notifying a student's parent, guardian, or custodian in each year in which a student is identified as at risk. The process must at least include providing a written notification that includes a statement that the student is at risk of not graduating, a description of the district or school's curriculum requirements and the state graduation requirements, and a description of additional instructional or support services available to at-risk students through the district or school.

Assistance for at-risk students

The policy also must require the district or school to assist at-risk students with additional instructional and support services to help the students qualify for a high school diploma. The instructional and support services may include any of the following:

- Mentoring programs;
- Tutoring programs;
- High school credit through demonstration of subject area competency under continuing law;
- Adjusted curriculum options;
- Career-technical programs;
- Mental health services;
- Physical health care services; or
- Family engagement and support services.

Graduation plans

(R.C. 3313.617(E))

Under the policy, the district or school must develop a graduation plan for each student in 9th through 12th grade that addresses the student's academic pathway to meet the district or school's curriculum requirement and satisfy the state graduation requirements. The graduation plan must be developed jointly by a student and a representative of the district or school and updated in each school year until the student qualifies for a high school diploma. The district or school must invite a student's parent, guardian, or custodian to assist in developing and updating the plan.

Additionally, graduation plan must supplement a policy on career advising adopted under continuing law. The bill also permits a public school to use the individualized education program, of a student with a disability, in lieu of developing a graduation plan if the IEP contains academic goals substantively similar to a graduation plan.

Recommendations regarding students retaking 12th grade

(Section 733.51)

The bill requires the state Superintendent, in collaboration with the Chancellor and the Governor's Office of Workforce Transformation, to establish a committee to develop policy

recommendations regarding methods to assist students who completed 12th grade, but did qualify for a high school diploma. The committee must consist of a representative of each of the following:

- Career-technical educators;
- Community colleges;
- Guidance counselors;
- Ohio technical centers;
- Principals;
- Superintendents; and
- Teachers.

The recommendations must include identifying assistance and supports to aid students who completed 12th grade, but did not qualify for a high school diploma and the amount of state funding necessary to ensure the adequate operation of the identified assistance and supports. They also must address methods to minimize the social stigma associated with not graduating on time. Finally, the recommendations may include any changes to the Revised Code or the Administrative Code necessary to implement the identified assistance and supports.

The committee must issue a report that includes its recommendations to the State Board and the General Assembly by October 1, 2020.

Changes to the end-of-course exams

(R.C. 3301.0711 and 3301.0712)

Beginning with the class of 2023, the bill eliminates the English language arts I and geometry end-of-course exams and stipulates that students will be required to complete only the (1) English language arts II, (2) science, (3) Algebra I, (4) American history, and (5) American government end-of-course exams. The bill further specifies that only the English language arts II and Algebra I end-of-course exams will be required for graduation.

However, the bill also requires the Department to, as necessary to implement the elimination of the geometry end-of-course exam, seek a waiver from any geometry assessment requirement under federal law. If the Department does not receive a waiver, then students also will be required to complete a geometry end-of-course exam, though that exam will not be required for graduation.

The bill makes several other changes related to the end-of-course exams. Under the bill, the State Board, in determining ranges of scores on the end-of-course exams, must consult with the House and Senate standing committees that consider primary and secondary legislation. Additionally, the State Board is prohibited from setting a new minimum cumulative performance score for the end-of-course exams after the bill's effective date. Finally, the bill prohibits requiring a student to retake the Algebra I or English language arts II end-of-course

exams in 9th through 12th grade if the student received a proficient or higher score, or attained a competency score, in an administration of the exam prior to 9th grade.

Background on current graduation requirements

Graduation pathways

The term "graduation pathways" refers to three general options under which a student can graduate from high school, in addition to satisfying curriculum requirements. The pathways for both public and chartered nonpublic schools under current law are: (1) score at "remediation-free" levels in English, math, and reading on nationally standardized assessments, (2) attain a cumulative passing score on the state high school end-of-course exams, or (3) attain a passing score the WorkKeys job skills assessment and obtain either an industry-recognized credential or a state agency- or board-issued license for practice in a specific vocation.[60] A fourth option – attaining a passing score on an alternate assessment approved by the Department – is available only to students in chartered nonpublic schools.[61]

Temporary law also permits two alternative graduation pathways for public and chartered nonpublic high school students of the classes of 2018, 2019, and 2020. These are students who entered 9th grade on or after July 1, 2014, but before July 1, 2017. The pathways are alternatives that a student may choose in lieu of the pathways already afforded under continuing law (see below).[62]

High school achievement assessments

The high school state achievement assessments under current law are referred to in the Revised Code as the College and Work-Ready Assessment System and consist of the following: (1) a nationally standardized assessment that measures college and career readiness, such as the SAT or ACT, and (2) seven end-of-course exams in English language arts I, English language arts II, science, Algebra I, geometry, American history, and American government.[63]

Alternative graduation requirements for class of 2018

There were two alternative graduation pathways for public and chartered nonpublic high school students of the class of 2018. These are students who entered 9th grade on or after July 1, 2014, but before July 1, 2015.

Main alternative pathway

The first pathway qualifies a student for graduation if the student (1) takes all of the end-of-course exams required for the student or takes an alternate assessment for chartered nonpublic school students, (2) retakes, at least once, any end-of-course exam in English

[60] R.C. 3313.618.

[61] R.C. 3313.619, not in the bill.

[62] Section 733.67 of H.B. 49 of the 132nd General Assembly.

[63] R.C. 3301.0712.

language arts or math for which a student received an equivalent score of lower than "3," (3) completes the district's or school's required units of instruction, and (4) meets at least *two* of the following other conditions:

a. Has an attendance rate of at least 93% during the twelfth grade;

b. Takes at least four full-year or equivalent courses during the twelfth grade and has a grade point average of at least 2.5 for those courses;

c. Completes a capstone project during the twelfth grade;

d. Completes, during the twelfth grade, 120 hours of work in a community service role or in a position of employment, including internships, work study, co-ops, and apprenticeships;

e. Earns three or more transcripted credit hours under the College Credit Plus program at any time during high school;

f. Passes an Advanced Placement (AP) or International Baccalaureate (IB) course, and receives a score of 3 or higher on the corresponding AP exam or a score of 4 or higher on the corresponding IB exam, at any time during high school;

g. Earns at least a level 3 score on each of the "reading for information," "applied mathematics," and "locating information" components of WorkKeys assessment;

h. Obtains an industry-recognized credential or a group of credentials equal to at least three total points; or

i. Satisfies the conditions required to receive an OhioMeansJobs-Readiness Seal.

Career-technical alternative pathway

The second pathway qualifies a student for graduation if the student (1) takes all of the end-of-course exams required for the student or takes an alternate assessment for chartered nonpublic school students, (2) completes the district's or school's required units of instruction, (3) completes a career-technical training program approved by the Department that includes at least four career-technical courses, and (4) completes *one* of the following other conditions:

a. Attains a cumulative score of at least proficient on career-technical education exams, or test modules, that are required for a career-technical education program;

b. Obtains an industry-recognized credential, or a group of credentials equal to at least 12 points; or

c. Demonstrates successful workplace participation, as evidenced by documented completion of 250 hours of workplace experience and by regular, written, positive evaluations from the workplace employer or supervisor and representative of the district or school. (This condition must be based on a written agreement signed by the student, a representative of the district or school, and an employer or supervisor.)

Alternative graduation requirements for classes of 2019 and 2020

H.B. 491 of the 132nd General Assembly extended to the classes of 2019 and 2020 the two alternative high school graduation pathways originally established for the class of 2018. The career-technical alternative pathway for the classes of 2019 and 2020 is the same one that was available to the class of 2018. H.B. 491 also extended to the class of 2019 the main alternative pathway without changes. However, H.B. 491 modified the main alternative pathway for the class of 2020.[64]

The main alternative pathway for the class of 2020 is substantially similar to the one for the classes of 2018 and 2019, except that:

a. A student in the class of 2020 may not use attendance in the twelfth grade as a condition to graduate;

b. A student in the class of 2020 must have a cumulative grade point average of 2.5 of courses taken during both the eleventh and twelfth grades (instead of just the twelfth grade);

c. A capstone project completed by a student in the class of 2020 must comply with guidance issued by the Department of Education; and

d. The student's completion of 120 hours of work in a community service role or a position of employment must comply with guidance developed by the Department in consultation with the Governor's Office of Workforce Transformation.

III. State report cards

Value-added progress dimension

The changes regarding the value-added progress dimension described below were included in an amendment adopted by the Senate Finance Committee but, due to an engrossing error, do not appear in the bill.

(R.C. 3302.03)

The bill changes the grading scale used to determine letter grades assigned for the value-added progress dimension of the report card as follows:

- A score of one or greater is designated as an "A";
- A score that is less than one but not greater than negative one is designated as a "B";
- A score that is less than or equal to negative one but greater than negative two is designated as a "C";

[64] Section 733.67 of H.B. 49 of the 132nd General Assembly, amended in Sections 3 and 4 of H.B. 491 of the 132nd General Assembly.

- A score that is less than or equal to negative two but greater than negative three is designated as a "D";
- A score that is less than negative three or below is designated as a "F".

The bill also requires the State Board, in establishing its benchmarks for assigning letter grades to the value-added progress dimension on the state report cards, to assign a grade of "A" only to a school district or building that receives a grade of "C" or higher on its value-added progress dimension grades for its subgroups. The subgroups include gifted students, students with disabilities, and students whose performance is in the lowest quintile for achievement. Under current law, the subgroup grade must be at least a "B" in order for a district or building to receive an "A" for the overall value-added progress dimension grade.

State report card study committee

(Section 265.510)

The bill establishes a study committee, which must convene and elect a chairperson not later than 30 days after the bill's immediate effective date, to study how performance measures, components, and the overall grade on the state report card are calculated. The committee also must evaluate design principles for the state report card, its primary audience, and how report cards address student academic achievement, including whether the measures are appropriately graded to reflect student academic achievement. The committee must submit to the General Assembly a report about its study, including certain specified recommendations, by December 15, 2019.

The bill specifies that the committee shall consist of the following members:

- The Superintendent of Public Instruction or designee;
- The chairpersons of the standing committees of the House and Senate that consider primary and secondary education legislation;
- Two members of the House appointed by the Speaker;
- Two members of the Senate appointed by the President of the Senate; and
- Three superintendents, one from a rural district, one from a suburban district, and one from an urban district, appointed by the Buckeye Association of School Administrators (BASA).

The bill also specifies that the committee must investigate at least all of the following related to the state report card:

- How many years of data should be included in, and how grades are assigned to, the progress component;
- How to structure the prepared for success component, including considering additional ways to earn points;
- How the gap closing component meets requirements established under federal law and applies to all schools;

- How the graduation component includes students with disabilities and mobile students; and
- If the overall grades should be a letter grade or some other rating system that clearly communicate the performance of school districts and other public schools to families and communities.

Background on report cards

The Department issues an annual report card for each school district and each public school building on the basis of state achievement assessment scores and other performance criteria. The main report card format applies to school districts and their individual buildings, community schools except those primarily serving dropout students, and STEM schools. A separate type of report card is issued for dropout prevention and recovery community schools (see "**IV. Community schools**," below) and another separate one for joint vocational school districts.

The report card for school districts, buildings, community schools, and STEM schools includes graded and ungraded individual measures. The grade for overall performance of the school must be assigned by the Department based on specified components and performance measures and a performance criteria and method for assigning grades prescribed by the State Board.

Letter grades for the metrics and the overall grade are issued under this system, with the following meanings:

A – making excellent progress;

B – making above average progress;

C – making average progress;

D – making below average progress;

F – failing to meet minimum progress.

The method for assigning overall grades must group individual performance measures into the following six larger components:

- Gap Closing, which includes only the annual measurable objective performance measure. This measure determines if a district or building is making "adequate yearly progress" in closing achievement gaps between students of different subgroups;
- Achievement, which includes the measures for the performance index score (under the performance index system established by the Department) and performance indicators met (these indicators are established by the State Board);
- Progress, which includes the overall value-added progress dimension measure (a measure of academic gain for a student or group of students over a specific period of time that is calculated using data from student achievement assessments) and the performance measure for the three separate value-added subgroups (gifted students,

students with disabilities, and students whose achievement places them in the lowest quintile on a statewide basis);

- Graduation, which includes the four- and five-year adjusted cohort graduation rates;
- Kindergarten through Third-Grade Literacy, which includes the progress a district or building is making in improving literacy in kindergarten through third grade; and
- Prepared for Success, which includes the performance measures that assess high school student career or college readiness.

Building-level report cards are issued for community schools regardless of how long they have been in operation; however, a school's ratings for its first two years of operation may not be considered in the imposition of sanctions.[65]

IV. Community schools

Community school mergers

(R.C. 3314.0211)

The bill establishes a procedure by which two or more community schools may merge that includes adopting a resolution, notifying the Department, and entering into a new contract with the surviving community school's sponsor. However, the bill prohibits use of the procedure by a community school that has (1) met the performance criteria specified for automatic closure for at least one of the two most recent school years or (2) been notified of the sponsor's intent to terminate or not renew the school's contract.

Procedure

The governing authorities of the merging community schools must adopt a resolution and, within 60 days prior to its effective date, provide a copy of the resolution to the school's sponsor and inform the Department of the merger. Notice to the Department must include the effective date of the merger, the name of the surviving school, and the name of the surviving school's sponsor. The merger must take effect on July 1 of the year specified in the resolution.

The bill specifies the governing authority of the surviving community school must enter into a new contract with the school's sponsor. The school must comply with this requirement regardless of any law, rule, or contractual right that might waive the need to enter into a new contract.

Assignment or assumption of existing contract prohibited

Except in the case of the Department's Office of Ohio School Sponsorship, the bill prohibits a sponsor from (1) assigning its existing contract with a merging community school to the sponsor of the surviving school or (2) assuming an existing contract from the sponsor of a school involved in a merger.

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[65] R.C. 3314.012(B), not in the bill.

Report card ratings of a surviving school

The bill clarifies that participating in a merger does not exempt a community school from automatic closure and requires the Department to issue report cards for the surviving school in accordance with continuing law. To that end, the Department must use all report card ratings associated with the surviving school, including those issued before the merger, when determining any matter that is based on report card ratings or measures, including whether the school has met the criteria for automatic closure.

Conditions triggering ineligibility

A community school that has met the performance criteria for permanent closure for at least one of the two most recent school years is ineligible to participate in a merger.

In addition, the bill makes ineligible to participate in a merger any community school that has been notified of the sponsor's intent to terminate or not renew the sponsorship contract for cause.

Community school sponsor evaluations

(R.C. 3314.016)

Frequency

The bill directs the Department to conduct evaluations for any sponsor rated "effective" or "exemplary" for three or more consecutive years only once every three years. Currently, all sponsors must be evaluated annually; however, the Department may elect to evaluate the adherence to quality practices component once in a three-year period for sponsor rated "effective" or higher on its most recent evaluation.

Rating recalculation

Under the bill, the test passage measure on the state report card for dropout recovery community schools is revised to accommodate the end-of-course exams. It also requires that the report card ratings of affected schools for the 2017-2018 school year (the first year of those exams) are recalculated for purposes of the community school closure law. (See "**Dropout recovery school report cards**" below). Accordingly, the bill also revises the sponsor evaluation law to require the Department to recalculate the rating for that same school year for the sponsor of a dropout recovery community school that itself receives a recalculated rating.

Conversion schools reclassified as "start-up" schools

(R.C. 3314.02)

The bill reclassifies as a "start-up" community school a "conversion" community school that later enters into a sponsorship contract with an entity that is not a school district or educational service center (ESC). As described in the background below, a "conversion" community school is created by converting an existing school and may be located in and sponsored only by a school district or ESC.

Community school closure criteria

(R.C. 3314.35 and 3314.351)

The bill changes the number of years of underperformance, as measured on the state report cards, to trigger the closure of a community school. First, the bill changes the number of times a community school that is not a dropout recovery school must receive state report card grades of "F" on specified graded measures before it must close, from two of the three most recent school years, to the three most recent school years. In other words, under the bill, a community school must receive an "F" on specified measures for three consecutive years before closing instead of receiving those grades for two out of three years. Similarly, in the case of a dropout recovery school, to trigger closure the school must receive a designation of "Does Not Meet Standards" for the three most recent school years, rather than two of the three most recent school years as under current law.

Dropout recovery school report cards

(R.C. 3314.017 and 3314.351; Sections 812.20 and 812.30)

The bill stipulates the state test passage rate measure on the dropout recovery school report card must include the percentage of *either* (1) the 12th grade students and those who are within three months of their 22nd birthday who have attained the designated passing score on all high school assessments prescribed prior to July 1, 2014 (Ohio Graduation Tests), or (2) those same students who have attained the cumulative performance score on the end-of-course exams, whichever applies. Currently, the law specifies that the measure consist of only the percentage of those same students who have attained the designated score on all applicable high school achievement assessments, which does not account for the end-of-course exams.

The bill also requires the Department to recalculate the ratings for each dropout recovery school for the 2017-2018 school year and calculate the ratings for the 2018-2019 school year using the bill's revised test passage measure.

Finally, the bill exempts from closure a dropout recovery school that receives a reissued overall rating of "meets standards" or "exceeds standards" for either year. However, the bill specifies that this exemption does not extend to a school that was permanently closed prior to the 2019-2020 school year.

All of the bill's provisions regarding dropout recovery school report card measures are effective when the bill becomes law.

Background

Under current law, report cards for dropout recovery schools are separate from those for other schools. The State Board must prescribe rules for the report cards which must include a performance indicator that rates the percentage of 12th grade students currently enrolled in the school who have attained the designated passing score on all of the applicable high school achievement assessments. The performance indicator also must include the percentage of other students enrolled in the school who are within three months of their 22nd birthday,

regardless of their grade level, who have attained the designated passing score on such assessments.

For purposes of one of the state's three main graduation pathways, a student must earn at least 18 cumulative points on the end-of-course exams. A student earns between one and five points for each exam depending on performance level – a "proficient" (or passing) level earns three points. The bill parallels this 18-point structure by requiring a cumulative score, instead of the Department's current practice of requiring 21 points (a designated passing score of three on seven end-of-course exams). (According to the Department of Education's website, a student subject to the OGT must do one of the following: (1) score in the proficient range on all five tests in the OGT, (2) use one of the three main graduation pathways, or (3) score within a certain range on one of a variety of tests by subject.[66])

Annual e-school reports

(R.C. 3314.21)

The bill requires each Internet- or computer-based community school (e-school) to prepare and submit to the Department, in a time and manner prescribed by the Department, a report that contains information about:

- Classroom size;
- The ratio of teachers to students per classroom;
- The number of student-teacher meetings conducted in person or by video conference; and
- Any other information determined necessary by the Department.

The bill also requires the Department to annually prepare and submit to the State Board a report that contains the information received by the Department.

Lists of community school closures and "challenged" districts

(R.C. 3314.353)

The bill requires the Department, by October 1 each year, to publish separate lists of the following:

- Community schools that have become subject to permanent closure as required by law;
- Community schools that are at risk of becoming subject to permanent closure for academic underperformance;
- All "challenged" school districts as defined in section 3314.02 of the Revised Code in which new start-up community schools may be located.

[66] http://education.ohio.gov/Topics/Ohio-s-Graduation-Requirements/Graduation-Requirements-2014-2017/New-Testing-Pathways-for-Students-Required.

Background on community schools

Generally

Community schools (often called "charter schools") are public schools that operate independently from any school district under a contract with a sponsoring entity. A conversion community school, created by converting an existing school, may be located in and sponsored by any school district or educational service center in the state. On the other hand, a "start-up" community school may be located only in a "challenged school district." A challenged school district is any of the following: (1) a "Big-Eight" school district (Akron, Canton, Cincinnati, Cleveland, Columbus, Dayton, Toledo, or Youngstown), (2) a poorly performing school district as determined by the school's performance index score, value-added progress dimension, or overall ratings on the state report card, or (3) a school district in the original community school pilot project area (Lucas County).

Sponsorship of start-up schools

The sponsor of a start-up community school may be any of the following:

- The school district in which the school is located;
- A school district located in the same county as the district in which the school is located has a major portion of its territory;
- A joint vocational school district serving the same county as the district in which the school is located has a major portion of its territory;
- An educational service center;
- The board of trustees of a state university (or designee) under specified conditions;
- A federally tax-exempt entity under specified conditions; or
- The mayor of Columbus for new community schools in the Columbus City School District under specified conditions. However, it does not appear that those conditions have been triggered and cannot be triggered now without further legislation.

Direct authorization

The Department's Office of Ohio School Sponsorship is permitted to directly authorize the operation of a limited number of both new and existing community schools, rather than those schools being subject to the oversight of other public or private sponsors. The Office is also authorized to assume the sponsorship of a community school whose contract has been voided due to its sponsor being prohibited from sponsoring additional schools. Any individual, group, or entity may apply directly to the Department for authorization to establish a new community school. In addition, the governing authority of an existing community school may apply to the Department, upon the expiration or termination of the current contract with its sponsor, for direct authorization to continue operating the school.

Governance

A community school's "governing authority" is a group of individuals selected by the proposing person or group to carry out and ensure the performance of school functions and to contract with the sponsor of the community school.

Operators

Many, but not all, community school governing authorities contract with operators to run the day-to-day operations of their schools. A school's contract with the operator is separate from the school's contract with its sponsor.

An "operator" is defined by continuing law as either of the following:

- An individual or organization that manages the daily operations of a community school pursuant to a contract between the operator and the school's governing authority; or
- A nonprofit organization that provides programmatic oversight and support to a community school under a contract with the governing authority and that retains the right to terminate its affiliation with the school if the school fails to meet the organization's quality standards.

Sponsor evaluation system

Continuing law, effective January 2015, requires the Department to develop and implement an evaluation system that rates each community school sponsor. Under this system, each sponsor receives an annual rating based on a combination of three components: (1) the academic performance of students enrolled in community schools that it sponsors, (2) the sponsor's adherence to quality practices, which must be specified by the Department, and (3) the sponsor's compliance with laws and administrative rules as measured by standards adopted by rule of the State Board. It replaced a former system that ranked sponsors based on composite performance index scores.

V. Other provisions

Assessment requirements for chartered nonpublic schools

(R.C. 3301.0711(K))

The bill permits any chartered nonpublic school that participates in state scholarship programs to administer an alternative assessment to the state achievement assessments for students in grades 3-8. The alternative standardized assessment must be approved by the Department, and each chartered nonpublic school must report the results of each assessment administered to students to the Department. Presumably, this includes the results of both the state achievement assessments and any alternative assessments.

Current law requires students who attend chartered nonpublic schools with a state scholarship (Ed Choice, Cleveland, Autism, and Jon Peterson scholarship programs) to take the state achievement assessments. In addition, any chartered nonpublic school for which at least 65% of its total enrollment is made up of students participating in state scholarship programs to administer the achievement assessments to all students enrolled in the school. Parents of those

students who are not attending with a scholarship may choose to not have their children take the assessments. (High school students still are required to take high school end-of-course examinations.)

Students with disabilities

(R.C. 3301.0711(C)(1)(c), as amended in Section 101.01)

The bill permits a chartered nonpublic school to develop a written plan to excuse a student with a disability from taking state assessments if the following apply:

- The school, in consultation with the student's parents, determines that an assessment or alternative assessment with accommodations does not accurately assess the student's academic performance;
- The plan includes an academic profile of the student's performance;
- The plan is reviewed annually to determine if the student's needs continue to require excusal from taking the assessments.

Scholarship programs

Educational Choice (Ed Choice) scholarships

Limit on number of scholarships

(R.C. 3310.02)

The bill specifies that if the number of applicants for an Educational Choice (Ed Choice) scholarship for a school year exceeds 90% of the maximum number prescribed by statute (currently 60,000), the Department must increase the limit by 5% for the next year. The new limit then will be the maximum number available in subsequent school years until another adjustment is triggered.

Scholarship eligibility

(R.C. 3310.03; conforming changes in R.C. 3310.032 and 3310.035)

The bill qualifies for the Ed Choice scholarship students already enrolled in 8th grade in a chartered nonpublic school without a state scholarship in the school year prior to the first school year for which a scholarship is sought, but otherwise meets the eligibility criteria to receive the Ed Choice scholarship. In other words, the student would be enrolled in an Ed Choice district operated school or meets the family income threshold. Under current law, a student already enrolled in a chartered nonpublic school is not eligible for an Ed Choice scholarship.

Income-based scholarships – expansion of grade bands

(R.C. 3310.032)

The bill expands eligibility for income-based Ed Choice scholarships to all students entering grades K-12 for the first time, beginning with the 2020-2021 school year.

Under current law, the first year for the Ed Choice income-based scholarships was the 2013-2014 school year, for which year only kindergarten students could receive scholarships. For each subsequent year, the law provides for adding one next higher grade level until all grades are eligible for scholarships. Accordingly, for the 2018-2019 school year, it serves grades K-5.

Scholarship computations

(R.C. 3310.08)

The bill specifies that a student's Ed Choice scholarship awarded must be computed prior to the application of any other sources of financial aid received by the student.

Scholarship application periods

(R.C. 3310.16)

Beginning with the 2020-2021 school year, the bill requires the Department to conduct a priority application period between January 1 and May 1 of each school year to award Ed Choice scholarships. The bill requires that the Department award priority scholarships not later than May 31 prior to the first day of July of the school year for which a scholarship is sought. Under current law, there are two application windows, February 1 to July 1 for a period of at least 75 days and a period beginning July 1 to last at least 30 days.

The bill also specifies that the Department must continue awarding Ed Choice scholarships after the priority application period ends, prorating the amount if the student receives a scholarship after the school year begins, and in the case of income-based scholarships, award them only if the appropriated funds remain available.

Cleveland scholarship applications

(R.C. 3313.978)

The bill requires the Department, beginning with the 2020-2021 school year, to conduct two application periods for the Cleveland Scholarship Program. The first period begins on February 1 for the following school year and must last at least 75 days. The second period begins on July 1 of the school year for which a scholarship is sought and must last at least 30 days.

The bill also requires the Department to determine by June 30 of each school year, whether funds remain available for the program after the first application period. If the scholarships awarded in the first application period use the entire amount appropriated for that school year, the bill specifies that the Department need not conduct a second application period. Conversely, if there are funds remaining, the Department must conduct a second application period.

Background on scholarship programs

Educational Choice Scholarship Program

The Educational Choice (Ed Choice) Scholarship Program operates statewide in every school district except Cleveland to provide scholarships for students who (1) are assigned or

would be assigned to district schools that have persistently low academic achievement or (2) are from low-income families. Under the income-based portion of the program, a student qualifies if the student's family income is 200% of poverty or below, but a student can continue to receive a reduced scholarship as family income increases up to 400% of poverty. Students may use their scholarships to enroll in participating chartered nonpublic schools. The amount awarded under the program is the lesser of the actual tuition charges of the school or the statutory maximum, $4,650 for K-8 students and $6,000 for 9-12 students.

For students who qualify based on the performance of their resident districts' schools, the scholarships are deducted from the districts' state aid accounts. For students who qualify based on family income, the scholarships are paid from a specific appropriation of the General Assembly.

Pilot Project (Cleveland) Scholarship Program

The Cleveland Scholarship Program allows students who are residents of the Cleveland Municipal School District to obtain scholarships to attend participating nonpublic schools. The scholarships are the lesser of the tuition charged by the alternative provider or the statutory maximum, which is the same as for Ed Choice. In general, scholarship students are not counted in Cleveland's average daily membership (ADM) for funding purposes. A portion of Cleveland's state aid has been earmarked in the state operating budget to be used to help fund this program. The rest of the funding for the program comes from the state general revenue funds (GRF) without any deduction from Cleveland.

Educational service centers

Application for grants

(R.C. 3312.01)

The bill adds applying for state or federal grants on behalf of a school district to the list of services an educational service center (ESC) may provide to school districts and community schools by way of a voluntary service agreement. It also clarifies an ESC's status as a "school district," which makes the ESC eligible to apply for those grants.

Contracting for districts and other political subdivisions

(R.C. 3313.843)

The bill permits an ESC to contract on behalf of school districts and other political subdivisions, with which it has service agreements under continuing law, to purchase supplies, materials, equipment, and services on their behalf. The bill further states that any school district, community school, or STEM school that has a service agreement with an ESC "shall be in compliance with federal law and exempt from competitive bidding requirements for personnel-based services pursuant to the authority granted to the Ohio Department of Education under federal law," as long as the ESC:

- Has posted on its website a list of all of the services that it provides and the corresponding cost for each of those services, as required under continuing law;
- Has been designated as "high performing" under rule of the State Board;[67]
- Has been found to be substantially in compliance with audit rules and guidelines in its most recent audit by the Auditor of State.

The bill specifies that purchases made under this provision by a school district or political subdivision that has an agreement with an ESC are in compliance with federal competitive bidding requirements for personnel-based services and exempt from any similar state statutes. Additionally, the bill prohibits a political subdivision from making purchases under this provision if the subdivision has received bids for a purchase, unless the same terms, conditions, and specifications at a lower price can be made for the purchase. Note, current state law requires school districts and ESCs to use completive bids only for the purchase or demolition of a school building valued over $50,000 and the purchase of school buses.[68]

Ohio Medicaid school component

(R.C. 5162.01 and 5162.364)

The bill permits ESCs to participate in the school component of the Medicaid program. The component permits participating qualified school providers to submit claims to the Department of Medicaid for Medicaid recipients. Schools may participate by obtaining a Medicaid provider agreement and meeting other conditions for participation.

Background on ESCs

ESCs are regional public entities that offer a broad spectrum of services, including supervisory teachers, curriculum development, professional development, purchasing, publishing, human resources, special education services, and counseling services, to public schools in their regions. Provision of services is (1) statutorily required in the case of school districts with enrollment of 16,000 or fewer students and (2) statutorily permitted in the case of larger districts, all community schools, and political subdivisions. An ESC may also provide services not already required by law or service agreement to school districts and schools on a fee-for-service basis.[69]

School breakfast programs

(R.C. 3313.813, 3313.818, and 3314.18)

The bill requires the Department to establish a program, under which qualifying higher-poverty public schools must offer breakfast to all enrolled students before or during the school

[67] See O.A.C. 3301-105-01.

[68] R.C. 3313.46 and 3327.08, neither in the bill.

[69] R.C. 3313.843, 3314.844, and 3314.845, latter two sections not in the bill.

day. It applies to schools operated by school districts, community schools (except e-schools), and STEM schools. The bill requires a school district superintendent or a building principal, in consultation with building staff, to determine the model for serving breakfast under the program. Each breakfast must comply with federal meal patterns and state and federal nutritional standards. The school may charge students for meals, based on family income in accordance with federal requirements, to cover all or part of the costs incurred in operating the program.

The bill phases in the program over three years, gradually lowering the threshold under which schools qualify for the program based on the percentage of enrolled students that qualify for free or reduced-price meals under federal requirements as follows:

School year after the bill's effective date	Percentage of students that qualify for free or reduced-price meals
First	70%
Second	60%
Third, and each subsequent year	50%

The bill requires the Department to publish a list of schools that qualify for the program annually by December 31. The Department also must provide statistical reports on its website specifying the number and percentage of students participating in breakfast programs, disaggregated by district and individual schools. The Department must offer assistance to schools and school districts, including technical assistance in submitting claims for reimbursement under federal law.

Additionally, the Department annually must prepare a report on the implementation and effectiveness of the program and submit it to the General Assembly and the Governor, by December 31. The report must include the following:

- The number of students and participation rates in the breakfast program for each school building;
- The type of breakfast model used by each building; and
- The number of students and participation rates in free or reduced-price lunch for each building.

Finally, the bill permits a district or school to choose not to establish a school breakfast program for financial reasons or if it already has a successful breakfast program or partnership in place.

Student transportation

No reduction in school district transportation

(R.C. 3327.015)

The bill prohibits a school district board of education from reducing the transportation it provides to students the district *is not required* to transport after the first day of the school year.

Background

Under current law, school districts must provide transportation to a resident student in grades kindergarten through 8 that live more than two miles from the school to which they are assigned or the nonpublic, STEM, or community school the student attends. Districts may provide transportation to a resident student in grades 9 through 12 but are not required to.

However, current law provides that a school district may determine that it is impractical to transport a pupil who is eligible for transportation to and from school due to time and distance, number of pupils to be transported, the cost of providing transportation, whether similar equivalent service is provided to other pupils eligible for transportation, whether and to what extent the additional service unavoidably disrupts current transportation schedules, and whether other reimbursable types of transportation are available. If a board determines it is impractical to provide transportation, the board must make a payment in lieu of transportation to the student's parent.

A district need not provide any transportation or payment in lieu of it for a nonpublic, STEM, or community school student, if the direct drive time by school bus is more than 30 minutes.[70]

Medical examinations for school bus drivers

(R.C. 3327.10)

The bill permits all of the following to perform the annual medical examination for school bus drivers required under rules adopted by the State Board of Education:

- Persons licensed to practice chiropractic in Ohio or another state;
- Medical professionals listed on the National Registry of Certified Medical Examiners; and
- All of the medical professionals currently authorized to perform this examination under State Board rules (persons licensed to practice medicine or osteopathic medicine in Ohio or another state, physician assistants, certified nurse practitioners, clinical nurse specialists, and certified nurse-midwives).

Under current law, these same individuals may perform medical examinations for school bus drivers who are subject to State Highway Patrol rules rather than those of the State Board.

[70] R.C. 3327.01, not in the bill.

Involuntary lease or sale of school district property

(R.C. 3313.411)

The bill stipulates that a school district with real property that has been used for school operations since July 1, 1998, but has not been used for that purpose for one year, must offer to lease or sell that property to community schools, STEM schools, and college-preparatory boarding schools located in the district. Under current law, the district must offer to lease or sell that property if it has not been used for school operations for two years.[71]

State minimum teacher salary schedule

(R.C. 3317.13, as amended in Section 101.01)

The bill amends the statutory minimum teacher salary schedule to increase the minimum base salary for beginning teachers with a bachelor's degree from $20,000 to $30,000 and to increase proportionally the minimum salaries for teachers with different levels of education and experience.

Background

State law provides a schedule for minimum salaries that must be paid to teachers based on level of education attained and years of experience. Currently, the base salary, unchanged since 2001, is $20,000 for a teacher with zero years of service and a bachelor's degree. All of the other salaries on the schedule are increments upward (or downward in some cases, if a teacher does not have a bachelor's degree) as a teacher gains experience and education. The schedule prescribes a 3.8% annual increase (step) for a teacher with a bachelor's degree.

Each school district board of education and each educational service center governing board must adopt an annual teacher salary schedule that complies with the statutory base minimum. That schedule must be either merit based or contain provisions for increments based on training and years of service. In practice, however, the compensation rate is generally set by way of collective bargaining between the employing board and the organization representing the teachers.

Alternative resident educator licenses

(R.C. 3319.26)

The bill requires applicants for an alternative resident educator license to have either a cumulative undergraduate grade point average of 2.5 out of 4.0 or a cumulative graduate school GPA of 3.0 out of 4.0. Current law requires applicants to have an undergraduate GPA of 2.5 out of 4.0, or its equivalent.

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[71] A school district also must offer the right of first refusal to purchase district real property it voluntarily decides to sell to community schools, STEM schools, and public college-preparatory boarding schools. The bill does not affect the right to first refusal in a voluntary sale.

The bill also replaces a teacher preparation program summer training institute offered by a nonprofit organization with a teacher preparation program preservice training approved by the Chancellor of Higher Education as one of the two methods by which an applicant for an alternative resident educator license may satisfy training requirements. The bill maintains the second method, which includes successful completion of the pedagogical training institute.

The other prerequisites to alternative resident educator licensure are not affected by the bill. They include a bachelor's degree and passing a test in the subject area for which the application is being made. While teaching under an alternative resident educator license, an individual must complete further coursework and pass further written tests and observational evaluations. Holders of the alternative license also must complete the Ohio Teacher Residency Program.

"Properly certified or licensed" teachers, paraprofessionals

(Repealed R.C. 3319.074; R.C. 3302.01, 3302.03, 3311.78, 3311.79, 3317.141, 3319.226, 3319.283, and 3326.13; Section 812.20)

The bill repeals a provision of current law that prohibits school districts, community schools, and STEM schools, beginning July 1, 2019, from employing teachers in a core subject area unless they are "properly certified or licensed teachers," and from hiring paraprofessionals to provide support in a core subject area in a program supported by federal Title I funds unless they are "properly certified paraprofessionals."

Under that provision, a teacher is considered "properly certified or licensed" only after completing all requirements for certification or licensure in the subject areas and grade levels in which the teacher provides instruction. A "properly certified paraprofessional" is one who has an educational aide permit and one of the following: (1) a designation of "ESEA qualified," (2) completed at least two years at an accredited institution of higher education, (3) holds at least an associate's degree, or (4) has passed a test selected by the Department. The core subject areas are reading and English language arts, math, science, social studies, foreign language, and fine arts.

The State Board's operating standards for school districts currently require teachers to hold the "appropriate credentials" for their assigned positions.[72] Those operating standards do not apply to community schools,[73] thus, while their teachers and paraprofessionals must be licensed by the State Board,[74] they do not have to comply with the administrative rules on assignment. It is not clear whether STEM schools must comply with those rules.

[72] O.A.C. 3301-35-05.

[73] See R.C. 3314.04, not in the bill.

[74] R.C. 3314.03(A)(10).

Computer science teachers

(Section 733.61)

The bill permits a school district, community school, or STEM school, for the 2019-2020 and 2020-2021 school years, to allow an individual with a valid educator license in any of grades 7-12 to teach a computer science course if, prior to teaching the course, the individual completes a professional development program approved by the district superintendent or school principal. That program must provide content knowledge specific to the course the individual will teach. The superintendent or principal must approve any professional development program endorsed by the organization that creates and administers the national Advanced Placement examinations (the College Board) as appropriate for the course the individual will teach.

The bill also specifies that the individual may not teach a computer science course in a school district or school other than the school district or school that employed the individual at the time the individual completed the professional development program.

Beginning July 1, 2021, a school district or school must permit an individual to teach a computer science course only in accordance with current law, which requires an individual who teaches computer science to (1) hold an educator license in computer science, (2) hold a license endorsement in computer technology and pass a computer science context examination, or (3) hold a supplemental teaching license for computer science. Current law also specifies that, if an individual teaches Advanced Placement computer science, that individual also must complete a professional development program endorsed or provided by the College Board at any time during the calendar year.[75]

Bright New Leaders for Ohio Schools Program

(R.C. 3317.25, 3319.271 (repealed), and 3319.272)

Initially created in 2013 by H.B. 59 of the 130th General Assembly, the Bright New Leaders Program provides an alternative path for individuals to receive training, earn degrees, and obtain licenses in public school administration. The bill eliminates the law establishing the nonprofit corporation that initially created and implemented the program and, instead, establishes the Ohio State University Fisher College of Business and College of Education and Human Ecology as the administrators for the program. It adds a requirement that the State Board issue a professional administrator license for grades pre-K through 12 to individuals who complete the program, instead of an alternative principal or administrator license as under current law.

School child day-care programs

(R.C. 3301.53)

[75] R.C. 3319.236, not in the bill.

The bill clarifies that child day-care centers that serve preschool children and child day-care centers that serve school-age children must meet or exceed the standards adopted by the Director of Job and Family Services.

Under current law, the standards adopted by the Director must include safety standards of the interior and in the surrounding area of the child day-care facility; standards for a program of activities, play equipment, materials, and supplies; healthcare, first aid, and vaccination requirement policies; procedures for screening employees; and other standards that pertain to the well-being and safety of children who attend child day-care centers.

Behavioral prevention initiatives

(R.C. 3313.6024, 3314.03, 3326.11, and 3328.24)

The bill requires each public school to annually report to the Department on the types of prevention-focused programs, services, and supports it uses to promote healthy behavior and decision-making by students and their understanding of the consequences of risky behaviors, such as substance abuse and bullying. The report must include the following:

- Curriculum and instruction provided during the school day;
- Programs and supports provided outside of the classroom or outside of the school day;
- Professional development for teachers, administrators, and other staff;
- Partnerships with community coalitions and organizations to provide prevention services and resources to students and their families;
- School efforts to engage parents and the community; and
- Activities designed to communicate with and learn from other schools or professionals with expertise in prevention education.

The bill also permits the Department to use these reports as a factor to determine the distribution of any funding for prevention-focused behavioral initiatives.

Student immunizations, chartered nonpublic schools

(R.C. 3313.671)

The bill permits a chartered nonpublic school to deny admission to or refuse to enroll a student whose parent or guardian declines to have the student immunized for reasons of conscience, including religious convictions. Current law does not explicitly prohibit a chartered nonpublic school from denying admission to or refusing to enroll a student for these reasons. It does, however, prohibit a student from remaining in a chartered nonpublic school (as well as a public school) for more than 14 days without (1) written proof of receiving the immunizations required by law, (2) a written statement stating the student's parent or guardian declines to have the student immunized for reasons of conscience, including religious convictions, or (3) a written statement from the student's physician stating that one or more of the immunizations is medically contraindicated.

Excessively absent students

(R.C. 3321.191)

Under the bill, when a student's combined *nonmedical* excused absences and unexcused absence*s* exceed 38 or more hours in one school month or 65 or more hours in a school year, that student is considered "excessively absent from school." This differs from current law, which specifies that a school district or school must consider *all* excused and unexcused absences when determining whether a student is excessively absent from school. Under continuing law, when a student becomes excessively absent from school, the district or school must notify the student's parent, guardian, or custodian of those absences, in writing, within seven days of the most recent triggering absence. At that time, the school district (1) must provide the student with an intervention plan, as defined by the school district's or school's required policy on addressing and ameliorating student absences, and (2) may use any other appropriate intervention strategies contained in the policy.

(Note, only a student's unexcused absences count toward truancy.)

Storm shelter requirement

(R.C. 3781.1010)

The bill prohibits the Board of Building Standards from requiring the installation of a storm shelter in a public school building prior to September 15, 2021, if the building has undergone a construction, alteration, repair, or maintenance project that received state financial assistance. Any rule adopted by the Board prior to September 15, 2021, that conflicts with the provision of the bill will not be effective until that date.

Current law prohibits the Board from requiring the installation of a storm shelter in a school building operated by a public or private school prior to September 15, 2019, if the building is undergoing or about to undergo construction, alteration, repair, or maintenance with financing secured prior to that date.

Consolidated school mandate report

(R.C. 3301.68)

The bill eliminates training on crisis prevention intervention and the establishment of a wellness committee from the consolidated school mandate report that each district annually must file with the Department Under continuing law, each report still must be filed by November 30 of each year and must include the district's compliance or noncompliance with staff training on (1) the use of physical restraint or seclusion on students, (2) harassment, intimidation, or bullying, and (3) the use of cardiopulmonary resuscitation and an automated external defibrillator, (4) the reporting of a district's or school's compliance with nutritional standards, (5) the screening of pupils for hearing, vision, speech and communications, and health or medical problems and for any developmental disorders, and (6) the compliance with intra-district and inter-district open enrollment requirements.

Athletics transfer rules

(R.C. 3313.5316)

The bill requires a school district, interscholastic conference, or organization that regulates interscholastic athletics to have the same transfer rules for public and nonpublic schools and prohibits the creation of rules, bylaws, or other regulations to the contrary.

International students in athletics

(R.C. 3313.5315)

The bill permits any international student who attends an Ohio elementary or secondary school to participate in interscholastic athletics at that school on the same basis as students who are Ohio residents if the student holds an F-1 U.S. visa. The student cannot be denied the opportunity to participate in interscholastic athletics solely because the student's parents do not reside in this state.

Current law specifically permits an international student with an F-1 visa to participate in interscholastic athletics regardless of the residency of the student's parents only if the student attends a school that began operating a dormitory on its campus prior to 2014.

The bill, thus, removes the exclusionary provision and permits all properly credentialed international students to participate in interscholastic athletics.

English learners

(R.C. 3301.07, 3301.0710, 3301.0711, 3301.0714, 3302.01, 3302.03, 3302.061, 3302.18, 3313.608, 3313.61, 3313.611, 3313.612, 3314.08, 3317.016, 3317.02, 3317.022, 3317.03, 3317.06, 3317.16, 3317.40, 3326.31, 3326.32, and 3326.33)

The bill changes all references of "limited English proficient student" in the Revised Code to "English learner" to align with recent amendments to federal law.[76]

[76] See 20 U.S.C. 7801(20).

JOINT EDUCATION OVERSIGHT COMMITTEE

- Specifies that the Joint Education Oversight Committee (JEOC) is abolished on October 1, 2019, but provides funding for its operations until that date.
- Assigns the responsibility to complete any unfinished JEOC business, as well as its records and materials, to the Legislative Service Commission.

Abolish Joint Education Oversight Committee

(R.C. 103.44 to 103.50 and 3314.231; Sections 311.10, 701.50, and 733.40)

The bill abolishes the Joint Education Oversight Committee (JEOC) on October 1, 2019, but provides funding to ensure its operations until that date. Similarly, on that date the bill terminates the employment of JEOC staff and transfers custody of all JEOC records, documents, files, equipment, assets, and other materials to the Legislative Service Commission (LSC). LSC also is assigned the responsibility to complete any unfinished JEOC administrative business or pending actions after October 1, 2019.

JEOC is a legislative committee, with its own full-time staff, that examines education policy issues and may review and evaluate education programs at school districts, other public schools, and state institutions of higher education. Currently, the committee consists of five members of the House, appointed by the Speaker, and five members of the Senate, appointed by the Senate President.

BOARD OF EMBALMERS AND FUNERAL DIRECTORS

- Increases all license and permit fees by $50.
- Replaces embalmer and funeral director registration with certification of apprenticeship subject to a $35 fee.

Authorization and fees

(R.C. 4717.03, 4717.05, 4717.07, and 4717.41)

The bill increases fees for the following licenses and permits by $50: embalmer's license, funeral director's license, license to operate an embalming facility, license to operate a funeral home, license to operate a crematory facility, and crematory operator permit.

The bill also amends the process of obtaining a license. Under current law, a person who wishes to obtain an embalmer's or funeral director's license must first register with the Ohio Board of Embalmers and Funeral Directors and subsequently complete an apprenticeship program. The registration fee is $25 and the fee for filing a certificate of apprenticeship is $10. The bill removes the registration requirement and specifies that an applicant need only obtain a certificate of apprenticeship subject to a $35 fee.

ENVIRONMENTAL PROTECTION AGENCY

Extension of E-Check

- Authorizes the extension of the motor vehicle inspection and maintenance program (E-Check) through June 30, 2025, in counties for which a program is federally mandated.
- Retains all statutory requirements governing the program, including the following:
  - The new contract must ensure that the program achieves at least the same emissions reductions as achieved by the program under the contract that was extended;
  - The Director of Administrative Services must use a competitive selection process when entering into a new contract with a vendor;
  - E-Check must be a decentralized program and include a new car exemption for motor vehicles up to four years old.

Local air pollution control authority

- Modifies the list of agencies that qualify as a local air pollution control authority under the law governing air pollution by eliminating the Mahoning-Trumbull Air Pollution Control Authority, City of Youngstown.

Asbestos abatement

- Makes changes to the law governing asbestos abatement, including:
  - Expanding the scope of activities that are subject to regulation by applying the law to activities involving more than three linear or square feet of asbestos-containing material, rather than more than 50 linear or square feet as in current law;
  - Authorizing the Ohio Environmental Protection Agency (OEPA) to take certain enforcement actions against a contractor licensee or certificate holder if either is violating or threatening to violate specified federal regulations adopted under the Federal Toxic Substances Control Act; and
  - Eliminating the Director's authority to approve, on a case-by-case basis, alternatives to the existing worker protection requirements for a project conducted by a public entity.

Extension of various fees

- Extends all of the following for two years:
  - The sunset of the annual emissions fees for synthetic minor facilities;
  - The levying of higher fees, and the decrease of those fees at the end of the two years, for applications for plan approvals for wastewater treatment works;
  - The sunset of the annual discharge fees for holders of National Pollutant Discharge Elimination System (NPDES) permits under the Water Pollution Control Law;

- The sunset of license fees for public water system licenses;
- A higher cap on the total fee due for plan approval for a public water supply system and the decrease of that cap at the end of the two years;
- The levying of higher fees, and the decrease of those fees at the end of the two years, for state certification of laboratories and laboratory personnel for purposes of the Safe Drinking Water Law;
- The levying of higher fees, and the decrease of those fees at the end of the two years, for applications to take examinations for certification as operators of water supply systems or wastewater systems;
- The levying of higher fees, and the decrease of those fees at the end of the two years, for applications for permits, variances, and plan approvals under the Water Pollution Control and Safe Drinking Water Laws;
- The sunset of the fees levied on the transfer or disposal of solid wastes; and
- The sunset of the fees levied on the sale of tires.

George Barley Water Prize

- Appropriates $125,000 in FY 2020 to a new line item, Environmental Program Support, to support the final stage of the awards process for the Everglades Foundation's George Barley Water Prize.
- If the $125,000 is not expended in its entirety in FY 2020, authorizes the Director of Environmental Protection to certify to the Director of Budget and Management an amount up to the unexpended, unencumbered balance of the $125,000 to be reappropriated in FY 2021.

Extension of E-Check

(R.C. 3704.14)

The act authorizes the extension of the motor vehicle inspection and maintenance program (E-Check) in Ohio counties where this program is federally mandated by:

- Authorizing the Director of Environmental Protection to request the Director of Administrative Services to extend the existing contract (with the contractor that conducts the program) beginning June 30, 2019, for a period of up to 24 months through June 30, 2021;
- Requiring the EPA Director, before the contract extension expires, to request the DAS Director to enter into a contract (with a vendor to operate a decentralized program) through June 30, 2023, with an option to renew the contract for a period of up to 24 months through June 30, 2025.

The bill retains the requirement that the new contract ensure that the program achieves at least the same emissions reductions achieved under the contract that was extended. It also

retains the requirement that the DAS Director must use a competitive selection process when entering into a new contract with a vendor. Last, the bill retains all statutory requirements governing the program, including requirements that E-Check be a decentralized program and include a new car exemption for motor vehicles up to four years old.

Local air pollution control authority

(R.C. 3704.01 and 3704.111)

The bill modifies the list of agencies that qualify as a local air pollution control authority under the law governing air pollution by eliminating the Mahoning-Trumbull Air Pollution Control Authority, City of Youngstown. Current law requires the OEPA Director to enter into delegation agreements with local air pollution control authorities listed in current law. As part of the agreement, the local air pollution control authority agrees to perform on behalf of Ohio Environmental Protection Agency (OEPA) air pollution control regulatory services within the political subdivision represented by the local air pollution control authority.

Asbestos abatement

(R.C. 3710.01, 3710.04, 3710.05, 3710.051, 3710.06, 3710.07, 3710.08, and 3710.12)

The bill makes the following changes to the law governing asbestos abatement, which is administered by OEPA:

- Expands the scope of activities that are subject to regulation by applying the law to activities involving more than three linear or square feet of asbestos-containing material, rather than more than 50 linear or square feet as in current law. (For example, if an activity involves four linear feet, a person will now need to meet certain certification and training requirements that previously would not have applied.)
- Adds the maintenance of asbestos-containing materials as one of the activities subject to regulation;
- Adds the operations of asbestos-containing materials as one of the activities subject to regulation;
- Authorizes OEPA to take certain enforcement actions against a contractor licensee or certificate holder if either is violating or threatening to violate specified federal regulations adopted under the Federal Toxic Substances Control Act as amended by the Asbestos Hazard Emergency Response Act;
- Requires OEPA to deny a contractor license application if the applicant or any of the applicant's officers or employees has been found liable in a civil proceeding under any state or federal environmental law. (Currently, denial is limited to felony convictions.)
- Eliminates the Director's authority to approve, on a case-by-case basis, alternatives to the existing worker protection requirements for a project conducted by a public entity;
- Adds both of the following to the list of activities that require a person to be certified as an asbestos hazard evaluation specialist:

--Inspections; and

--Assessments of suspect asbestos-containing materials.

- Adds the oversight of an asbestos hazard abatement activity to the list of activities that require certification as an asbestos hazard abatement project designer;
- With regard to the certification of an asbestos hazard abatement air-monitoring technician (responsible for environmental monitoring or work area clearance air sampling), eliminates the exemption from certification that applies to industrial hygienists-in-training since the American Board of Industrial Hygiene no longer certifies those hygienists; and
- Requires a contractor to notify the Director at least ten working days, rather than at least ten days as under current law, before beginning an asbestos hazard abatement project (the change makes Ohio law consistent with federal law).

Extension of various fees

(R.C. 3745.11, 3734.57, and 3745.901)

The bill extends the time period for charging various OEPA fees under the laws governing air pollution control, water pollution control, and safe drinking water. The following table sets forth each fee, its purposes, and the time period OEPA is authorized to charge the fee under current law and the bill:

Type of fee	Description	Sunset under current law	Sunset under the bill
Synthetic minor facility: emission fee	Each person who owns or operates a synthetic minor facility must pay an annual fee in accordance with a fee schedule that is based on the sum of the actual annual emissions from the facility of particulate matter, sulfur dioxide, nitrogen dioxide, organic compounds, and lead. A synthetic minor facility is a facility for which one or more permits to install or permits to operate have been issued for the air contaminant source at the facility that include terms and conditions that lower the facility's potential to emit air contaminants below the major source thresholds established in rules adopted under continuing law.	The fee is required to be paid through June 30, 2020.	The bill extends the fee through June 30, 2022.

Type of fee	Description	Sunset under current law	Sunset under the bill
Wastewater treatment works: plan approval application fee	A person applying for a plan approval for a wastewater treatment works is required to pay one of the following fees depending on the date: --A tier one fee of $100 plus 0.65% of the estimated project cost, up to a maximum of $15,000; or --A tier two fee of $100 plus 0.2% of the estimated project cost, up to a maximum of $5,000.	An applicant is required to pay the tier one fee through June 30, 2020, and the tier two fee on and after July 1, 2020.	The bill extends the tier one fee through June 30, 2022; the tier two fee begins on or after July 1, 2022.
Discharge fees for holders of NPDES permits	Each NPDES permit holder that is a public discharger or an industrial discharger with an average daily discharge flow of 5,000 or more gallons per day must pay an annual discharge fee based on the average daily discharge flow. There is a separate fee schedule for public and industrial dischargers.	The fees were due by January 30, 2018, and January 30, 2019.	The bill extends the fees and the fee schedules to January 30, 2020, and January 30, 2021.
Surcharge for major industrial dischargers	A holder of an NPDES permit that is a major industrial discharger must pay an annual surcharge of $7,500.	The surcharge was required to be paid by January 30, 2018, and January 30, 2019.	The bill extends the fee to January 30, 2020, and January 30, 2021.
Discharge fee for specified exempt dischargers	One category of public discharger and eight categories of industrial dischargers that are NPDES permit holders are exempt from the annual discharge fees that are based on average daily discharge flow. Instead, they are required to pay an annual discharge fee of $180.	The fee was due by January 30, 2018, and January 30, 2019.	The bill extends the fee to January 30, 2020, and January 30, 2021.
License fee for public water system license	A person is prohibited from operating or maintaining a public water system without an annual license from OEPA. Applications for initial licenses or license renewals must be accompanied by a fee, which is calculated using schedules for the three basic	The fee for an initial license or a license renewal applies through June 30, 2020, and is required to be paid annually in January.	The bill extends the initial license and license renewal fee through June 30, 2022.

Type of fee	Description	Sunset under current law	Sunset under the bill
	categories of public water systems.		
Fee for plan approval to construct, install, or modify a public water system	Anyone who intends to construct, install, or modify a public water supply system must obtain approval of the plans from OEPA. The fee for the plan approval is $150 plus 0.35% of the estimated project cost. However, current law sets a cap on the fee.	The cap on the fee is $20,000 through June 30, 2020, and $15,000 on and after July 1, 2020.	The bill extends the cap of $20,000 through June 30, 2022; the cap of $15,000 applies on and after July 1, 2022.
Fee on state certification of laboratories and laboratory personnel	In accordance with two schedules, OEPA charges a fee for evaluating certain laboratories and laboratory personnel. An additional provision states that an individual laboratory cannot be assessed a fee more than once in a three-year period unless the person requests the addition of analytical methods or analysts, in which case the person must pay $1,800 for each additional survey requested.	The schedule with higher fees applies through June 30, 2020, and the schedule with lower fees applies on and after July 1, 2020. The $1,800 additional fee applies through June 30, 2020.	The bill extends the higher fee schedule through June 30, 2022; the lower fee schedule applies on and after July 1, 2022. The bill extends the additional fee through June 30, 2022.
Fee for examination for certification as an operator of a water supply system or wastewater system	A person applying to OEPA to take an examination for certification as an operator of a water supply system or a wastewater system (class A and classes I-IV) must pay a fee, at the time an application is submitted, in accordance with a statutory schedule.	A schedule with higher fees applies through November 30, 2020, and a schedule with lower fees applies on and after December 1, 2020.	The bill extends the higher fee schedule through November 30, 2022; the lower fee schedule applies on and after December 1, 2022.
Application fee for a permit (other than an NPDES permit), variance, or plan approval	A person applying for a permit (other than an NPDES permit), a variance, or plan approval under the Safe Drinking Water Law or the Water Pollution Control Law must pay a nonrefundable fee.	If the application is submitted through June 30, 2020, the fee is $100. If the application is submitted on or after July 1, 2020, the fee is $15.	The bill extends the $100 fee through June 30, 2022; the $15 fee applies on and after July 1, 2022.

Type of fee	Description	Sunset under current law	Sunset under the bill
Application fee for an NPDES permit	A person applying for an NPDES permit must pay a nonrefundable application fee.	If the application is submitted through June 30, 2020, the fee is $200. If the fee is submitted on or after July 1, 2020, the fee is $15.	The bill extends the $200 fee through June 30, 2022; the $15 fee applies on and after July 1, 2022.
Fees on the transfer or disposal of solid wastes	A total of $4.75 in state fees is levied on each ton of solid waste disposed of or transferred in Ohio. The fees are used for administering the hazardous waste (90¢), solid waste (75¢), and other OEPA programs ($2.85), and for soil and water conservation districts (25¢).	The fees apply through June 30, 2020.	The bill extends the fees through June 30, 2022.
Fees on the sale of tires	A base fee of 50¢ per tire is levied on the sale of tires to assist in the cleanup of scrap tires. An additional fee of 50¢ per tire is levied to assist soil and water conservation districts.	Both fees are scheduled to sunset on June 30, 2020.	The bill extends the fees through June 30, 2022.

George Barley Water Prize

(Sections 277.10 and 277.20)

The bill appropriates $125,000 in FY 2020 to a new line item, Environmental Program Support, to support the final stage of the awards process for the Everglades Foundation's George Barley Water Prize. If the $125,000 is not expended in its entirety in FY 2020, the Director of Environmental Protection may certify to the Director of Budget and Management an amount up to the unexpended, unencumbered balance of the $125,000 to be reappropriated in FY 2021. The George Barley Water Prize recognizes groundbreaking innovation in removing excess phosphorus from freshwater sources.[77]

[77] https://www.barleyprize.org.

OHIO FACILITIES CONSTRUCTION COMMISSION

Executive Director powers

- Eliminates the law stating that the Executive Director of the Ohio Facilities Construction Commission must exercise all powers that the Commission possesses.

School facilities project maintenance set-aside

- Specifies that the maintenance funds set aside for a state-funded classroom facilities project may be used for "upgrades," subject to approval by the Commission.

Expedited Local Partnership Program

- Permits a school district that has already received assistance under Classroom Facilities Assistance Program (CFAP) and has divided its CFAP project into segments to participate in Expedited Local Partnership Program (ELPP) for a discrete portion of one or more of its future segments of the project.

School bus purchase program

- Requires the Commission, in partnership with the Departments of Administrative Services and Public Safety, to develop a program to provide school bus purchase assistance to school districts beginning in FY 2021.
- Requires this assistance to be provided in a manner comparable to the method by which school facilities assistance is provided under the Classroom Facilities Assistance Program.
- Requires the Commission and the Departments to submit a report to the General Assembly by January 31, 2020, describing how the program will operate.
- Appropriates $20 million in FY 2021 for the program's implementation.

Executive Director powers

(R.C. 123.21)

The bill eliminates the law stating that the Executive Director of the Ohio Facilities Construction Commission exercises all powers that the Commission possesses. Under continuing law, the Executive Director supervises the Commission's operations, employs and fixes the compensation of its employees, and performs other duties delegated by the Commission.

School facilities project maintenance set-aside

(R.C. 3318.05, 3318.051, 3318.06, 3318.061, 3318.062, 3318.063, 3318.36, and 3318.361)

The bill specifies that the maintenance funds set aside for a state-funded classroom facilities project may be used for "upgrades," subject to approval by the Commission. The bill makes changes to tax levy ballot language used by most districts to generate the required

funds. It appears that an existing maintenance levy may not be used for upgrades unless specifically approved by the voters for that purpose.

Background

The Commission administers several programs that provide state assistance to school districts and other public schools in constructing classroom facilities. The main program, the Classroom Facilities Assistance Program (CFAP), is designed to provide each city, exempted village, and local school district with partial funding to address all of the district's classroom facilities needs. It is a graduated, cost-sharing program where a district's portion of the total cost of the project and priority for funding are based on the district's relative wealth. Other smaller programs address the particular needs of certain types of districts and schools. These, too, are cost-sharing programs.

Besides raising its share of the project cost, usually through the issuance of voter-approved bonds and an accompanying tax levy, a school district participating in CFAP must levy a separate tax or set-aside other funds for the maintenance of the facilities. The amount of that set aside is equal to one-half mill (0.0005) times the district's tax valuation for 23 years. Some districts qualify for an equalized supplemental payment to help pay the cost of the maintenance requirement.[78] This maintenance set-aside requirement applies to CFAP and most other programs administered by the Commission. A separate maintenance set-aside requirement applies to joint vocational school districts. It is not affected by the bill's provisions.[79]

Expedited Local Partnership Program

(R.C. 3318.36)

The bill permits a school district that has already received assistance under CFAP and has divided its CFAP project into segments to participate in the Expedited Local Partnership Program (ELPP) for a discrete portion of one or more of its future segments of the project.

ELPP is a program that permits most school districts that have not been served under CFAP to apply the advance expenditure of district money on approved parts of their district-wide needs toward their shares of their CFAP projects when they become eligible for CFAP. Currently, a district may not participate in ELPP if it is reasonably expected to receive CFAP assistance within two fiscal years.

In 2008, all districts participating in CFAP were authorized to segment their projects. Until then, only the large urban districts were permitted to do so.[80]

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[78] R.C. 3318.18, not in the bill.

[79] R.C. 3318.43, not in the bill.

[80] R.C. 3318.034 and 3318.38, neither in the bill.

School bus purchase program

(Section 287.30)

The bill requires the Commission, in partnership with the Departments of Administrative Services and Public Safety, to develop a program to provide school bus purchase assistance to school districts beginning in FY 2021. The method for providing this assistance must be comparable to the method in which school facilities assistance is provided under CFAP. The Commission and Departments of Administrative Services and Public Safety must submit a report to the General Assembly by January 31, 2020, describing how the program will operate.

The bill appropriates $20 million in FY 2021 for the program's implementation.

OHIO GENERAL ASSEMBLY

- Re-establishes the Legislative Committee on Public Health Futures.
- Requires the Committee to review the effectiveness of recommendations of previous reports that have been or are being implemented, and, based on the knowledge and insight gained from its reviews, make legislative and fiscal policy recommendations that it believes would improve local public health services in Ohio.
- Provides that the Committee must produce its report by December 31, 2020, and dissolves the Committee once it issues the report.
- Authorizes the Ohio Government Telecommunications Service to broadcast and record any committee meeting in the Senate or House, as directed by the presiding officer of the respective house.

Legislative Committee on Public Health Futures

(Section 737.40)

The bill re-establishes the Legislative Committee on Public Health Futures, and requires that the Committee review relevant reports previously produced by similar public health futures committees in Ohio. The Committee must review the effectiveness of recommendations from those reports that are being or that have been implemented, and based on the knowledge and insight gained from its reviews, make legislative and fiscal policy recommendations that it believes would improve local public health services in Ohio.

The Committee, not later than December 31, 2020, must prepare a report that describes its review of the reports and its review and of the recommendations that are being or that have been implemented, and that states and provides explanations of the Committee's new policy recommendations.

The Committee must transmit a copy of its report to the Governor, the President and Minority Leader of the Senate, and the Speaker and Minority Leader of the House. Upon transmitting its report, the Committee ceases to exist.

ODH and each of the following associations must appoint one individual to the Committee: the County Commissioners Association of Ohio, the Ohio Township Association, the Ohio Public Health Association, the Ohio Environmental Health Association, the Ohio Boards of Health Association, the Ohio Municipal League, and the Ohio Hospital Association. The Association of Ohio Health Commissioners must appoint two individuals to the Committee. The President and Minority Leader of the Senate each must appoint two members to the Committee. The Speaker and Minority Leader of the House each must appoint two members to the Committee. Of the two appointments made by each legislative leader, one must be a member of the General Assembly from the appointing member's chamber. Appointments must be made as soon as possible but not later than 30 days after the bill's effective date. Vacancies on the Committee must be filled in the same manner as the original appointment.

As soon as all members have been appointed to the Committee, the Senate President must fix a time and place for the Committee to hold its first meeting. At that meeting, the Committee must elect from among its membership a chairperson, a vice-chairperson, and a secretary. The ODH Director must provide the Committee with meeting and office space, equipment, and professional, technical, and clerical staff as are necessary to enable the Committee successfully to complete its work.

Broadcast committee meetings

(R.C. 3353.07)

The bill authorizes the Ohio Government Telecommunications Service (OGT) to broadcast and record any committee meeting in the Senate or House, as directed by the presiding officer of the respective chamber. Under this provision, "committee" means any committee of either chamber, a joint committee of both chambers, including a conference committee, or a subcommittee of any committee. A "meeting" means any prearranged discussion of the public business of a committee by a majority of its members.

OGT provides the state government and affiliated organizations with multimedia support, including audio, visual, Internet services, multimedia streaming, and hosting multimedia programs.

OFFICE OF THE GOVERNOR

- Repeals state laws that establish duties for the Office of Health Transformation.
- Repeals state law regarding the exchange of protected health information between certain state agencies.

Elimination of Office of Health Transformation

(R.C. 191.01, 191.02, 191.04, 191.06, 191.08, 191.09, and 109.10, all repealed; R.C. 103.41, 3701.36, 3701.68, 3701.95, 3798.01, 3798.10, 3798.14, 3798.15, 3798.16, 5101.061, 5162.12, and 5164.01)

The bill eliminates all of the statutory duties of the Office of Health Transformation and all other references to the Office in the Revised Code. Governor Kasich created the Office pursuant to an executive order issued in 2011.[81]

Specifically, the bill repeals state laws that require the Executive Director of the Office to:

- Identify each government program providing public benefits for the purpose of state law that permits state agencies to exchange protected health information with other state agencies for certain purposes;
- Adopt strategies that prioritize employment as a goal for individuals participating in government programs providing public benefits;
- Establish goals for continuous quality improvement pertaining to episode-based payments for prenatal care;
- Identify best practices pertaining to family planning options, strategies for reducing poor pregnancy outcomes, and health professional instruction on cultural competency.

Eliminating all other references to the Office from the Revised Code has the following effects:

- Eliminates the Joint Medicaid Oversight Committee's authority to investigate the Office;
- Removes the Office's Executive Director from the officials who are to receive a copy of the Palliative Care and Quality of Life Interdisciplinary Council's annual report regarding recommendations for improving palliative care;
- Removes the Executive Director from the Commission on Infant Mortality;

[81] Executive Order No. 2011-02K.

- Eliminates a requirement that the Medicaid Director consult with the Executive Director when adopting rules regarding the exchange of protected health information;
- Eliminates a requirement that the Executive Director assist the Director of Job and Family Services with leadership and organizational support for the Office of Human Services Innovation.

Exchange of protected health information

(R.C. 191.01, 191.02, and 191.04, all repealed)

The bill repeals state laws that permit certain state agencies to exchange protected health information relating to eligibility for or enrollment in a health plan or participation in a government program providing public benefits, if the exchange is necessary for (1) operation of a health plan or (2) coordination, or improvement of the administration or management, of the health care-related functions of at least one government program providing public benefits. An exchange of protected health information must be done in accordance with federal law governing the confidentiality of individually identifiable health information. This authority applies to the following state agencies:

- The Department of Administrative Services;
- The Department of Aging;
- The Development Services Agency;
- The Department of Developmental Disabilities;
- The Department of Education;
- The Department of Health;
- The Department of Insurance;
- The Department of Job and Family Services;
- The Department of Medicaid;
- The Department of Mental Health and Addiction Services;
- The Department of Rehabilitation and Correction;
- The Department of Taxation;
- The Department of Veterans Services;
- The Department of Youth Services;
- The Opportunities for Ohioans with Disabilities Agency.

H2OHIO FUND

- Creates the H2Ohio Fund in the state treasury.
- Directs a portion of FY 2019 GRF surplus revenue to the fund.
- Requires fund money to be used for water quality purposes, including awarding grants, issuing loans, funding cooperative research, and encouraging cooperation with governmental and private entities.
- Requires the Ohio Lake Erie Commission, in coordination with state agencies or boards responsible for water protection and water management, to submit an annual report to the General Assembly and the Governor, beginning August 31, 2020.
- Requires the Directors of Agriculture, Natural Resources, and Environmental Protection to each convene their own separate advisory boards in both fiscal years 2020 and 2021 to determine the Department or Agency's priorities for water quality funding and to determine the projects and programs that will be funded by the H2Ohio Fund.

H2Ohio Fund

(R.C. 126.60; Sections 211.10, 211.20, 277.10, 277.20, 343.10, 343.30, and 513.10)

The bill creates the H2Ohio Fund in the state treasury and directs a portion of FY 2019 GRF surplus revenue (up to $172 million) to the fund. It appropriates a total of $85.2 million from the fund for FY 2020 among the Departments of Agriculture ($30.3 million) and Natural Resources ($46.2 million) and the Environmental Protection Agency ($8.7 million), and reappropriates for FY 2021 any unencumbered money remaining from FY 2020. It also authorizes the Controlling Board, in FY 2021, to increase or establish appropriations from the fund to state agencies as "necessary to support the statewide strategic vision and comprehensive periodic water protection strategy."

The fund also may include money from donations, bequests, and other sources.

For a more detailed description of the H2Ohio Fund's financing, see the LBO budget support documents. From the LSC home page, www.lsc.ohio.gov, click on "Budget Central," then on "Main Operating – H.B. 166."

The fund is to be used for any of the following purposes:

- Awarding or allocating grants or money, issuing loans, or making purchases for the development and implementation of projects and programs, including remediation projects, that are designed to address water quality priorities;
- Funding cooperative research, data gathering and monitoring, and demonstration projects related to water quality priorities;

- Encouraging cooperation with and among leaders from state legislatures, state agencies, political subdivisions, business and industry, labor, agriculture, environmental organizations, and water conservation districts; and
- Agricultural water projects, which are projects that will improve water quality by reducing or aiding in the reduction of levels of phosphorus, nitrogen, or sediment, that result from agricultural practices, in Ohio waters. Agricultural water projects include projects involving research, technology, design, construction, best management practices, conservation, testing, or education.
- Community water projects, which are projects involving a public water system operated by a political subdivision that will improve water quality by reducing or aiding in the reduction of levels of phosphorus, nitrogen, or sediment in Ohio waters. Community water projects include projects involving research, technology, design, construction, best management practices, conservation, testing, or maintenance.
- Nature water projects, which are projects involving a natural water system that will improve water quality by reducing or aiding in the reduction of levels of phosphorus, nitrogen, or sediment in Ohio waters. Nature water projects include projects involving research, technology, design, construction, best management practices, conservation, or maintenance. They also include the creation, maintenance, or restoration of wetlands, flood plains, flood control systems, and buffers throughout the state, including the western basin of Lake Erie.
- Other purposes, policies, programs, and priorities identified by the Ohio Lake Erie Commission in coordination with state agencies or boards responsible for water protection and water management, provided they align with a statewide strategic vision and comprehensive periodic water protection and restoration strategy.

Annual report

The Ohio Lake Erie Commission, in coordination with state agencies or boards responsible for water protection and water management, must submit a report to the General Assembly and the Governor annually, beginning August 31, 2020. The report must address activities undertaken with respect to the H2Ohio Fund during the preceding fiscal year, and revenues and expenses for that year.

H2Ohio advisory boards

(Section 701.15)

The bill requires the Directors of Agriculture, Natural Resources, and Environmental Protection each to convene an advisory board in both FY 2020 and FY 2021. Each director must consult with the respective advisory board to determine priorities for water quality funding and to determine the projects and programs for which each department or agency will fund with money appropriated to it from the H2Ohio Fund.

The respective advisory board must consist of members who represent various entities as follows:

Department of Agriculture	Department of Natural Resources	Environmental Protection Agency
-- Agriculture; -- The environment; -- Conservation; and -- Institutions of higher education engaged in water quality research.	-- Water resources design and engineering; -- Local government; -- Agriculture; -- The environment; -- Conservation; and -- Institutions of higher education engaged in water quality research.	-- The environment; -- Conservation; -- Public health; -- Local governments; and -- Institutions of higher education engaged in water quality research.

DEPARTMENT OF HEALTH

Fetal-infant mortality review boards

- Authorizes local boards of health to establish fetal-infant mortality review boards to review fetal and infant deaths within the board's jurisdiction.
- Specifies a review board's membership, purposes, and responsibilities.
- Specifies that investigatory materials that a review board possesses are confidential and not public records, and that review board meetings are not subject to Ohio's Open Meetings Law.
- Specifies that entities that submit investigatory materials to a review board, as well as board members, are immune from civil liability in connection with their responsibilities.
- Requires the ODH Director to adopt rules for the establishment and operation of fetal-infant mortality review boards.

Pregnancy-associated Mortality Review (PAMR) Board

- Establishes in the Ohio Department of Health (ODH) a Pregnancy-associated Mortality Review (PAMR) Board to identify and review all pregnancy-associated deaths for the purpose of reducing the incidence of those deaths.
- Prohibits the Board from reviewing deaths under investigation or prosecution unless the prosecuting attorney agrees.
- Describes Board membership and operations, and requires the ODH Director to adopt rules concerning how the Board conducts pregnancy-associated death reviews.
- Specifies that information the Board possesses is confidential and not a public record and that Board meetings are exempt from the Open Meetings Law.
- Specifies that those who submit information to the Board, as well as Board members, are immune from civil liability in connection with their responsibilities.

Central intake/referral system for home visiting services

- Authorizes the central intake and referral system to include referrals to home visiting programs that use home visiting contractors who provide services within a community HUB that fully or substantially complies with the certification standards developed by the Pathways Community HUB Institute.

Ohio Home Visiting Consortium

- Includes as members of the Ohio Home Visiting Consortium (1) a home visiting contractor who provides services within one or more community HUBs through a contract, grant, or agreement with the Commission on Minority Health and (2) an individual who receives home visiting services through such a contractor.

Substance use disorder professionals

- Authorizes ODH to establish a loan repayment program for professionals who provide treatment and other related services to individuals with substance use disorders.
- Authorizes ODH to establish a program in which a physician who provides medication-assisted treatment in a health resource shortage area may be eligible for financial assistance.

Dental Hygiene Resource Shortage Area Fund

- Eliminates the Dental Hygiene Resource Shortage Area Fund and specifies that donations for the benefit of the Dental Hygienist Loan Repayment Program instead be paid to the Dental Hygienist Loan Repayment Fund.

Radiation technology professionals

- Authorizes nuclear medicine technologists and radiation therapy technologists who are certified in computed tomography (CT) to perform CT procedures.
- Makes other changes to the law governing the regulation of radiation technology professionals.

Examination fees

- Requires ODH to post on its website the fee amounts for examinations administered by other entities on the Department's behalf.

Child lead poisoning advisory council

- Revises the membership of the advisory council appointed by the ODH that assists in development and implementation of the child lead poisoning prevention program by adding four new members and updating two member association names.

Lead abatement: order to vacate

- Requires the ODH Director or a board of health to issue an order to vacate, prohibiting the owner or manager of a residential unit, child-care facility, or school from using that property for any purpose if the owner or manager is out of compliance with a lead hazard control order.
- Authorizes the Director or a board of health to request a prosecuting attorney, city director of law, village solicitor, or similar chief legal officer to commence a civil action for injunctive and other equitable relief against any person who violates an order to vacate.

Lead-Safe Home Fund Pilot Program

- Requires the ODH Director to establish a Lead-Safe Home Fund Pilot Program to improve housing conditions for children by providing grants to eligible property owners for lead-safe remediation actions.

- Requires the Director to coordinate the program with the Lead Safe Cleveland Coalition.
- Requires the Director to submit a report of the program's findings and outcomes to the Governor and the members of the General Assembly by June 30, 2021.

Ambulatory surgical facility licensure

- Modifies the criteria used in determining whether a facility must be licensed as an ambulatory surgical facility, and extends the licensing requirement to any facility located within an inpatient care building if the facility is operated by a separate entity.

Health care facility payments

- Expresses the General Assembly's intent to not have licensure requirements or exemptions affect any third-party payments that may be available for certain health care facilities.

Newborn screening for Krabbe disease

- Repeals the law that limits newborn screening for Krabbe disease to a process known as "first tier testing."

Newborn safety incubators

- Exempts a law enforcement agency, hospital, or emergency medical service organization that has installed a newborn safety incubator from the requirement to have staff on site under specified circumstances.

Occupational disease reporting

- Eliminates the requirement that physicians report suspected occupational diseases and ailments to the ODH Director.

Diabetes action plan reporting cycle

- Lengthens to three years (from two) the reporting cycle for the ODH Director to submit to the General Assembly a report detailing the prevalence of diabetes.

ODM access to Social Security numbers accompanying vital statistics records

- Requires ODH's Office of Vital Statistics to make available to the Department of Medicaid, for the purpose of medical assistance eligibility determinations, Social Security numbers that accompany birth certificates or death certificates.

Area training centers for nursing home employees

- Repeals the law requiring the ODH Director to establish and supervise centers for the training of nursing home employees and to contract with other entities to operate the centers.

Breast and Cervical Cancer Project

- Adds certain providers to those eligible to receive payments for services from the Breast and Cervical Cancer Project Income Tax Contribution Fund.
- Expands eligibility for screening and diagnostic services provided through ODH's Ohio Breast and Cervical Cancer Project.

Public Health Priorities Fund

- Changes the name of Ohio's Public Health Priorities Trust Fund to Ohio's Public Health Priorities Fund, eliminates the purposes for which money credited to the fund must be used, and instead requires the ODH Director to use the money to address pressing public health needs and implement innovative programs and prevention strategies.
- Eliminates the prohibition on transferring money from GRF to the fund.

Utility Radiological Safety Board

- Specifies that the Utility Radiological Safety Board (URSB), based on the utilities' decommissioning budgets, may make assessments for URSB operations against Ohio nuclear electric utilities that have stopped producing electricity.
- Expands the definition of "nuclear electric utility" under URSB law to include persons within Ohio engaged in the storage of spent nuclear fuel arising from the production of electricity using nuclear energy.

Cancer Incidence Surveillance Advisory Board

- Abolishes the Ohio Cancer Incidence Surveillance System Advisory Board.

Transfer of nursing home ownership

- Imposes disclosure requirements on an individual who is assigned or transferred operation of a nursing home.
- Requires that before the Director of Health can issue a license authorizing the person to operate the nursing home, the person must submit to the Director documentation including the individual's financial solvency, experience, insurance coverage, and prior nursing home ownership interest.

Commission on Infant Mortality

- Requires the Governor or the Governor's designee to serve on the Commission on Infant Mortality instead of the Executive Director of the Office of Health Transformation or the Executive Director's designee.
- Requires the Speaker of the House and the Senate President to each appoint an individual who represents children's interest to the Commission.

Resident's right to choose a hospice care program

- Adds to the existing bill of rights for a resident of a nursing home or residential care facility the right to choose a licensed hospice care program that best meets the resident's needs.

Fetal-infant mortality review boards

(R.C. 121.22, 149.43, 3701.049, 3707.70, 3707.71, 3707.72, 3707.73, 3707.74, 3707.75, 3707.76, and 3707.77)

Operation and duties

The bill authorizes a local board of health to establish and operate a fetal-infant mortality review board, in accordance with rules the ODH Director must adopt under the bill, to review both of the following:

--Each fetal death experienced by a woman who was, at the time of the fetal death, a resident of the health district in which the board exercises authority; and

--Each death of an infant who was, at the time of death, a resident of the health district in which the local board exercises authority.

No reviews during criminal investigation

The bill prohibits a fetal-infant mortality review board from conducting a review of a death while an investigation of the death or prosecution of a person for causing the death is pending, unless the prosecuting attorney agrees to allow it. The law enforcement agency conducting the criminal investigation, on the investigation's conclusion, and the prosecuting attorney prosecuting the case, on the prosecution's conclusion, must notify the review board chairperson of the conclusion.

Membership

If a local board of health establishes a fetal-infant mortality review board, the local board, by a majority vote of a quorum of its members, must select the review board's members. Members may include the following professionals or individuals representing the following constituencies:

--Fetal-infant mortality review coordinators;

--Board-certified obstetricians and gynecologists;

--Key community leaders from the board of health's jurisdiction;

--Health care providers;

--Human services providers;

--Consumer and advocacy groups; and

--Community action teams.

A majority of the review board members may invite additional individuals to serve on the board. The additional members must serve for a period of time determined by a majority of the members and have the same authority, duties, and responsibilities of the members. In addition, the review board, by a majority vote of a quorum of its members, must designate a chairperson.

A vacancy on the review board is to be filled in the same manner as the original appointment. A board member is prohibited from receiving any compensation or reimbursement for expenses associated with membership. A review board may work in conjunction with, or be a component of, a child fatality review board or regional child fatality review board.

A review board must convene at least once a year at the call of its chairperson.

Purpose

The bill specifies that a review board's purpose is to decrease the incidence of preventable fetal and infant deaths by doing all of the following:

--Assessing, planning, improving, and monitoring the service systems and broad community resources that support and promote the health and well-being of women, infants, and families;

--Recommending and developing plans for implementing local service and program changes, as well as changes to the groups, professions, agencies, and entities that serve families, children, and pregnant women; and

--Providing ODH with aggregate data, trends, and patterns regarding fetal and infant deaths.

Submission of information; family member participation

Notwithstanding state confidentiality laws, the bill requires an individual, public children services agency, private child placing agency, agency that provides services specifically to individuals or families, a law enforcement agency, or another public or private entity that provided services to a pregnant woman whose fetus died or an infant who died to submit to the review board copies of any record it possesses that the board requests. These records may include maternal health records. In addition, the individual or entity may make available to the board additional information, documents, or reports that could be useful to the board's investigation. An exception to this requirement exists when a person is under investigation, or being prosecuted, for causing the death (unless the prosecuting attorney agrees to allow the death review).

The bill permits a family member of the deceased to decline to participate in an interview as part of the review process. In that case, the review must continue without that individual's participation.

Confidentiality

Except for information from a public children services agency about a child who is the subject of a child abuse, neglect, or other criminal conduct investigation under limited

circumstances in continuing law, the bill specifies that any record, document, report, or other information presented to a fetal-infant mortality review board or a person abstracting such materials on the board's behalf, statements made by board members during board meetings, all board work products, and data submitted by the board to ODH or a national infant death review database (other than the annual report required by the bill, discussed below), are confidential and exempt from the Publics Records Law. These materials must be used by the review board and ODH only in the exercise of their proper functions. In addition, board meetings are not public meetings subject to Ohio's Open Meetings Law.[82]

If the materials are presented to the review board or a person abstracting the materials on the board's behalf in paper form, the materials must be stored in a locked file cabinet. If a database is used to store the materials electronically, the database must be stored in a secure manner. All information accessible to each board member and used during a review, including information provided by the deceased's mother, must be de-identified. The bill prohibits the unauthorized dissemination of this confidential information. A violation of this prohibition is a misdemeanor of the second degree.

Immunity

The bill grants civil immunity to both:

--An individual or public or private entity providing records, documents, reports, or other information to a fetal-infant mortality review board for injury, death, or loss to person or property that otherwise might be incurred or imposed as a result of providing these materials to a board; and

--Each review board member for injury, death, or loss to person or property that otherwise might be incurred or imposed as a result of the member's participation on the board.

Data reporting and annual report

The bill requires a fetal-infant mortality review board, not later than April 1 each year, to both:

--Submit to the fetal-infant mortality database maintained by ODH or a national infant death review database individual data pertaining to each fetal or infant death reviewed in that board's jurisdiction within the 12 months immediately before the submission; and

--Submit to ODH a report that summarizes any trends or patterns the review board identifies.

The specific data that must be submitted, and other information the board considers relevant to a review, must be specified by the ODH Director in rules required by the bill. The report, a public record, may include recommendations on how to decrease the incidence of preventable fetal and infant deaths in the board's jurisdiction and Ohio, as well as any other information the board determines should be included.

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[82] R.C. 121.22.

Rules

The bill requires the ODH Director to adopt rules to establish a procedure for fetal-infant mortality review boards to follow in conducting a review of a fetal or infant death. The rules must be adopted in accordance with the Administrative Procedure Act[83] and do all of the following:

--Specify the procedures that a local board of health must use to establish and operate a review board;

--Specify the data and other relevant information a review board must use when conducting a review of a fetal or infant death;

--Establish guidelines for a review board to follow so that information presented to the board does not include anything that would permit any person's identity from being ascertained; and

--Specify the standards and procedures a review board must use when reporting fetal-infant mortality data to ODH's fetal-infant mortality database or a national infant death review database.

Pregnancy-associated Mortality Review (PAMR) Board

(R.C. 121.22, 149.43, 3738.01, 3738.02, 3738.03, 3738.04, 3738.05, 3738.06, 3738.07, 3738.08, and 3738.09)

Operation and duties

The bill establishes in the Ohio Department of Health (ODH) a Pregnancy-associated Mortality Review (PAMR) Board. The Board is to identify and review all pregnancy-associated deaths statewide for the purpose of reducing the incidence of those deaths.

"Pregnancy-associated death" is defined as the death of a woman while pregnant or within one year of pregnancy regardless of cause.

No reviews during criminal investigation

The bill prohibits the PAMR Board from conducting a review of a pregnancy-associated death while an investigation of a death or prosecution of a person for causing the death is pending, unless the prosecuting attorney agrees to allow the review. The law enforcement agency conducting the criminal investigation, on the investigation's conclusion, and the prosecuting attorney prosecuting the case, on the prosecution's conclusion, must notify the Board's chairperson of the conclusion.

Membership; technical assistance

All of the following apply to the PAMR Board:

[83] R.C. Chapter 119.

Members: The ODH Director must appoint the Board's members and make a good faith effort to select members who represent all regions of Ohio and multiple areas of expertise and constituencies concerned with the care of pregnant and postpartum women.

Chairperson: The Board, by a majority vote of a quorum of its members, must select a chairperson. It may replace a chairperson in the same manner.

Terms: An appointed member holds office until a successor is appointed, and the ODH Director must fill a vacancy as soon as practicable.

Compensation: Board members are to receive no compensation or reimbursement for any expenses associated with their service.

Meeting times: The Board must meet at the call of its chairperson as often as that individual considers necessary for timely completion of pregnancy-associated death reviews. The reviews must be conducted in accordance with rules the bill requires the ODH Director to adopt.

Technical assistance: ODH must provide meeting space, staff services, and other technical assistance required by the Board.

Purpose

The PAMR Board must seek to reduce the incidence of pregnancy-associated deaths in Ohio by:

--Promoting cooperation, collaboration, and communication between all groups, professions, agencies, and entities that serve pregnant and postpartum women and families;

--Recommending and developing plans for implementing service and program changes, as well as changes to the groups, professions, agencies, and entities that serve pregnant and postpartum women and families;

--Providing ODH with aggregate data, trends, and patterns regarding pregnancy-associated deaths using data and other relevant information specified in rules; and

--Developing effective interventions to reduce the mortality of pregnant and postpartum women.

Submission of information; family member participation

Notwithstanding state confidentiality laws, the bill requires an individual, government entity, agency that provides services specifically to individuals or families, law enforcement agency, health care provider, or other public or private entity that provided services to a woman whose death is being reviewed by the PAMR Board to submit to the Board a copy of any record it possesses that the Board requests. In addition, the individual or entity may make available to the Board additional information, documents, or reports that could be useful to the Board's investigation. An exception to this requirement applies when a person is under investigation or being prosecuted for causing the death unless the prosecuting attorney agrees to allow the death review.

The bill permits a family member of the deceased to decline to participate in an interview as part of the review process. In that case, the review must continue without that individual's participation.

Confidentiality

The bill specifies that any record, document, report, or other information presented to the PAMR Board, as well as all statements made by Board members during Board meetings, all Board work products, and data submitted to ODH by the Board (other than the biennial reports described below), are confidential and not public records. These materials must be used by the Board and ODH only in the exercise of their proper functions. In addition, Board meetings are not public meetings subject to Ohio's Open Meetings Law.

The bill prohibits the unauthorized dissemination of this confidential information. A violation of this prohibition is a misdemeanor of the second degree.

Immunity

The bill grants immunity from civil liability, as follows:

--An individual or public or private entity providing records, documents, reports, or other information to the PAMR Board is not liable for injury, death, or loss to person or property that might otherwise be incurred or imposed as a result of providing these materials to the Board; and

--Each Board member is not liable for injury, death, or loss to person or property that otherwise might be incurred or imposed as a result of the member's participation on the Board.

Report

The bill requires the PAMR Board to prepare and submit to the Governor, General Assembly, and ODH Director a biennial report[84] that:

--Summarizes the Board's findings from the reviews completed in the preceding three calendar years, including any trends or patterns identified by the Board;

--Makes recommendations on how pregnancy-associated deaths may be prevented, including changes that should be made to policies and laws; and

--Includes any other information related to pregnancy-associated mortality the Board considers useful.

[84] The reference to a triennial report is erroneous; the report is to be done biennially. A corrective amendment could be prepared to correct this error.

The initial report must be submitted by March 1, 2020, and subsequent reports must be submitted by March 1 every two years.[85] The reports are public records, and the ODH Director must make a copy of each report available on ODH's website.

Rules

The ODH Director must adopt rules in accordance with the Administrative Procedure Act[86] that are necessary for the PAMR Board's operations, including rules that do all of the following:

--Establish a procedure for the Board to follow in conducting pregnancy-associated death reviews;

--Specify the data and other relevant information the Board must use when conducting pregnancy-associated death reviews; and

--Establish guidelines for the Board to follow to prevent an unauthorized dissemination of confidential information.

Central intake/referral system for home visiting services

(R.C. 3701.611)

Current law requires ODH to create a central intake and referral system to serve as a single point of entry for access, assessment, and referral of families to appropriate home visiting services. The bill authorizes the system to include referrals to home visiting programs that use home visiting contractors who provide services within a community HUB that fully or substantially complies with the Pathways Community HUB certification standards developed by the Pathways Community HUB Institute.

According to the institute, the Pathways Community HUB model focuses on the comprehensive identification and reduction of risk in a culturally connected pay-for-performance approach. Community-based care coordination organizations employ community health workers to reach out to those at greatest risk of poor health outcomes. The community health workers complete a comprehensive assessment of health, social, and behavioral health risk factors for the individuals they serve. Working with a team of social workers and medical personnel, a risk reduction plan of care is developed. Each risk factor identified in the assessment is assigned a specific "pathway," which is tracked and can provide confirmation that the risk factor is addressed. Pathways and the related reduction of risks span access to health care, housing, food stability, education, employment, and other areas of concern. Programs delivering nationally certified Pathways Community HUB services are paid when each Pathway (risk reduction) is completed. The HUB represents a network of agencies that provide evidence-focused care coordination and the professional work needed to identify and address risk

[85] A corrective amendment is necessary to coordinate the timing of subsequent reports with the bill's general requirement for issuance of triennial reports.

[86] R.C. Chapter 119.

factors. The HUB, as the quality center of the network, assures that care coordinators and programs collaborate in their approach to identify and address risk, reduce service duplication, and increase the effectiveness of systems of care.[87]

Ohio Home Visiting Consortium

(R.C. 3701.612)

The Ohio Home Visiting Consortium exists to ensure that home visiting services are high-quality and delivered through evidenced-based or innovative, promising home visiting models. The bill adds as members of the Consortium (1) a home visiting contractor who provides services within one or more community HUBs described above through a contract, grant, or other agreement with the Commission on Minority Health and (2) an individual who receives home visiting services through such a contractor. Among the 14 existing members are a home visiting contractor who provides services within the Help Me Grow Program through a contract, grant, or other agreement with ODH and an individual who receives home visiting services from the Help Me Grow Program.

Substance use disorder professionals

(Sections 737.10 and 737.11)

The bill authorizes ODH to establish a loan repayment program for professionals who provide treatment and other related services to individuals with substance use disorders. Under the program, ODH may agree to repay all or part of the principal or interest of an educational loan taken by a substance use disorder professional. In return, the participating professional must commit to serving in an area of the state with limited access to addiction treatment and related services.

The bill also authorizes the Department to establish a program in which a physician who provides medication-assisted treatment to patients with substance use disorders in a health resource shortage area may be eligible for financial assistance. Eligible physicians are those participating in the Department's existing Physician Loan Repayment Program.

Dental Hygiene Resource Shortage Area Fund

(R.C. 3702.967)

The ODH operates a Dental Hygienist Loan Repayment Program in cooperation with the Dentist Loan Repayment Advisory Board. The purpose of the program is to provide student loan repayment for dental hygienists who agree to provide dental hygiene services in areas designated as dental health resource shortage areas.

Law unchanged by the bill authorizes the ODH Director to accept donations for the program's operations. Currently, the Director must deposit those donations into the state

[87] Pathways Community HUB Institute, Pathways Community HUB Model Overview, available at https://pchi-hub.com/hubmodeloverview.

treasury to the credit of the Dental Hygiene Resource Shortage Area Fund. According to ODH staff, no donations have been received in nearly four years. The bill therefore eliminates this fund and instead requires that any donations be deposited to the credit of the Dental Hygienist Loan Repayment Fund. Currently, this latter fund holds money that dental hygienists who fail to fulfill their obligations under the program must pay back to ODH. The bill continues to require that money in this fund be used for program operations.

Radiation technology professionals

(R.C. 4773.01, 4773.061, 4773.07, and 4773.08)

The bill revises the law governing ODH's regulation of radiation technology professionals. First, it authorizes nuclear medicine technologists and radiation therapy technologists who are certified in computed tomography, or CT, to perform CT procedures. The bill also requires the ODH Director to adopt rules establishing standards for the performance of CT procedures and for the approval of national organizations that certify nuclear medicine and radiation therapy technologists in CT.

Second, the bill modifies the definitions of radiation technology professionals in the following ways:

- By adding to the definitions of general x-ray machine operator, radiation therapy technologist, and radiographer references to radiation-generating equipment;
- By specifying that radiation therapy technologists are the same as radiation therapists;
- By removing from the definitions of general x-ray machine operator and radiographer references to determining the site of radiation and replacing them with references to determining procedure positioning.

The bill also clarifies that a general x-ray machine operator does not determine procedure positioning, while a radiographer does and changes references from "radiography" to "radiology."

Examination fees

(R.C. 3701.044)

When an entity other than ODH administers an examination or evaluation on behalf of the Department for the purpose of issuing a license, certificate, or registration or determining competency and the entity collects and retains an examination or evaluation fee, the bill requires ODH to post on its website the dollar amount of the fee. If the entity changes the fee amount, then ODH must post the change to its website at least 30 days before the change becomes effective.

Child lead poisoning advisory council

(R.C. 3742.32)

The bill adds the following four members to the advisory council appointed by the ODH Director to assist in developing and implementing the child lead poisoning prevention program:

--A representative from Ohio Realtors;

--A representative of the Ohio Housing Finance Agency;

--A physician knowledgeable in lead poisoning prevention; and

--A representative of the public.

It also updates the names of two associations represented on the advisory council, as follows:

- The reference to Ohio Help end Lead Poisoning Coalition is changed to the Ohio Healthy Homes Network; and
- The reference to the National Paint and Coatings Association is changed to the American Coatings Association.

Lead abatement: order to vacate

(R.C. 3742.18 and 3742.40)

The bill requires the ODH Director or a board of health to issue an order to vacate that prohibits the owner or manager of a residential unit, child-care facility, or school from using the property for *any purpose*, under the following circumstances:

- The owner or manager has failed to comply with a lead hazard control order; and
- The residential unit, child-care facility, or school has not passed a lead hazard clearance examination.

Under current law, the Director or the board may only issue an order to vacate that prohibits the owner or manager from using the property as a residential unit, child-care facility, or school.

The bill authorizes the Director or a board of health to request a prosecuting attorney, city director of law, village solicitor, or similar chief legal officer to commence a civil action for injunctive and other equitable relief against any person who violates the order to vacate or is about to violate that order. It specifies that the court must grant injunctive relief on a showing that the person has violated or is about to violate the order. Under current law, the Director may only request the Attorney General bring a civil action for civil penalties and injunctive and other equitable relief against any person who violates any provision of the Lead Abatement Law and rules adopted under it. Current law does not specifically provide for injunctive relief for violations of a lead hazard control order.

Lead-Safe Home Fund Pilot Program

(Section 737.15)

The bill requires the Director to establish a two-year Lead-Safe Home Fund Pilot Program (for FY 2020 and 2021) to improve housing conditions for children by providing grants to eligible property owners for lead-safe remediation actions. The Director must enter into a cooperative agreement with the Lead Safe Cleveland Coalition – the Coalition may make certain

decisions and determinations regarding the program in accordance with the program requirements specified below.

The Director must establish all of the following for purposes of the program:

- A means to solicit applicants;
- An application process;
- A process for distributing and administering the grants;
- A methodology for evaluating the eligibility of the applicants; and
- Any other procedures and requirements necessary to implement and administer the program.

By June 30, 2021, the Director, in consultation with the Coalition, must issue a report of the program's findings and outcomes to the Governor and the members of the General Assembly.

Ambulatory surgical facility licensure

(R.C. 3702.30 with conforming changes in R.C. 111.15, 2317.54, 3702.12, 3702.13, and 3711.12)

The bill modifies the criteria to determine whether a facility must be licensed as an ambulatory surgical facility.

Current law

Under existing law, the licensing requirement applies to a facility located in a building that is distinct from another in which inpatient care is provided, if any of the following is the case:

--Outpatient surgery is routinely performed and the facility functions separately from a hospital's inpatient surgical services and offices of private physicians, podiatrists, and dentists;

--Anesthesia is administered in the facility by an anesthesiologist or certified registered nurse anesthetist, and the facility functions separately from a hospital's inpatient surgical service and from the offices of private physicians, podiatrists, and dentists;

--The facility applies to be Medicare-certified as an ambulatory surgical center;

--The facility applies to be certified as an ambulatory surgical center by a national accrediting body approved by Medicare;

--The facility bills or receives from any third-party payer, government health care program, or other person or government entity any ambulatory surgical facility fee that is billed or paid in addition to any fee for professional services.

The bill

The bill eliminates the licensure criteria, above, pertaining to anesthesia services, Medicare certification, and receipt of facility fees. Instead, it bases the licensing requirement on

the provision of surgical services to patients who do not require hospitalization for inpatient care and who do not receive services for more than 24 hours after admission.

With respect to the location of a facility subject to licensure, the bill retains provisions that require licensure when the facility is separate from an inpatient care facility. In addition, the bill extends the licensure requirement to any facility operated by a separate entity within an inpatient care facility. Specifically, the licensing requirement applies under the bill as follows:

- To a facility that is separate from an inpatient care building, regardless of whether the separate building is part of the same organization as the inpatient care building;
- To a facility located within an inpatient care building, if the facility is not operated by the entity that operates the remainder of the building.

The bill maintains a provision of current law specifying that the licensing requirement applies to any facility that is held out to any person or government entity as an ambulatory surgical facility or similar facility by signage, advertising, or other promotional efforts. In a manner similar to current law, the bill also specifies that the licensing requirement does not extend to the offices of physicians, podiatrists, or dentists.

Health care facility payments

(R.C. 3702.30(E))

Under law unchanged by the bill, ODH licenses ambulatory surgical facilities, freestanding dialysis centers, freestanding inpatient rehabilitation facilities, freestanding birthing centers, freestanding radiation therapy centers, and freestanding or mobile diagnostic imaging centers. The bill expresses the General Assembly's intent to not have licensure requirements or exemptions from such requirements affect any third-party payments that may be available for these facilities.

Process for screening newborns for Krabbe disease

(R.C. 3701.501)

Existing statutory law requires newborns to be screened for Krabbe disease. The bill repeals the law that limits the screening process to "first tier testing," or testing accomplished by measuring galactocerebrosidase activity using mass spectrometry. The bill neither requires nor specifies a particular screening process for Krabbe disease.

Newborn safety incubators

(R.C. 2151.3516 and 2151.3532)

Under current law, a parent may deliver to a newborn safety incubator his or her newborn who is not older than 30 days without intent to return for the child. Existing law also authorizes a law enforcement agency, hospital, or emergency medical service organization to install a newborn safety incubator that meets certain standards, including that the incubator notify the agency, hospital, or organization within 30 seconds of a newborn being placed inside.

Current law requires the agency, hospital, or organization to have one or more officers or employees present at all times at the location where the incubator has been installed. The

bill exempts an agency, hospital, or organization from this requirement if the following conditions are met:

- An officer or employee can arrive at the location within seven minutes of a newborn being placed inside the incubator;
- The agency, hospital, or organization submits to ODH a written statement confirming that an officer or employee can arrive at the location within the seven-minute period.

Occupational disease reporting

(R.C. 3701.25, 3701.26, and 3701.27, repealed, with conforming changes in R.C. 3701.571, 3701.99, 3742.03, and 3742.04)

The bill eliminates the requirement that a physician who suspects that a patient is suffering from poisoning from lead, cadmium, phosphorus, arsenic, brass, wood alcohol, mercury, or another occupational disease or ailment submit a report to ODH. ODH no longer manages data related to occupational diseases or ailments.

Diabetes action plan reporting cycle

(R.C. 3701.139)

The bill modifies the reporting cycle for the ODH Director to submit to the General Assembly a report detailing the prevalence of diabetes in the state. Under current law, the Director is required to submit the report by January 31 of each even numbered year. The bill instead requires that this report be submitted to the General Assembly every third year beginning in 2021.

ODM access to Social Security numbers accompanying vital statistics records

(R.C. 3705.07, 3705.09, and 3705.10; R.C. 3705.16, not in the bill)

The bill requires ODH's Office of Vital Statistics to make Social Security numbers accompanying birth and death certificates available to the Department of Medicaid for medical assistance eligibility determinations.

Under existing law, every birth certificate filed in Ohio generally must be accompanied by the Social Security numbers of the child's parents. (The numbers are not, however, recorded on the birth certificate.) Similarly, every death certificate filed in Ohio must contain the decedent's Social Security number. Under current law, Office of Vital Statistics must make these Social Security numbers in its possession available to the Department of Job and Family Services' Division of Child Support for child support enforcement.

Nursing home employees and area training centers

(R.C. 3721.41 and 3721.42)

The bill repeals the law requiring the ODH Director to establish and supervise centers in appropriate locations throughout the state for the training of nursing home employees. It also

repeals the law requiring the Director to enter into contracts with local public or nonprofit entities for the operation of the training centers.

Providers under the Breast and Cervical Cancer Project

Providers

(R.C. 3701.601)

The bill adds the following providers to those eligible to receive payments for services from the Breast and Cervical Cancer Project Income Tax Contribution Fund: free clinics, mammography services providers, radiology services providers, and rural health centers. Under current law, the ODH Director must distribute money from the fund to pay for breast and cervical cancer screening, diagnostic, and outreach services provided to uninsured and under-insured women as part of the Ohio Breast and Cervical Cancer Project. Existing law limits the providers eligible for payments to federally qualified health centers, other community health centers, and health departments operated by local boards of health.

Eligibility

(R.C. 3701.601)

The bill expands eligibility for screening and diagnostic services provided through ODH's Ohio Breast and Cervical Cancer Project as follows:

- Increases maximum income eligibility from 250% to 300% of the federal poverty line;
- In the case of women seeking breast cancer screening and diagnostic services generally, eliminates the requirement that women be younger than 65;
- In the case of women seeking breast cancer screening and diagnostic services because of family history, clinical examination results, or other factors, lowers to 21 (from 25) the age at which women become eligible for such services.

Ohio's Public Health Priorities Fund

(R.C. 183.18 and 183.33)

The bill changes the name of Ohio's Public Health Priorities Trust Fund to Ohio's Public Health Priorities Fund. It also eliminates the purposes for which money credited to the fund must be used. The bill instead requires the ODH Director to use the money to:

- Conduct public health awareness and educational campaigns;
- Address any pressing public health issue identified by the Director or described in the State Health Improvement Plan or a successor document prepared for ODH;
- Implement and administer innovative public health programs and prevention strategies;
- Improve the population health of Ohio.

It also authorizes the Director to collaborate with one or more nonprofit entities, including a public health foundation, in order to meet the bill's requirements.

At present, all investment earnings of the fund must be credited to the fund. The bill authorizes the Director of Budget and Management to credit to the fund any money received by the state, ODH Director, or ODH as part of a settlement agreement relating to a pressing public health issue. The bill also eliminates the prohibition on transferring or appropriating money from GRF to the fund.

Utility Radiological Safety Board

(R.C. 4937.01 and 4937.05)

For purposes of funding Utility Radiological Safety Board (URSB) operations after the only nuclear facilities in Ohio (Davis-Besse Nuclear Power Station and Perry Nuclear Power Plant[88]) cease operation, the bill does the following regarding the current URSB operating assessment on those facilities:

- Expands the definition of "nuclear electric utility" to include every person, their agents, assignees, or trustees, within Ohio engaged in the storage of spent nuclear fuel arising from the production of electricity using nuclear energy, instead of just including those persons engaged in the business of producing electricity using nuclear energy.
- Provides that the assessment may be made based on the nuclear electric utility's decommissioning budget for the year of the assessment, if the utility is not engaged in the business of producing electricity using nuclear energy. This is in addition to the continuing law requirement that the URSB assessment be made in proportion to the intrastate gross receipts of the utility, excluding receipts from sales to other public utilities for resale, for the calendar year next preceding the year in which the assessments are made.

The bill's changes do not, however, alter the limitation in continuing law that the URSB assessment may only be made against nuclear electric utilities that are subject to the Public Utilities Commission (PUCO) operating assessment law. Under that law, the public utilities that may be assessed include electric utilities and electric services companies (such as a nuclear electric utility), electric cooperatives, and governmental aggregators to the extent that they are certified and supply or arrange to supply retail electric service.[89] If a nuclear electric utility is only in the business of the *storage of spent nuclear fuel* arising from nuclear electricity production and no longer in the business of *producing electricity using nuclear energy,* it is not clear that the utility would continue to be an electric services company against which assessments may be made for URSB.

The bill is unclear as to how the assessment is to be paid if the nuclear electric utility is no longer producing electricity. It provides that the assessment is to be made *based on* the

[88] U.S. NRC, "Facilities (by NRC Region or State)," available at: https://www.nrc.gov/info-finder/region-state/, https://www.nrc.gov/info-finder/reactors/davi.html, and https://www.nrc.gov/info-finder/reactors/perr1.html.

[89] See R.C. 4905.10, not in the bill.

decommissioning budget. Under Nuclear Regulatory Commission (NRC) regulations, a nuclear plant decommissioning trust fund may not be used for, or diverted to, any purpose other than to fund the costs of decommissioning the nuclear power plant to which the fund relates, and to pay administrative costs and other incidental expenses, including taxes, of the fund.[90]

Background

URSB membership and duties

The URSB is composed of the Chairperson of PUCO, the Director of Environmental Protection, the Directors of the Departments of Agriculture, Commerce, and Health, and the Executive Director of the Emergency Management Agency. The purpose of URSB is to develop a comprehensive state policy regarding nuclear power safety. Its objectives include to promote safe, reliable, and economical power and to establish agreements with state agencies, the NRC, and the federal Emergency Management Agency.[91] Assessments against nuclear electric utilities must be used by URSB member agencies to fulfill their duties related to URSB, nuclear safety, or agreements with NRC.

Davis-Besse and Perry shutdown

The Davis-Besse Nuclear Power Station and the Perry Nuclear Power Plant are operated by FirstEnergy Nuclear Operating Company (FENOC). FENOC and First Energy Solutions and its subsidiaries are subject to bankruptcy proceedings, and the plan is to shut the facilities down (Davis-Besse, 5/31/2020; Perry, 5/31/2021).[92] Upon the facilities' shut down, spent nuclear fuel may remain in storage at the facility for some time.[93]

Ohio Cancer Incidence Surveillance System Advisory Board

(R.C. 3701.264, repealed)

The bill abolishes the Ohio Cancer Incidence Surveillance System Advisory Board, but maintains the Ohio Cancer Incidence Surveillance System in ODH. Under existing law, the Board oversees the collection and analysis of data by the Surveillance System and advises the ODH Director and the Ohio State University in the System's implementation.

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[90] 18 C.F.R. 35.32(a)(6) and 35.33(b), not in the bill.

[91] R.C. 4937.02, not in the bill.

[92] *In re: First Energy Solutions Corp., et al.*, Case No. 18-50757 (U.S. Bankruptcy Court, Northern Dist. Ohio, Eastern Division); *Generation Deactivation Notification Update*, https://www.pjm.com/-/media/committees-groups/committees/teac/20180503/20180503-teac-generation-deactivation-notification.ashx.

[93] Storage of Spent Nuclear Fuel, U.S. Nuclear Regulatory Commission, https://www.nrc.gov/waste/spent-fuel-storage.html.

Transfer of nursing home ownership

(R.C. 3721.026)

The bill imposes disclosure requirements on an individual who is assigned or transferred operation of a nursing home. In that situation, before the Director of Health can issue a license authorizing the person to operate the nursing home, the person must submit to the Director documentation showing all of the following:

- If the assignment or transfer is done by means other than a lease, the person has financial resources that the Director determines are sufficient to cover any reasonable anticipated revenue shortfall for at least 12 months after the assignment or transfer.
- If the assignment or transfer is done by a lease, that (1) the person has obtained a bond for a term of at least 12 months, subject to annual renewal, for not less than $1 million or (2) if the person cannot obtain a bond at a reasonable cost, that the person has financial resources that the Director determines are sufficient to cover any anticipated revenue shortfall for at least 12 months after the assignment or transfer.
- The person has at least five years' experience as a nursing home operator, manager, or administrator.
- The person has plans for quality assurance and risk management for the nursing home.
- The person has general and professional insurance coverage of at least $1 million per occurrence and $3 million aggregate.

The documentation must include (1) projected financial statements for the nursing home for the 12-month period after the assignment or transfer and (2) a list of each currently or previously licensed nursing home in which the person has or had any percentage of ownership. These requirements are in addition to any other nursing home operation requirements.

Commission on Infant Mortality

(R.C. 3701.68)

The bill requires the Governor or the Governor's designee to serve on the Commission on Infant Mortality, instead of the Executive Director of the Office of Health Transformation or the Executive Director's designee. Additionally, the bill requires the Speaker of the House and the Senate President to each appoint an individual who represents children's interests. The other 16 members of the Commission are from various government agencies, medical associations, and community-based programs.

The Commission's purpose is to conduct a complete inventory of services provided or administered by the state that are available to address the infant mortality rate, and to track and analyze, with the assistance from academic medical centers, infant mortality rates by county to determine the impact of state and local initiatives to reduce those rates.

Resident's right to choose a hospice care program

(R.C. 3721.13)

The bill adds to the existing bill of rights for residents of nursing homes and residential care facilities (commonly referred to as assisted living facilities) the right, if a resident has requested the care and services of a hospice care program, to choose a licensed program that best meets the resident's needs. Current law requires that individuals in a residential care facility who require extended skilled nursing care be given an opportunity to choose a hospice care program that best meets the individuals' needs.[94] The bill applies the right to choose a hospice care program to all residents of long-term care facilities and residential care facilities.

[94] R.C. 3721.011(D)(2)(d), not in the bill.

DEPARTMENT OF HIGHER EDUCATION

Restriction on instructional fee increases

- For the 2019-2020 and 2020-2021 academic years, permits state universities, including the Northeast Ohio Medical University, and university branch campuses to increase instructional and general fees by not more than 2% over what was charged in the previous academic year.
- For the 2019-2020 and 2020-2021 academic years, permits community colleges, state community colleges, and technical colleges to increase instructional and general fees by not more than $5 per credit hour over what was charged in the previous academic year.
- Requires the Chancellor of Higher Education to approve any increase of all other special fees, including new created ones.
- Excludes from the fee restrictions: room and board, student health insurance, auxiliary goods or services fees provided to students at cost, pass-through fees for licensure and certification exams, study abroad fees, elective service charges, fines, voluntary sales transactions, and fees to offset the cost of providing textbooks to students.

Tuition guarantee program

- Requires each state university to establish a tuition guarantee program.
- Stipulates that a state university must use a three-year average rate of inflation in calculating an increase in the rate of instructional and general fees for cohorts subsequent to the first one, rather than a five-year average rate of inflation as under current law.

Choose Ohio First Scholarship and Ohio Innovation Partnership

- Qualifies students enrolled in a certificate program in the fields of science, technology, engineering, math, medicine, and dentistry for the Choose Ohio First Scholarship.
- Permits students who receive multiple Choose Ohio First scholarships to exceed the maximum award amount.
- Repeals the law that requires the Chancellor to conduct a public meeting prior to deciding awards under the Ohio Innovation Partnership.

Project-based learning program models

- Specifies the Chancellor must work with state institutions of higher education, Ohio Technical Centers, and industry partners in developing program models that include project-based learning.

High School STEM Innovation and Ohio College Scholarship and Retention Program

- Establishes for FY 2020 and FY 2021 the High School STEM Innovation and Ohio College Scholarship and Retention Program for the continuing development and implementation of recommendations for an innovation pathway between K-12 education and higher education and career-technical education.

STEM Public-Private Partnership Pilot Program

- Establishes the STEM Public-Private Partnership Pilot Program to encourage public-private partnerships between high schools, colleges, and the community in order to provide students with education and training in a targeted industry.
- Requires the Chancellor to (1) adopt rules for the program, (2) to administer the program, and (3) select five partnerships to participate in the program.
- Provides a grant of $100,000 for each partnership selected for participation in the program, which must be used for transportation, classroom supplies, and primary instructors for the program.

Career-technical post-secondary credit plan

- Requires the Chancellor, in consultation with the Superintendent of Public Instruction and specified stakeholders, to develop and, if determined appropriate, implement a statewide plan permitting high school students in a career-technical planning district to receive post-secondary credit on a college transcript.
- Requires the Chancellor to submit the completed plan to the Governor, the President and the Minority Leader of the Senate, and the Speaker and the Minority Leader of the House by June 30, 2020.

Community College Acceleration Program

- Requires the Chancellor, with the assistance of the Department of Job and Family Services, to establish the Community Acceleration Program.
- Provides that the program must enhance support services to students in need of support from local social service agencies and identify the services and resources available to assist eligible students in an institution of higher education.

War Orphans Scholarship

- Changes the name of the Ohio War Orphans Scholarship to the Ohio War Orphans and Severely Disabled Veterans' Children Scholarship.

University leases with nonpublic vendors

- Permits a state institution of higher education, or university housing commission, to enter into a lease with a nonpublic vendor to improve existing campus housing facilities.
- Specifies the term of a lease must not exceed 75 years.

- Stipulates any campus housing facilities included under a lease agreement, including facilities constructed by a nonpublic vendor, must retain an exemption from property taxes and assessments.

Leave donation program

- Changes the procedure under which rules for the administration of a state institution of higher education leave donation program must be adopted.

As used in this chapter of the analysis:

A **state institution of higher education** means any of the 13 state universities, the Northeast Ohio Medical University, and each community college, state community college, technical college, and university branch campus. The state universities are the University of Akron, Bowling Green State University, Central State University, University of Cincinnati, Cleveland State University, Kent State University, Miami University, Ohio University, Ohio State University, Shawnee State University, University of Toledo, Wright State University, and Youngstown State University.

Ohio technical centers are career-technical centers and schools that provide adult education and are recognized as such by the Chancellor of Higher Education.

Restriction on instructional fee increases

(Section 381.160)

For FYs 2020 and 2021 (the 2019-2020 and 2020-2021 academic years), the bill limits each state university, including the Northeast Ohio Medical University, and university branch campus to not more than a 2% increase in its in-state undergraduate instructional and general fees over what the institution charged in the prior academic year.

For those same years, each community college, state community college, and technical college is limited to increasing its instructional and general fees to not more than $5 per credit hour over what it charged in the previous academic year. Increases for all other special fees, including newly created ones, are subject to the approval of the Chancellor of Higher Education.

However, the bill's limits on fee increases explicitly *exclude* the following:

- Room and board;
- Student health insurance;
- Fees for auxiliary goods or services provided to students at the cost incurred to the institution;
- Fees assessed to students as a pass-through for licensure and certification exams;
- Fees in elective courses associated with travel experiences;
- Elective service charges;

- Fines;
- Voluntary sales transactions; and
- Fees to offset the cost of providing textbooks to students, which may appear directly on a student's tuition bill as assessed by the institution's bursar.

As in previous biennia when the General Assembly capped tuition increases, the bill's provisions do not apply to increases required to comply with institutional covenants related to the institution's obligations or to meet unfunded legal mandates or legally binding prior obligations or commitments. Further, the Chancellor, with Controlling Board approval, may approve an increase to respond to exceptional circumstances as the Chancellor identifies.

Additionally, the bill specifies that institutions that participate in an undergraduate tuition guarantee program may increase fees in accordance with that separate provision (see below).

Undergraduate tuition guarantee

(R.C. 3345.48)

The bill requires each state university to establish an undergraduate tuition guarantee program whereby each entering cohort of undergraduate students pays an immediate increased rate for instructional and general fees, but that rate is guaranteed not to increase again for that particular cohort for the next four years. Under continuing law, a university may increase the rates by up to 6% for the first cohort under a university's program. For all subsequent cohorts, the bill permits a university to increase the rates one time by the sum of the three-year average rate of inflation and the amount the General Assembly permits increases on in-state undergraduate instructional and general fees for the fiscal year. As noted above, that permitted increase under the bill is 2%.

Under current law, a state university is permitted, not required, to establish an undergraduate tuition guarantee program and for subsequent cohorts the university is required to calculate the one time rate increase for each subsequent cohort using the five-year average rate of inflation, rather than a three-year average rate of inflation.

Choose Ohio First Scholarship and Ohio Innovation Partnership

(R.C. 3333.61, 3333.62, and 3333.66; Repealed R.C. 3333.63)

The bill qualifies students enrolled in a certificate program in the fields of science, technology, engineering, math, medicine, and dentistry at a state university or the Northeast Ohio Medical University (NEOMU) for the Choose Ohio First Scholarship.

Additionally, the bill permits students who receive multiple Choose Ohio First Scholarships to exceed the maximum award, so long as each scholarship is within its permitted amount. The maximum award amount is one-half of the highest in-state undergraduate instructional and general fees charged by all state universities.

The bill also repeals a provision of current law that requires the Chancellor of Higher Education to conduct at least one public meeting prior to deciding awards under the Ohio Innovation Partnership.

Background

The Ohio Innovation Partnership, established and administered by the Chancellor under continuing law, consists of two programs: the Choose Ohio First Scholarship Program and the Ohio Research Scholars Program. Subject to the approval of the Controlling Board, the Chancellor generally makes awards under both programs for initiatives that recruit students and scientists in STEMM fields of study (science, technology, engineering, mathematics, medicine, and dentistry). Specifically, the Choose Ohio First assigns scholarships to state universities or NEOMU to recruit Ohio residents as undergraduate, or in some cases graduate, students in STEMM or STEMM education fields, whereas the Ohio Research Scholars Program awards grants to use in recruiting scientists to the institutions.

Project-based learning program models

(Section 381.590)

The Chancellor must work with state institutions of higher education, Ohio Technical Centers, and industry partners to develop program models that include project-based learning. The models are intended to increase continuing education and noncredit program offerings that lead to a credential in order to help meet the Ohio's in-demand job needs.

High School STEM Innovation and Ohio College Scholarship and Retention Program

(Sections 381.10 and 381.370)

The bill establishes for FY 2020 and FY 2021 the High School STEM Innovation and Ohio College Scholarship and Retention Program. The program must continue development and implementation of recommendations, previously made by the Board of Regents, for an innovation pathway between K-12 education and higher education and career-technical education.[95] It appropriates $1 million in each fiscal year to the Chancellor to be distributed to Ohio Academy of Science, in collaboration with Entrepreneurial Engagement Ohio for this purpose.

Specifically, the program must (1) conduct STEM innovation and entrepreneurship forums at universities and colleges for high school students and educators, (2) develop an in-school STEM innovation and entrepreneurship program and commercialization plan and STEM business plan competitions, (3) conduct a statewide competition, open to the winners of related local high school competitions, that includes scholarships to attend any Ohio college, university, or post-secondary career center, and (4) conduct a statewide scholarship program

[95] The bill's provision uses the term "vocational schools."

that awards at least one scholarship to attend any Ohio college in each Ohio Senate and House district.

STEM Public-Private Partnership Pilot Program

(Section 733.30)

The act establishes the STEM Public-Private Partnership Pilot Program to encourage partnerships between high schools, colleges, and the community to provide high school students the opportunity to receive education in a targeted industry while simultaneously earning high school and college credit. The program is to operate for fiscal years 2020 and 2021. A partnership selected for participation may use the grants awarded only for transportation, classroom supplies, and primary instructors for a course offered under the program.

The Chancellor must select five partnerships to participate in the program – one from each quadrant and one from the central part of the state. Each partnership will receive a one-time grant of $100,000. However, a partnership is ineligible for a grant if it received a grant under a similar pilot program that was authorized by H.B. 64 of the 131st General Assembly and operated in fiscal year 2017.

The Chancellor must adopt rules for the program. The rules must include at least the following operational requirements:

- A partnership must consist of one community college or state community college, one or more private companies, and one or more public or private high schools.
- The partnering community college or state community college must pursue one targeted industry, but may partner with multiple private companies within that industry.
- Students will earn college credit from the community college or state community college for courses taken under the program.
- Students, high schools, and colleges that participate in the program must do so under the College Credit Plus program.
- The curriculum offered by the program must be developed and agreed upon by all members of the partnership.
- The private company or companies that are part of the partnership must provide full- or part-time facilities to be used as classroom space.

Selection of partnerships

In order to select the partnerships, the Chancellor must develop an application and review process. The community college or state community college is responsible for submitting the application for the partnership to the Chancellor, which must include a proposed budget for the program (presumably insofar as the applicant's participation in the program is concerned).

The Chancellor must select the five partnerships for the program based on the following considerations:

- Whether the partnership existed before the application was submitted;
- Whether the partnership is oriented toward a targeted industry;
- The likelihood of a student gaining employment upon graduating from high school or upon completing a two-year degree in the industry to which the partnership is oriented in relation to its geographic region;
- The number of students projected to be served by the partnership;
- The partnership's cost per student;
- The sustainability of the partnership beyond the duration of the program; and
- The level of investment made by the private company partners in the partnership (financially and through the use of facilities, equipment, and staff).

Career-technical post-secondary credit plan

(R.C. 3333.167)

The bill requires the Chancellor, in consultation with the Superintendent of Public Instruction and specified stakeholders, to develop and, if determined appropriate, implement a statewide plan permitting high school students in a career-technical planning district to receive post-secondary credit on a college transcript in a manner comparable to credit received through the College Credit Plus Program.

The Chancellor, in addition to the state Superintendent, must consult the following stakeholders to assist with developing the plan:

- The Ohio Association of Career-Technical Education;
- The Ohio Association of Career-Technical Superintendents;
- The Ohio Association of Compact and Comprehensive Career-Technical Schools;
- The Ohio Association of Community Colleges;
- The Inter-University Council of Ohio;
- The Association of Independent Colleges and Universities of Ohio;
- Any other stakeholders the Chancellor determines appropriate.

The bill requires that the plan:

- Identify and define the criteria, policies, procedures, and timelines necessary for a high school student to receive post-secondary credit for completing an approved course;
- Identify any technology solutions or statewide data information systems necessary to streamline and facilitate the electronic exchange of student data to improve the credit verification process for students, districts, and state institutions of higher education;

- Identify any regional or national accreditation requirements or existing state policy barriers that must be considered when developing the plan; and
- Recommend a date and the method by which the plan will be implemented, if the Chancellor and state Superintendent decide the plan is appropriate.

The Chancellor must submit the completed plan to the Governor, the President and the Minority Leader of the Senate, and the Speaker and the Minority Leader of the House by June 30, 2020.

Community College Acceleration Program

(R.C. 3333.052)

The Chancellor, with the assistance of the Department of Job and Family Services, must establish the Community College Acceleration Program to enhance financial, academic, and personal support services to students in need of support from local social service agencies. The program must identify the services and resources available to assist eligible students enrolled in a community college, state community college, technical college, or university branch campus. The Chancellor also must adopt rules to administer the program, including specifying the types of services provided, which may include the following:

- Comprehensive and personalized advisement;
- Career counseling;
- Tutoring;
- Tuition waivers;
- Financial assistance to defray transportation and textbook costs.

War Orphans Scholarship

(R.C. 3333.26, 5910.01, 5910.02, 5910.031, 5910.032, 5910.04, 5910.05, 5910.06, 5910.07, and 5910.08; Sections 381.10 and 381.180)

The bill changes the name of the Ohio War Orphans Scholarship to the Ohio War Orphans and Severely Disabled Veterans' Children Scholarship. Under continuing law, the Ohio War Orphans Scholarship Program awards tuition assistance to the children of deceased and severely disabled veterans who served in the armed forces during a period of declared war or conflict. The bill does not affect the administration of the program, the distribution of scholarships, or the eligibility of any children.

University leases with nonpublic vendors

(R.C. 3345.55)

The bill permits a state institution of higher education, or a university housing commission, to enter into a lease agreement with a nonpublic vendor to improve existing campus housing facilities, rather than solely to construct new facilities as under current law.

Additionally, the bill specifies that the term of a lease must not exceed 75 years, unlike under current law which limits the term of a lease to 30 years.

Finally, the bill requires that any campus housing facilities under a lease agreement, including facilities constructed by a nonpublic vendor under a lease agreement, retains an exemption from property and excise taxes and assessments. A provision of continuing law exempts facilities owned or controlled by a state institution of higher education from taxation.[96]

Leave donation program

(R.C. 3345.57)

The bill changes the procedure under which rules for the administration of a state institution of higher education leave donation program must be adopted. Under continuing law, a state institution of higher education may establish a program under which an employee may donate accrued but unused paid leave to another employee who does not have any accrued and unused leave and has a critical need for it because of circumstances such as a serious illness or a family member's serious illness. Current law requires rules for administration of those programs to be adopted under Ohio's Administrative Procedure Act (APA). The bill requires, instead, that rules for administration of those programs be adopted under a different statutorily prescribed rule-making procedure, sometimes referred to as the "abbreviated rule-making procedure." The two rule-making procedures differ chiefly in that the APA requires an agency to give notice of, and to conduct a public hearing on, its proposed rules. By contrast, the abbreviated rule-making procedure does not require notice or hearing.

[96] R.C. 3345.12, not in the bill.

OHIO HISTORY CONNECTION

- Requires the Ohio History Connection to designate Poindexter Village as a state historic site and to mark the site accordingly.

Poindexter Village

(Section 701.61)

The bill requires the Ohio History Connection to designate Poindexter Village as a state historic site, and to mark the site, or cause it to be marked, in accordance with the marking system established for designated historic sites within Ohio. Poindexter Village represents the birth and history of public housing in this country and reflects Ohio's place in the national story of the Great Migration. The designation must identify the buildings at 290 North Champion Avenue, Columbus, as the Poindexter Village Historic Site. The designation is in recognition of one of the first public housing projects in America, developed in 1940, and named for the Reverend James P. Poindexter.

DEPARTMENT OF INSURANCE

Reimbursement for out-of-network care

- Requires an insurer to reimburse an out-of-network provider for unanticipated out-of-network care provided at an in-network hospital.
- Prohibits an out-of-network provider from balance billing a patient for out-of-network services when those services are performed at an in-network facility unless certain conditions are met.
- Establishes arbitration and negotiation procedures for disputes between providers and insurers regarding unanticipated out-of-network care

Telemedicine services

- Requires a health benefit plan to provide coverage for telemedicine services on the same basis and to the same extent as in-person services.
- Prohibits a health benefit plan from excluding telemedicine services from coverage solely because they are telemedicine services.
- Prohibits a provider from charging a health plan issuer any facility, origination, or equipment fees for a covered telemedicine service.
- Applies to all health benefit plans issued, offered, or renewed on or after January 1, 2020.

Pharmacy copayments

- Prohibits health plan issuers and third party administrators from requiring or directing pharmacies to collect cost-sharing beyond a certain amount from individuals purchasing prescription drugs.
- Prohibits issuers and administrators from retroactively adjusting pharmacy claims other than as a result of a technical billing error or a pharmacy audit.
- Prohibits issuers and administrators from charging claim-related fees unless those fees can be determined at the time of claim adjudication.
- Requires pharmacists, pharmacy interns, and terminal distributors of dangerous drugs to inform patients if the cost-sharing required by the patient's plan exceeds the amount that may otherwise be charged and prohibits those persons from charging patients the higher amount.
- Provides for license or certificate of authority suspension or revocation and monetary penalties for failure to comply with the bill.
- Requires the Department of Insurance to create a web form for consumers to submit complaints relating to violations of the bill.

Direct primary care agreements not insurance

- Provides that certain agreements to provide health care do not constitute insurance.

Health care price transparency

- Requires a hospital to provide a patient or the patient's representative with a written or verbal cost estimate for a service or procedure scheduled at least seven days in advance.
- Requires a hospital to publish on its website the standard list of health care items and services it must annually prepare and make public under federal law.
- Specifies that both requirements take effect January 1, 2020.
- Requires a health plan issuer to provide to its covered persons estimates of the costs of health care services and procedures to at least the same extent it is required to do so by federal law.
- Prohibits the Superintendent of Insurance from enforcing the health plan issuer cost estimate requirement.

Release of insurance claims data

- Requires a health plan issuer, beginning in July 2020, to release the following to a requesting group policyholder: net claims data paid or incurred by month, monthly enrollment data, monthly prescription claims information, and, for paid claims over $30,000, the amount paid toward each claim and claimant health condition.
- Defines a group policyholder as being a policyholder for a health insurance policy covering 50 or more full-time employees who work an average of at least 30 hours per week during a calendar month, or at least 130 hours during the calendar month.
- Applies the disclosure requirement to claims data for the current, or immediately preceding, policy period, as requested by the policyholder.
- Provides protections from civil liability to the health plan issuer in relation to the disclosure of the claims data.
- Makes a series of violations of the bill's release of claims data requirements that, taken together, constitute a pattern or practice, an unfair or deceptive practice in the business of insurance.

Ohio Assigned Risk Insurance Plan

- Allows the Ohio Assigned Risk Insurance Plan (OARP) to directly issue automobile insurance policies to persons unable to meet the financial responsibility requirements through ordinary methods.
- Requires OARP to file its policies and related items with the Superintendent of Insurance as if it were any other insurer.

- Provides that policies issued by OARP are to be treated like any policy issued by any other insurer.
- Requires OARP to provide audited reports and its books and records to the Superintendent of Insurance.

Reimbursement for out-of-network care

(R.C. 3902.50, 3902.51, 3902.52, 3902.53, and 3902.54; Section 739.10)

Unanticipated out-of-network care

The bill requires a health plan issuer to reimburse an out-of-network health care practitioner for unanticipated out-of-network care when the care is provided to a person covered by a health benefit plan at a hospital that is in the health benefit plan's provider network. A provider network might include a hospital but not certain individual practitioners at that hospital. In certain situations, such as those involving medical emergencies, covered persons are not always able to request only in-network practitioners give them care. Under existing law, if a person receives such unanticipated or emergency care at an in-network hospital by an out-of-network practitioner, the issuer might not reimburse the practitioner (some plans allow for such reimbursement, but others do not), meaning the covered person must pay the entire cost of the services. Under the bill, the practitioner must bill the issuer and the issuer must reimburse the practitioner. The practitioner is prohibited from billing the patient for the difference between the issuer's out-of-network reimbursement and the practitioner's charge (balance billing).

The bill further provides that a covered person's cost-sharing amount for the services described above cannot be greater than if the services were provided by an in-network practitioner.

When the out-of-network practitioner bills the issuer, the bill requires the issuer to, within 30 days, either pay the billed amount or attempt to negotiate a new amount. The bill suspends the Prompt Payment Law deadlines, which require payment to be made within certain periods of time, during this period. If the practitioner and issuer cannot agree on a reimbursement amount within 60 days of the start of negotiations, either party may initiate binding arbitration to determine the amount as described in "**Arbitration**" below, if certain criteria are met.

As used in this provision, "**unanticipated out-of-network care**" means health care services that are provided under a health benefit plan and that are provided by an out-of-network practitioner when either of the following applies:

- The covered person did not have the ability to request such services from an in-network practitioner; or
- The services provided were emergency services.

"**Emergency services**" means all of the following:

- Medical screening examinations undertaken to determine whether an emergency medical condition exists;
- Treatment necessary to stabilize an emergency medical condition;
- Appropriate transfers undertaken prior to an emergency medical condition being stabilized.

Other services

The bill prohibits an out-of-network health care practitioner from balance billing a covered person for the difference between the health plan issuer's out-of-network reimbursement and the practitioner's charge for care, other than unanticipated out-of-network care provided at an in-network hospital, unless all of the following conditions are met:

- The practitioner informs the person that the practitioner is not in the person's plan network.
- The practitioner provides the person a good faith estimate of the cost of the services. This estimate must contain a disclaimer that the covered person is not required to obtain the health care service at that location or from that practitioner.
- The person affirmatively consents to receive the services.

Arbitration

If a health care practitioner and health plan issuer do not agree on a reimbursement amount within 60 days of the start of negotiations as described in "**Unanticipated out-of-network care**" above, the bill allows either party to initiate binding arbitration to determine the amount as long as the billed amount exceeds both $700 and 120% of the usual and customary amount for the service in question. As used in this provision, the "**usual and customary amount**" means the 80th percentile of all charges for the service in question by other practitioners in the same or similar specialty and provided in the same geographical area as reported in a benchmarking database selected by the Superintendent of Insurance.

To initiate arbitration, the bill requires the practitioner or issuer to file a request with the Superintendent and notify the other party of the request and of its final offer. In response to this notice, the nonrequesting party must inform the requesting party of its final offer before the arbitration occurs. Once arbitration is initiated, application of the Prompt Payment Law to the services in question is suspended, and the issuer cannot deny coverage for those services.

The bill requires the Superintendent to appoint an arbitrator within ten days of the request. The arbitration will consist of a review of written documentation, which must be submitted by the parties as soon as is practicable.

The bill requires an arbitrator, within 30 days of the arbitrator's appointment, to reach a decision and provide that decision in writing to the parties and the Superintendent. The arbitrator must award either the issuer's reimbursement offer or the practitioner's billed amount. This decision is binding and is admissible in any court proceeding between the issuer

and the practitioner or in any proceeding between the state and the practitioner. In reaching the decision, the arbitrator must consider all of the following factors:

- Whether there is a gross disparity between the practitioner's billed amount and either of the following:
  - Payments made to the practitioner for the same health care services rendered in other recent instances in which the practitioner was out-of-network;
  - Recent fees paid by the issuer to reimburse similarly qualified out-of-network practitioners for the same services in the same geographic region.
- The level of training, education, and experience of the practitioner;
- The practitioner's usual charge for comparable services when the practitioner is out-of-network;
- The circumstances and complexity of the particular case, including the time and place of the service;
- Individual patient characteristics;
- Rates, including historical rates, between the 50th percentile of contracted rates and the 80th percentile of billed charges in the practitioner's geographical area using the first three numbers in the practitioner's zip code (the GEOZIP) according to the benchmarking database selected by the Superintendent;
- The history of network contracting between the parties; and
- Any additional criteria as determined by the arbitrator.

The bill requires the arbitrator's fees to be paid by the nonprevailing party or by both parties equally if negotiations are completed as described in "**Negotiation**" below.

Negotiation

The bill allows an arbitrator to direct the parties to attempt a good faith negotiation instead of arbitration if the arbitrator determines either of the following to be true:

- A settlement is reasonably likely; or
- Both the practitioner's charge and the issuer's reimbursement offer are unreasonable.

The bill requires any such negotiation to be completed within ten days or within 30 days of the arbitrator's appointment, whichever is sooner.

Rules

The bill requires the Superintendent to adopt, at minimum, rules addressing the following:

- The certification of arbitrators;
- The payment of an arbitrator's fees; and

- Any other items the Superintendent considers necessary.

Exemptions

The bill exempts the following from its provisions:

- Medicaid managed care plans;
- Health care services, including emergency services, for which health care practitioner fees are subject to schedules or other monetary limitations under any other law, including the Workers' Compensation Law.

Effective date

The bill specifies that the above requirements apply beginning on April 1, 2020, to health benefit plans that are entered into or renewed on or after the provisions' effective date.

Telemedicine services

(R.C. 3902.30, 4723.94, and 4731.2910)

The bill requires a health benefit plan to provide coverage for telemedicine services on the same basis and to the same extent that the plan provides coverage for in-person health care services. "Telemedicine service" is defined as a health care service provided through synchronous or asynchronous information and communication technology by a health care professional, within the professional's scope of practice, who is located at a site other than the site where the recipient is located.

The bill prohibits a health benefit plan from excluding coverage for a service solely because it is provided as a telemedicine service. It also prohibits a health benefit plan from imposing any annual or lifetime benefit maximum in relation to telemedicine services other than a benefit maximum imposed on all benefits offered under the plan.

Under the bill, a health benefit plan may assess cost-sharing requirements to a covered individual for telemedicine services as long as these requirements are not greater than those for comparable in-person health care services. Also, the bill does not require a health plan issuer to reimburse a physician for any costs or fees associated with the provision of telemedicine services that would be in addition to or greater than the standard reimbursement for comparable in-person health care services.

The bill prohibits a physician, physician's assistant, or advanced practice registered nurse from charging a health plan issuer a facility fee, origination fee, or any fee associated with the cost of equipment used to provide telemedicine services with regard to a covered telemedicine service.

The bill applies to all health benefit plans issued, offered, or renewed on or after January 1, 2021.

Pharmacy copayments

(R.C. 1739.05, 1751.92, 3923.87, 3959.12, 3959.20, and 4729.48)

The bill prohibits a health plan issuer, a term that includes pharmacy benefit managers and other third-party administrators, from requiring cost-sharing in an amount greater than the lesser of the following from an individual purchasing a prescription drug:

- The amount an individual would pay if the drug were purchased without coverage under a health benefit plan;
- The net reimbursement paid to the pharmacy by the health plan issuer.

Under the bill, a health plan issuer also is prohibited from directing a pharmacy to collect cost-sharing in an amount greater than the lesser of those amounts in relation to prescription drugs.

The following table describes how this requirement might work in practice for a health benefit plan having default cost-sharing in the form of a copay of $10 (amounts are for illustrative purposes only):

Health benefit plan default contractual copay	Pharmacy's net reimbursement for drug	"Without insurance" price for drug	Maximum amount patient would be required to pay for drug
$10	$200	$300	$10
$10	$8	$2	$2
$10	$4	$6	$4

Prohibited adjustments and fees

The bill prohibits a health plan issuer from retroactively adjusting a pharmacy claim for reimbursement for a prescription drug unless the adjustment resulted from either a technical billing error or a pharmacy audit.

Also, under the bill, a health plan issuer is prohibited from charging a fee related to a claim unless the amount of the fee can be determined at the time of claim adjudication.

Duties of pharmacists, interns, and terminal distributors

When filling a prescription, if a pharmacist, pharmacy intern, or terminal distributor of dangerous drugs has information indicating that the cost-sharing amount required by the patient's health benefit plan exceeds the amount that may otherwise be charged for the same drug, this person must inform the patient of this fact and the patient must not be charged the higher amount.

Enforcement

Health plan issuers

The bill provides that if a pharmacy benefit manager or other administrator knowingly violates its provisions, its license may be suspended for a period not to exceed two years, revoked, or not renewed by the Superintendent.

If a health insuring corporation or a multiple employer welfare arrangement fails to comply with the bill's provisions, the Superintendent may suspend or revoke its certificate of authority.

It appears that if a sickness and accident insurer or, possibly, public employee benefit plan, fails to comply with the bill, the insurer or plan would be subject to a forfeiture of $1,000 to $10,000.

The Insurance Law contains a catchall penalty that requires, in the absence of any other penalty, an association, company, or corporation to forfeit and pay not less than $1,000 nor more than $10,000 to the Superintendent of Insurance for violating any law relating to the Superintendent or any Insurance Law. It appears that R.C. 3923.87, enacted by the bill, would constitute an Insurance Law. But, it is uncertain whether this provision applies to public employee benefit plans.

Pharmacists, interns, and terminal distributors

If a pharmacist or pharmacy intern violates the bill's provisions, the State Board of Pharmacy may take any of the following actions against that individual:

- Revoke, suspend, restrict, limit, or refuse to grant or renew a license;
- Reprimand or place the license holder on probation; or
- Impose a monetary penalty or forfeiture not to exceed $500.

If a terminal distributor of dangerous drugs violates the bill's provisions, the State Board of Pharmacy may take any of the same actions against the distributor as it may take against a pharmacist or pharmacy intern, except that a monetary penalty or forfeiture may not exceed $1,000.

Web-based complaint form

The bill requires the Department of Insurance to create a web form that consumers can use to submit complaints relating to violations of the bill.

Affected plans

The bill's requirements apply to contracts for pharmacy services and to health benefit plans entered into or amended on or after the bill's effective date.

Direct primary care agreements not insurance

(R.C. 3901.95)

The bill provides that an agreement that meets all of the following conditions is not insurance and is not subject to the insurance laws of Ohio:

- The agreement is in writing.
- It is between a patient, or that patient's legal representative, and a health care provider and is related to services to be provided in exchange for the payment of a fee to be paid on a periodic basis.
- It allows either party to terminate the agreement, as specified in the agreement, through written notification.
- It permits termination to take effect immediately upon the other party's receipt of the notification or not more than 60 days after receipt.
- It does not impose a termination penalty or require payment of a termination fee.
- It describes the health care services to be provided under the agreement and the basis on which the periodic fee is to be paid.
- It specifies the periodic fee required and any additional fees that may be charged and authorizes those fees to be paid by a third party.
- It prohibits the health services provider from charging or receiving any fee other than the fees prescribed in the agreement for the services prescribed in the agreement.
- It conspicuously and prominently states that the agreement is not health insurance and does not meet any individual health insurance mandate that may be required under federal law.

Health care price transparency

Cost estimates from hospitals

(R.C. 3727.46; R.C. 5162.80, repealed)

The bill repeals law that requires specified health care facilities and professionals to provide a reasonable, good faith estimate of various costs before products, services, or procedures are provided. These requirements have been the subject of ongoing litigation and, as of February 13, 2019, have been permanently enjoined from going into effect.[97]

[97] The Ohio Attorney General filed an appeal of the injunction on March 14, 2019. See Kaitlyn Schroeder, "State Appeals Judge's Decision to Block Health Price Law," *Dayton Daily News* (March 18, 2019), available at https://www.daytondailynews.com/news/state-appeals-judge-decision-block-health-price-law/rmm2FzohEvSZpXTcS37ELK/.

The bill replaces the repealed provisions with a requirement that only hospitals, on the request of a patient or the patient representative, provide to that individual a reasonable, good faith cost estimate for a health care service or procedure. The requirement applies only when a service or procedure has been scheduled at least seven days before it is to occur.

The estimate that hospitals must give under the bill may be written or verbal. A written estimate may be given in electronic form. The following apply with respect to the estimate's components of:

--The estimate must specify the amount that the patient or party responsible for paying for the patient's care will be required to pay to the hospital for the service;

--If applicable, the estimate must include a notice that the professional services of physicians or other health care providers will be billed separately;

--The estimate must include a disclaimer that the information provided is only an estimate based on facts available at the time the estimate was prepared and that other required health care items, services, or procedures could change the estimate; and

--If applicable and known to the hospital at the time the estimate is given, the estimate must include a notification that the hospital or a health care provider who will treat the patient is out-of-network for the patient.

The estimate must be based on information available at the time the estimate is provided and need not take into account any information that subsequently arises, such as unexpected additional services or procedures. Also, a hospital may state the estimate as a range rather than an actual dollar amount.

The cost estimate requirement on hospitals does not apply if the patient is insured and the patient's health plan issuer fails to supply the necessary information to the hospital within 48 hours of the hospital's request to the health plan issuer for that information.

The bill's provisions on hospital cost estimates take effect on January 1, 2020.

Patient responsibility for payment

(R.C. 3727.461)

The bill specifies that a patient or party responsible for paying for the patient's care is responsible for payment of hospital services provided even if the patient does not receive a cost estimate in accordance with the bill before the services are provided.

Standard charges list

(R.C. 3727.462)

The bill requires a hospital to publish on its website the list, required by federal law,[98] of the hospital's standard charges for items and services provided by the hospital. The hospital

[98] Section 2718(e) of the Public Health Service Act, 42 U.S.C. 300gg-18(e).

must update the list on the website immediately after an updated list is prepared. Each estimate required by the bill must contain a website address where the list is available.

Cost estimates from health plan issuers

(R.C. 3902.60)

The bill requires a health plan issuer to provide to its covered persons and their representatives estimates of the costs of health care services and procedures to at least the same extent it is required to do so by federal law. The Superintendent of Insurance is prohibited, however, from enforcing this requirement.

Under the bill, a health plan issuer is an entity subject to Ohio's insurance laws, or subject to the jurisdiction of the Superintendent of Insurance, that contracts (or offers to contract) to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services under a health benefit plan. Examples include sickness and accident insurers, health insuring corporations, self-funded multiple employer welfare arrangements, and nonfederal, government health plans.

Release of insurance claims data

(R.C. 3901.89 and 3904.13; Section 812.10)

Duty to disclose

The bill requires a health plan issuer (see "**Scope**," below), upon request but not more than once per calendar year per group policyholder, to release to each group policyholder (including the authorized representative of a group policyholder) monthly claims data relating to the policy within 30 business days after receiving the request. The data released must include all of the following:

1. The net claims paid or incurred by month;

2. If the group policyholder is an employer, the monthly enrollment data by employee only, employee and spouse, and employee and family. Otherwise, the monthly enrollment data must be provided and organized in a relevant manner.

3. Monthly prescription claims information; and

4. Paid claims over $30,000, including a claim identifier other than the name and date of the occurrence, the amount paid toward each claim, and claimant health condition or diagnosis.

The claims data must be for the current, or immediately preceding, policy period, as requested by the policyholder.

Protections of the health plan issuer

A health plan issuer that discloses claims data under the bill may condition disclosure on an agreement that releases the health plan issuer from civil liability regarding the use of the data. Furthermore, the bill stipulates that a health plan issuer is also absolved of civil liability relating to subsequent use of the data. By authorizing disclosure of data, the bill does not

authorize disclosure of the identity of a particular covered individual or any particular health insurance claim, condition, or diagnosis in violation of federal or state law.

The bill entitles a group policyholder to receive protected information only after an authorized representative of the group policyholder certifies that (1) the health plan documents comply with federal laws and regulations relating to disclosures[99] and (2) the policyholder will safeguard and limit the disclosure of protected health information (individually identifiable health information). A group policyholder that fails to provide the appropriate certification is not entitled to receive protected health information described in (4) above, but may receive a report of claim information described in (1), (2), and (3), above.

Enforcement

A health plan issuer that commits a series of violations of these requirements that, taken together, constitute a practice or pattern is deemed to have engaged in an unfair and deceptive act or practice in the business of insurance and is subject to sanctions under Ohio Insurance Law.

Disclosure of other information

The bill specifies that it does not prohibit a health plan issuer from disclosing additional claims information beyond what the bill requires.

The bill exempts disclosures made in accordance with the bill to a group policyholder from the prohibition against an insurance institution, agent, or insurance support organization disclosing personal or privileged information.

Scope

A "health plan issuer," for the purpose of these provisions, is an entity subject to Ohio Insurance Laws or the Superintendent of Insurance's jurisdiction that contracts, or offers to contract, to provide, or pay for, health care services under a health benefit plan. In addition to a sickness and accident insurer, health insuring corporation, fraternal benefit society, self-funded

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[99] These provisions raise questions with regard to its interaction with the Federal Health Insurance Portability and Accountability Act of 1996 (HIPAA). HIPAA's privacy rule prohibits covered entities from disclosing protected health information. Generally speaking, HIPAA prohibits disclosures of protected health information to third parties unless those disclosures are made in relation to treatment, payment, or health care operations. It is unclear whether the disclosures made to an employer required by the bill would fall under any of these categories. Furthermore, federal rules prescribe only two situations in which the disclosure of protected health information from a health plan issuer to a plan sponsor is explicitly authorized:

- To obtain premium bids from health plans for providing health insurance;
- To modify, amend, or terminate the group health plan.

Note, however, that the HIPAA privacy rule does not apply to information that does not identify or provide a reasonable basis to identify an individual. Accordingly, if a health plan issuer could disclose information in a way that was sufficiently anonymous, it would likely not be in conflict with HIPAA.

multiple employer welfare arrangement, and nonfederal, government health plan, the bill applies to a third party administrator to the extent that the benefits that it administers are subject to Ohio Insurance Laws and Rules or the Superintendent's jurisdiction.

Additionally, a "group policyholder" is a policyholder for a health insurance policy covering 50 or more full-time employees. A "full-time employee" is an employee working an average of at least 30 hours per week during a calendar month, or at least 130 hours during a calendar month.

Effective date

The release of claims data provisions take effect July 1, 2020.

Ohio Assigned Risk Insurance Plan

(R.C. 4509.70)

The bill allows the Ohio Assigned Risk Insurance Plan (OARP) to directly issue automobile insurance policies. Under continuing law, the OARP is a program through which drivers who are unable to obtain automobile insurance through ordinary methods may obtain coverage. Such applicants are often unable to obtain coverage because they are deemed "high risk" by insurers. Coverage under the OARP is available from automobile insurers as provided in a plan approved by the Superintendent of Insurance that fairly apportions applicants among Ohio automobile insurers. The bill expands the availability of such coverage by explicitly authorizing the OARP to directly issue policies as if it were an automobile insurer.

The bill requires that every form of a policy, endorsement, rider, manual of classifications, rules, and rates, every rating plan, and every modification of any of them proposed to be used by the OARP be filed with the Superintendent as if the OARP were any other insurer. The bill requires any policy issued by the OARP to be recognized as if it were issued by any other insurer. The bill requires any policy issued by the OARP to meet all requirements of the Proof of Financial Responsibility Laws. If the policy meets the proof of financial responsibility requirements, the bill requires that it be recognized as if it were issued by any other insurer for purposes of demonstrating proof of financial responsibility.

The bill requires the OARP to make annual audited financial reports and its books and records available to the Superintendent.

DEPARTMENT OF JOB AND FAMILY SERVICES

Child Support

Child support changes

- Modifies the quadrennial review of the basic child support schedule by the Child Support Guideline Advisory Council, including enacting new economic factors that must be considered, requiring online publication of Council reports and information, and permitting public input.
- Prohibits a court or child support enforcement agency (CSEA) from determining voluntary unemployment or underemployment of, or imputing income to, an incarcerated parent.
- Increases the amount the Ohio Department of Job and Family Services (ODJFS) must claim from the processing charge imposed for Title IV-D child support cases to $35 (from $25), if it collects at least $550 (up from $500) of child support for an obligee who never received Title IV-A assistance.
- Makes various changes to the provisions of law on health care coverage for a child who is the subject of a child support order.
- Requires ODJFS to adopt rules to align support order establishment and modification requirements with federal law and to establish criteria for CSEAs to initiate contempt of court actions in Title IV-D cases.

Child Care

Background checks

- Revises existing child care background check requirements by requiring the ODJFS Director (rather than other persons) to request criminal records checks before licensure, certification, approval or employment and every five years thereafter for various providers.
- Requires the ODJFS Director to search the uniform statewide automated child welfare information system for reports of abuse or neglect regarding those providers.
- Requires the ODJFS Director to inspect the state and national registries of sex offenders for those providers.
- Repeals the authority of a licensed child care provider to conditionally employ an individual while awaiting the results of a criminal records check.

Provider licensing

- Separates homeless child care from protective child care.
- Authorizes the provision of special needs child care until age 18.

- Specifies that a license may be suspended without prior hearing if ODJFS determines that the owner or licensee does not meet criminal records check requirements.
- Authorizes a child day-care center or family day care home whose license was suspended without prior hearing to request an adjudicatory hearing before ODJFS, rather than appeal the suspension to a county court of common pleas as under current law.
- Eliminates the requirement that, when ODJFS initiates the revocation of a license suspended without prior hearing, the suspension must continue until the revocation process is complete.
- Adds family day-care homes, approved day camps, and employees to the law prohibiting discrimination in the enrollment of children in child care on the basis of race, color, religion, sex, or national origin and prohibits discrimination on the basis of disability.

Publicly funded child care

- Requires that a child day camp **both** meet ODJFS standards and be certified by the American Camp Association to be approved to provide publicly funded child care.
- Increases to two years (from one year) the length of time that a certificate to provide publicly funded child care as an in-home aide remains valid.
- Prohibits the following from certification as an in-home aide: (1) the owner of child day-care center or family day care home whose ODJFS-issued license was revoked within the five years prior to seeking certification and (2) an in-home aide whose certificate was revoked within the five years prior to seeking certification.
- Eliminates the requirement that the ODJFS Director establish hourly reimbursement ceilings for certified in-home aides.
- Removes the requirement that ODJFS contract with a third party to conduct a market rate survey for use in establishing child care provider reimbursement ceilings and payments.
- Eliminates from statute eligibility requirements for child care administrators and staff members and instead requires the ODJFS Director to establish those qualifications in rule.
- Exempts certain providers, including certified in-home aides and approved child day camps, from the requirement that, beginning July 1, 2020, publicly funded child care be provided only by a provider rated through the Step Up to Quality Program.
- Specifies that the percentages of early learning and development programs that must be rated at the third highest tier or above in the Step Up to Quality Program do not apply to specified licensed child care programs, including those operating only during summer breaks or evening and weekend hours.

Child Welfare

Criminal records checks, out-of-home care

- Requires that criminal records checks for entities that employ persons responsible for a child's care in out-of-home care include FBI fingerprint checks.
- Removes such an entity's authority to employ an applicant conditionally while the criminal records check is pending.

Background check expansion for child welfare employment

- Requires a search or report, or request for a search, of prospective specified officers and administrators in the following databases: the Uniform Statewide Automated Child Welfare Information System (SACWIS), the System for Award Management, the Findings for Recovery, and the U.S. Department of Justice National Sex Offender (NSO) website.
- Requires a search of prospective foster and adoptive parents, and all persons 18 years old or older residing with the prospective foster and adoptive parents, to be conducted in the NSO website.
- Requires a search of prospective staff to be conducted in the NSO website and SACWIS.
- Grants the ODJFS Director authority to adopt rules to implement and execute the background check expansion.
- Prohibits ODJFS from compensating a recommending agency for a foster caregiver's foster home certification training that the private child placing agency or a private noncustodial agency requires, if it is in addition to the minimum continuing training required by ODJFS rules under the bill.

Statewide Kinship Navigator Program

- Modifies the Statewide Program of Kinship Care Navigators that ODJFS is permitted to establish, as follows:
  - Changes its name to the Statewide Kinship Care Navigator Program and requires ODJFS to establish it through rules adopted no later than one year after this provision takes effect;
  - Requires ODJFS to create 5 to 12 program regions to help kinship caregivers by providing information and referral services and assistance obtaining support services;
  - Expands the list of individuals who may be kinship caregivers to include any nonrelative adult having a familiar and long-standing relationship or bond with the child or family, which will ensure the child's social ties;
  - Requires the program to be funded to the extent of GRF appropriations and requires the ODJFS Director to seek Title IV-E funds for the program;

- Requires ODJFS to pay the program's nonfederal share and provides that county departments of job and family services and public children services agencies are not responsible for the program's cost.

Foster caregiver as mandatory reporter

- Makes foster caregivers mandatory reporters of child abuse or neglect.

Preteen placement in children's crisis care facility

- Eliminates the 72-hour placement limit and 14-consecutive-day waiver in favor of a 14-consecutive-day limit for a public children services agency or private child placing agency to place a preteen in a children's crisis care facility.

Juvenile court hearings

- Applies the law governing juvenile court hearings and reviews to a kinship caregiver with custody or with whom a child has been placed, instead of a nonparent relative with custody.
- Specifies that foster caregivers, kinship caregivers, and prospective adoptive parents have the right to be heard, instead of the right to present evidence, at juvenile court hearings and reviews.

Adoption and foster care assistance

- Makes various changes to the eligibility requirements for Title IV-E adoption assistance for a child who is adopted and then turns 18, including the following:
  - Requires the agreement to be effective/entered into after the child's 16th birthday;
  - Designates a child who meets the changed eligibility requirements as "adopted young adult" (AYA);
  - Prohibits AYAs from being eligible for Title IV-E foster care payments.
- Makes various changes to the eligibility requirements for Title IV-E foster care assistance regarding a child who reaches 18 while in custody or care, including the following:
  - Permits the child to be in either a planned permanent living arrangement (PPLA) or in the Title-IV-E-eligible care and placement responsibility of a juvenile court or other governmental agency providing Title IV-E reimbursable placement services;
  - Provides that the PPLA or care and placement by the juvenile court terminate on or after the child's 18th birthday;
  - Designates a child who meets the changed eligibility requirements and "emancipated young adult" (EYA).
- Provides that a person eligible for a dispositional order for temporary or permanent custody until age 21 is not eligible for foster care assistance as an EYA or adoption assistance as an AYA.

- Makes changes to the terminating events and juvenile court oversight of the voluntary participation agreement an EYA must sign to be eligible for Title IV-E foster care assistance.
- Establishes juvenile court jurisdiction and procedures determining an EYA's best interests regarding his or her care and placement and whether reasonable efforts are being made regarding preparation for independence.
- Applies scope of practice and training requirements under adoption and foster care assistance established by ODJFS rules under the Ohio Child Welfare Training Program to case managers and supervisors (instead of foster care workers and their supervisors as under current law).

Multi-system youth action plan

- States that it is the intent of Ohio and the General Assembly that custody relinquishment for the sole purpose of gaining access to child-specific services for multi-system children and youth must cease.
- Requires the Ohio Family and Children First Cabinet Council to develop a multi-system youth action plan that implements the full final recommendations of the Joint Legislative Committee for Multi-System Youth and addresses strategies, processes, responsibilities, and spending for multi-system children.
- Requires the Cabinet Council to submit its final action plan to the General Assembly by the end of 2019.

Public Assistance

TANF work requirements demonstration project

- Requires the ODJFS Director to seek federal approval to operate a two-year demonstration project under which an Ohio Works First participant satisfies federal work requirements through on-the-job training, education directly related to employment, or a course of study leading to a certificate of general equivalence.

Workforce Development

Comprehensive Case Management and Employment Program

- Prohibits an assistance group from participating in the Comprehensive Case Management and Employment Program until fraudulent assistance is repaid.

Unemployment Compensation

Taxable wage base and maximum benefit amounts

- Extends the temporary increase of the taxable wage base used for the payment of unemployment contributions until January 1, 2021 (current law increased the taxable wage base from $9,000 to $9,500 beginning January 1, 2018, and returns the taxable wage base to $9,000 on January 1, 2020).

- Extends the temporary freeze on the maximum weekly unemployment benefit amount any individual may receive at the maximum benefit amounts in effect for calendar year 2017 until January 1, 2021 (current law ends the freeze on January 1, 2020).

SharedWork Ohio covered employment

- Limits the "normal weekly hours of work" considered for purposes of the SharedWork Ohio program to those hours of work in employment covered under Ohio's Unemployment Compensation Law.

Unemployment compensation debt collection

- Exempts unemployment compensation debts resulting from benefit overpayments collected by the Attorney General from a requirement that collected overpayments first be proportionately credited to improperly charged employers' accounts and then to the mutualized account within the Unemployment Compensation Fund.

Temporary child hosting

- Permits a child to be hosted by a host family only when the following conditions are satisfied:
  - Hosting is done on a temporary basis (which is a period of time not to exceed one year unless, upon the request of the child's parent, guardian, legal custodian, host family, or the qualified organization that arranged the host family agreement, it is altered by a juvenile court that determines there are extenuating circumstances).
  - Hosting is done under a host family agreement entered into with a qualified organization's assistance.
  - Either one or both of the child's parents, or the child's guardian or legal custodian, are incarcerated, incapacitated, receiving medical, psychiatric, or psychological treatment, on active military service, or subject to other circumstances under which hosting is appropriate.
  - The host family provides care only to that child or only to a single-family group, in addition to the host family's own child or children, if applicable.
- Prohibits a qualified organization from authorizing hosting with a host family if any adult residing with a prospective host family has been convicted of or pleaded guilty to specified crimes (including, for example, murder, aggravated murder, and rape), unless all the following conditions are satisfied:
  - For a misdemeanor, at least three years have elapsed from the date the person was fully discharged from any imprisonment or probation arising from the conviction.
  - For a felony, at least ten years have elapsed since the person was fully discharged from imprisonment or probation arising from the conviction.

- The victim of the offense was not: under 18 years old, a functionally impaired person, developmentally disabled, suffering from a mental illness, or 60 years of age or older.
- Hosting in the host family's home will not jeopardize the child's health, safety, or welfare, as determined by the consideration of several factors specified in the bill, that include, for example, the person's age at the time of the offense, the nature and seriousness of the offense, the circumstances of the offense, and any other relevant factors.

"Host family" and "qualified organization" defined

- Defines "host family" as any individual why provides care in the individual's private residence for a child or single-family group at the request of the child's custodial parent, guardian, or legal custodian, under a host family agreement, in addition to the host family's own child or children, if applicable.
- Specifies that "host family" excludes a foster home.
- Defines "qualified organization" as a private association, organization, corporation, nonprofit, or other entity that is not a Title IV-E reimbursable setting and that has established a program that does all of the following:
  - Provides resources and services to assist, support, and educate parents, host families, children, or any person hosting a child;
  - Requires a criminal records check and requests a check in Ohio's central registry of abuse and neglect on the intended host family and all adults residing in the host family's household;
  - Ensures the host family is trained on their rights, duties, responsibilities, and limitations;
  - Conducts in-home supervision of a child who is the subject of the host family agreement while the agreement is in force as follows:
    - For hostings of fewer than 30 days, within two business days of placement and then at least once a week thereafter;
    - For hostings of 30 days but less than 90 days, within two business days of placement and then twice a month;
    - For hostings of ninety days or more, within two business days of placement and then an option for less frequent supervision, as determined in accordance with the child's best interests.
  - Plans for the return of the child to the child's parents, guardian, or legal custodian.

Host family background check

- Requires, before a qualified organization provides for hosting of a child, and every four years thereafter, a prospective host family and all other persons 18 years or older

residing in the host family's home to request, and provide to the qualified organization the results of, the following:

- A criminal records check and information from the Federal Bureau of Investigation (FBI) as part of the criminal records check, including fingerprint-based checks of the national crime information databases;
- A background check in Ohio's central registry of abuse and neglect.

- Permits a person subject to the records check and FBI information requirement to request the records check and information from either of the following:
  - The superintendent of the Bureau of Criminal Identification and Investigation (BCII);
  - Any entity authorized, on behalf of the person, to request the superintendent to conduct the criminal records check and provide the information.
- Requires the BCII, on receipt of a request for criminal records check and information required under the bill, to conduct a criminal records check in accordance with Ohio law.
- Prohibits an organization from authorizing hosting with a host family if a person subject to the checks and information required fails to provide the results of the checks and the information required to the organization.
- Specifies that the BCII check is not a public record and is not available to anyone except the person subject to the check or his or her representative, the qualified organization's administrative director, or any court, hearing officer, or other necessary individual involved regarding a decision not to authorize hosting with the host family.

Policies, procedures, and host family training

- Requires a qualified organization to develop and implement written policies and procedures for employees, including policies and procedures specified in the bill, such as, for example, emergency and safety procedures, child care principles and practices, and the organization's administrative structure, procedures, and overall program goals.
- Requires a qualified organization to develop and implement written policies and procedures for host family training, including training specified in the bill, such as, for example, the host families' legal rights and responsibilities, the organization's policies and procedures regarding host families, and behavior management techniques.

Child abuse, neglect, and dependency

- Makes an employee of a qualified organization a mandatory reporter of child abuse and neglect.
- Requires a host family to immediately report knowledge or suspicion of abuse or neglect of a hosted child to a qualified organization.
- Prohibits a public children services agency (PCSA) from filing a complaint that a hosted child is an unruly, abused, neglected, or dependent child if the child is hosted in

compliance with the bill, unless the agency determines that other factors warrant filing the complaint.

- Provides that a presumption that a hosted child is abandoned maybe rebutted if the child is hosted in compliance with the bill.

ODJFS regulation of qualified organizations

- Amends the definitions of "association" and "institution" to expressly exclude "qualified organizations," which has the effect of exempting the organizations from regulation under the Ohio Department of Job and Family Services (ODJFS) requirements imposed on associations and institutions.

Certification exemption

- Exempts host families from ODJFS certification requirements or supervision.

Child Support

Child support changes

(R.C. 3119.023, 3119.05, 3119.27, 3119.29, 3119.30, and 3125.25 with conforming changes in R.C. 3119.23, 3119.302, 3119.31, and 3119.32; Section 815.10)

Child Support Guideline Advisory Council

The bill makes changes to the existing quadrennial review of the basic child support schedule. Under continuing law, the Ohio Department of Job and Family Services (ODJFS), with the assistance of a Child Support Guideline Advisory Council (Council) that ODJFS establishes, must conduct a review every four years of the basic child support schedule and issue a report on any recommendations for statutory changes to the General Assembly.

The bill repeals certain factors that ODJFS and the Council may consider, and enacts new factors that each review must include.

New review factors

Under the bill, each review must include all of the following:

- Consideration of:
  - Economic data on the cost of raising children;
  - Labor market data, such as unemployment rates, hours worked, and earnings, by occupation and skill level for the state and local job markets;
  - The impact of guidelines, policies, and amounts on custodial and noncustodial parents who have family incomes below 200% of the federal poverty level;
  - Factors that influence employment rates among noncustodial parents and compliance with child support orders.

- Analysis of all of the following, to be used to ensure that deviations from the basic child support schedule are limited and that support amounts are appropriate based on current law criteria:
  - Case data on the application of and deviations from the basic child support schedule, as gathered through sampling or other methods;
  - Rates of default, child support orders with imputed income, and orders determined using low-income adjustments, such as a self-sufficiency reserve or another method as determined by the state;
  - A comparison of payments on child support orders by case characteristics, including whether the order was entered by default, based on imputed income, or determined using the low-income adjustment.
- Meaningful opportunity for public input, including input from low-income custodial and noncustodial parents and their representatives.

Eliminated review factors

The following are the optional factors that the bill repeals:

- The adequacy and appropriateness of the current schedule;
- Whether there are substantial and permanent changes in household consumption and savings patterns, particularly those resulting in substantial and permanent changes in the percent of total household expenditures on children;
- Whether there have been substantial and permanent changes to the federal and state income tax code other than inflationary adjustments to such things as the exemption amount and income tax brackets;
- Other factors when conducting review.

Reports and information

Additionally, ODJFS must publish on the Internet and make accessible to the public, all of the following:

- All reports of the Council;
- The membership of the Council;
- The effective date of new or modified guidelines adopted after the review;
- The date of the next review.

Income of incarcerated parent

The bill requires that when a court or agency calculates the income of a parent, it must not determine a parent to be voluntarily unemployed or underemployed and must therefore not impute income to that parent, if the parent is incarcerated. The bill defines a parent as "incarcerated" if that parent is confined under a sentence imposed for an offense or serving a

term of imprisonment, jail, or local incarceration, or other term under a sentence imposed by an authorized government entity.

The bill, in adopting the above requirement, repeals the current law requirement for calculating income of an incarcerated parent. The current law provides, unless it would be unjust or inappropriate and therefore not in the best interests of the child, an incarcerated parent with no other available assets could not be considered voluntarily unemployed or underemployed or have imputed income. But, this current law exception is not available if the incarceration is for an offense: (1) related to the abuse or neglect of the child who is the subject of the order, or (2) under Ohio's Criminal Code against the obligee or the child that is the subject of the order.

Processing charge for child support orders

The bill increases the amount that ODJFS must claim annually from the processing charge imposed for Title IV-D child support cases to $35 for federal reporting purposes, if it collects at least $550 of child support for an obligee who never received Title IV-A assistance. Under current law, the amounts are $25 and $500, respectively.

Under continuing law, a court or a child support enforcement agency (CSEA) that issues or modifies an order must impose on the obligor a processing charge that is 2% of the support payment to be collected under the order.

Health care changes

Definition changes

"Family coverage"

The bill makes definitional changes with regard to the provisions of law on health care coverage for a child who is the subject of an order. First, it repeals the definition of "family coverage."

"Health care coverage"

Second, it replaces the term, "health care," with "health care coverage." Under current law "health care" is defined as medical support that includes coverage under a health insurance plan, payment of costs of premiums, copayments, and deductibles, or payment for medical expenses incurred on behalf of a child. The bill changes the term to "health care coverage," changes "coverage under a health insurance plan" to "health insurance coverage" (which is currently a defined term in the law), and adds that a public health care plan may also be considered medical support coverage under the newly altered definition. Under continuing law, "health insurance coverage" means accessible private health insurance that provides primary care services within 30 miles of the child's residence.

"Reasonable cost"

Third, it removes the following elements from being a part of the definition of "reasonable cost":

- That for purposes of reasonable cost, the cost of health insurance is an amount equal to the difference in cost between self-only and family coverage;

- Requires U.S. Department of Health and Human Services (HHS) term for "reasonable cost" to prevail if HHS issues a regulation redefining that term or clarifies the elements of cost, and if those changes are substantively different from the definitions and terms under the definition section that applies to the health care.

The bill makes changes to various other sections of the Child Support Enforcement Law addressing health care by replacing existing terms of "private health insurance," "private health care insurance," "health care," and "health insurance" with the new terms "health care coverage" and "health insurance coverage."

Health care coverage by both parents

The bill also states that both parents may be ordered to provide health care coverage and pay cash medical support if the obligee is a nonparent individual or agency that has no duty to provide medical support.

Rule-making authority

The bill requires ODJFS to adopt rules requiring the investigation and documentation of the factual basis for establishment and modification of support obligations in accordance with Title IV-D law. ODJFS must also adopt rules establishing criteria for CSEAs to initiate contempt of court proceedings in any Title IV-D child support case.

Child care

Regulation of child care: background

(R.C. 3301.51 to 3301.59; R.C. Chapter 5104)

ODJFS and county departments of child and family services are responsible for the regulation of child care providers, other than preschool programs and school child programs, which are regulated by the Ohio Department of Education (ODE). Child care can be provided in a facility, the home of the provider, or the child's home. Not all child care providers are subject to regulation, but a provider must be licensed or certified to be eligible to provide publicly funded child care. The distinctions among the types of providers are described in the table below.

Child Care Providers		
Type	**Description/Number of children served**	**Regulatory system**
Child day-care center	Any place that is not the permanent residence of the provider in which child care is provided for 7 or more children at one time.	A child day-care center must be licensed by ODJFS, regardless of whether it provides publicly funded child care.
Family day-care home	**Type A home** – a permanent residence of an administrator in which child care is provided as follows:	A type A home must be licensed by ODJFS, regardless of whether it provides publicly funded child care.

Child Care Providers		
Type	**Description/Number of children served**	**Regulatory system**
	--For 7-12 children at one time; or --For 4-12 children at one time if 4 or more are under age 2. **Type B home** – a permanent residence of the provider in which child care is provided as follows: --For 1-6 children at one time; and --No more than 3 children at one time under age 2.	To be eligible to provide publicly funded child care, a type B home must be licensed by ODJFS.
In-home aide	A person who provides child care in a child's home but does not reside with the child.	To be eligible to provide publicly funded child care, an in-home aide must be certified by a county department of job and family services.

Background checks

Criminal records checks

(R.C. 5104.013, primary; R.C. 2950.08, 5104.01, 5104.211, and 5104.99; R.C. 2151.861, repealed; Section 815.10)

Under current law, the ODJFS Director must request the Superintendent of BCII to conduct a criminal records check for each of the following individuals: an owner, licensee, and administrator of a child day-care center, type A family day-care home, and licensed type B family day-care home and any person 18 or older residing in a type A or licensed type B home. In the case of an applicant for employment with a center or home, the center's or home's administrator must request BCII to conduct the check. With respect to an in-home aide, a county department of job and family services must request BCII to conduct the check. And in the case of a child day camp, the appointing or hiring entity of the camp must request the check.

The bill makes numerous changes to existing criminal records checks to conform Ohio law to federal requirements (see "**Federal law background**," below). The following table compares who is required to request criminal records checks under current law and the bill.

Person subject to criminal records check	Current law	The bill
Owner or licensee of a child day-care center, type A home, or licensed type B home, or an adult residing in a type A or licensed type B home	ODJFS Director	Same

Person subject to criminal records check	Current law	The bill
In-home aide	County director	ODJFS Director
Applicant or employee of a child day-care center, type A home, or licensed type B home	Administrator	ODJFS Director
Director, applicant, or employee of a licensed preschool or licensed school child program that provides publicly funded child care	N/A[100]	ODJFS Director
Owner, applicant, or employee of an approved child day camp (one that provides publicly funded child care)	Appointing or hiring officer of the camp	ODJFS Director
Applicant or employee (including an administrator) of a child day camp	Appointing or hiring officer of the camp	Administrator of the camp

The ODJFS Director is required to request the criminal records checks at the time of initial application for licensure, certification, approval, or employment and every five years thereafter. As a part of a check, BCII must obtain information from the FBI for the person, including fingerprint-based checks of certain national crime information databases.

Technically, the bill restructures the background check section for child care and, since child day camps are now subject to background checks as child care providers rather than as persons responsible for a child's care in out-of-home care, relocates to the Child Care Law a section regarding the ODJFS Director's authority to conduct a random sampling of day camps to determine compliance with criminal records check requirements.

Checks of child welfare and sex offender registries

With respect to licensed type B family day-care homes, current law requires that the ODJFS Director search, as part of the licensure process, the uniform statewide automated child welfare information system (SACWIS) for reports of abuse or neglect pertaining to the applicant, any other adult residing in the home, and any adult designated by the applicant as an emergency or substitute caregiver. Additionally, when a PCSA has determined that child abuse or neglect occurred and that abuse or neglect involves a person who has applied for licensure as a type A family day-care home or type B family day-care home, the agency must give ODJFS any information it determines to be relevant for the purpose of evaluating the fitness of the person. If the JFS Director determines that the information received from SACWIS or a PCSA, when viewed within the totality of the circumstances, reasonably leads to the conclusion that

[100] These persons are not currently subject to background checks under the Child Care Law, but are subject to a different background check under R.C. 3319.39.

the applicant may endanger the health, safety, or welfare of children, the ODJFS Director must deny the application for licensure. The bill repeals those provisions and instead requires the ODJFS Director to search SACWIS for reports of abuse or neglect pertaining to all of the following individuals before licensure, certification, approval, or employment and every five years thereafter: child day-care center owners or licensees, family day-care home owners or licensees, approved child day camp owners, directors of licensed preschool programs and school child programs providing publicly funded child care, in-home aides, and applicants for employment with and employees of those entities.

The bill also requires the ODJFS Director to inspect the state registry of sex offenders (SORN) and the national sex offender registry for the same individuals described above before licensure, certification, approval, or employment and every five years thereafter. It does not, however, require that SACWIS and SORN be searched with respect to employees of day camps that do not provide publicly funded child care.

Out-of-state searches

Under the bill, whenever the ODJFS Director, as part of a criminal records check, SACWIS search, or SORN inspection, determines that a person has resided in another state during the previous five years, the ODJFS Director must request the following about the person from the other state: a criminal records check and information from its SACWIS and sex offender registry. The bill also requires the ODJFS Director to provide that information when requested by another state for the purposes of child care regulation and the provision of publicly funded child care.

Eligibility determinations and notice

If the results of a records check, SACWIS search, and SORN inspection demonstrate that a person has been convicted of or pleaded guilty to a specified criminal offense; endangers the health, safety, or welfare of a child; or is registered or required to be registered as a sex offender, then the bill requires the ODJFS Director to determine the person ineligible for licensure, certification, approval, or employment. In the case of a child day camp other than an approved camp, the camp's administrator must determine a person ineligible for employment if the person has been convicted of or pleaded guilty to a specified criminal offense. Any person who refuses to submit to a criminal records check also must be determined ineligible.

In the case of an applicant or employee, the bill requires the ODJFS Director to notify the employer as soon as practicable of that determination. With the exception of child day camps other than approved child day camps, licensees and administrators will no longer review the results of criminal records checks.

Conditional employment

The bill eliminates the law authorizing a licensed child care provider to conditionally employ an individual while awaiting the results of a criminal records check. A child day camp that does not provide publicly funded child care, however, remains authorized to conditionally employ applicants until the check is completed.

Attestations

Current law requires owners, licensees, and administrators of child day-care centers, type A homes, and licensed type B homes; an adult residing in a type A home or licensed type B home; or an individual seeking certification as an in-home aide or employment with a child care licensee to sign a statement that the person has not been convicted of or pleaded guilty to a disqualifying offense and that no child has been removed from the person's home pursuant to a child welfare adjudication. Type A home and type B home licensees also had to attest that no child in the home has been adjudicated a delinquent child for committing one of those offenses. The bill repeals these requirements.

Federal law background

Enacted under the federal Omnibus Budget Reconciliation Act of 1990, the Child Care and Development Block Grant Act (CCDBG Act) authorized the Child Care and Development Fund (CCDF), which serves as a significant source of Ohio's child care funding.[101] The CCDBG Act of 2014 reauthorized the CCDF for the first time since 1996, and made several changes to the law governing the fund, including changes regarding background checks. Ohio must comply with these federal requirements to continue to receive federal funds.

Background checks must now include Federal Bureau of Investigation (FBI) fingerprint checks and searches of state criminal registries, state and national sex offender registries, and state-based child abuse and neglect registries or databases. Checks must be performed on most staff members, including those who do not directly care for children.

Provider licensing

Child care definitions

(R.C. 3301.52, 3301.53, 5104.01, 5104.34, 5104.38, and 5104.41)

The bill modifies existing definitions and creates new definitions related to child care. It removes from the law governing the regulation of child care definitions that are no longer used (school-age child care center, school-age type A home, and state median income).

New definitions

"**Authorized representative**" is an individual authorized by the owner of a child day-care center, type A family day-care home, or approved child day camp to do all of the following on the owner's behalf: communicate, submit applications for licensure or approval, and enter into provider agreements for publicly funded child care.

"**Homeless child care**" is defined as child care provided to a child who is homeless under federal law, resides temporarily in a facility providing emergency shelter for homeless families, or is determined by a county department of job and family services to be homeless. Current law

[101] 42 U.S.C. § 9857 *et seq*.

includes child care provided to families determined to be homeless within the category referred to as protective child care. The bill separates homeless child care from protective child care.

"**Special needs child care**" is child care provided to a child who is less than 18 years of age and either has a chronic health condition or does not meet age appropriate expectations in certain areas of development and that may include on a regular basis services and adaptations needed to assist in the child's development (see "**Eligibility period**," below).

Modified definitions

Under current law, an "**administrator**" is the person responsible for the daily operation of a child day-care center, type A home, or type B home. The bill removes the reference to a type B home and instead refers to an approved child day camp. The bill clarifies that a "**child day camp**" operates for no more than 12 hours a day and no more than 15 weeks during the summer. Under current law, a child day camp operates for no more than seven hours a day during regular school vacation periods or for no more than 15 weeks in the summer and provides for outdoor activities.

The bill removes from the definition of "**child day-care center**" a requirement that children under age six who are related a licensee, administrator, or employee and who are on the premises of the center be counted.

The bill includes staff members, employees, and employers of licensed type B homes and approved child day camps in the definitions of "**child-care staff member**," "**employee**," and "**employer**." It also clarifies that an owner or authorized representative may be a child-care staff member when not involved in other duties. The bill adds a reference to licensed type B homes to the definition of "**license capacity**."

The bill removes from the definition of "**protective child care**" references to a child or child's caretaker parent residing in a homeless shelter or being determined homeless.

The bill adds children ages 15 to 18 receiving special needs child care to the definition of a "**school-age child**."

Child care and exempt providers

(R.C. 5104.01 and 5104.02)

The bill clarifies that "child care" refers to care by a provider required to be licensed or approved by ODJFS or under contract to provide publicly funded child care. It makes conforming changes to references to exempt providers by referring to "care" rather than "child care."

The bill also makes numerous changes to existing descriptions and requirements for programs that provide care for children but are exempt from child care licensure, including the following:

- Exempts a program that operates for two consecutive weeks or less and not more than six weeks total each year rather than two or less consecutive weeks;

- Exempts supervised training, instruction, or activities of children in specified areas (such as the arts or sports) that a child does not attend for more than eight hours per week rather than that a child attends no more than one day a week for no more than six hours;
- Clarifies that a program in which a parent is on the premises is exempt only if the parent is not an employee engaged in employment duties while care is provided;
- Removes requirements that programs that provide care and are regulated by a department other than ODJFS or ODE submit to the ODJFS Director a copy of the rules governing the program and an annual report;
- Removes an exemption for child care programs conducted by boards of education or chartered nonpublic schools for school-age children;
- Removes certain restrictions for programs operated by youth development programs outside of school hours, including that the program be operated by a community-based center and be eligible for participation in the Child and Adult Care Food Program (a federally funded program administered by ODE).

Child care licenses and inspections

(R.C. 5104.015, 5104.03, and 5104.04)

Under current law, the initial license issued to a child day-care center or family day-care home is designated as provisional. Following an investigation and inspection, if the JFS Director determines that a provisional license holder meets statutory requirements, the Director will issue to the center or home a new license. The bill refers to this new license as a continuous license. It also specifies that a provisional license is valid for at least 12 months and until the continuous license is issued or the provisional license is revoked or suspended. It removes the requirement that the ODJFS Director adopt rules requiring the ODJFS toll free telephone number to be included on each provisional license issued to a child day-care center.

Existing law requires a child day-care center or type A or licensed type B family day-care home that holds a license to notify the ODJFS Director when the center's or home's administrator changes. Under the bill, the center or home also must notify the ODJFS Director of any changes to the center's or home's address or license capacity. The bill further requires all of these notifications to be made in writing.

Under current law, when the ODJFS Director revokes a child care license, the Director is prohibited from issuing another license to the center's or home's owner until five years have elapsed from the date of revocation. The bill removes from law provisions specifying that if, during the application process, the Director determines that the owner's license had been earlier revoked, then the Director's investigation must cease and that action is not subject to appeal under the Administrative Procedure Act.

Existing law provides that, in general, when the ODJFS Director takes action with respect to a child care license, the Director must do so in accordance with the Administrative Procedure Act. Certain actions, however, are exempt from the Administrative Procedure Act. The bill adds

to this list of exemptions, by specifying that the Director's closing of a child care license when the licensee is no longer operating is not subject to the Administrative Procedure Act.

The bill removes the requirement that a licensee display its most recent inspection report in a conspicuous place.

Summary suspensions

(R.C. 5104.042)

The bill makes several changes to the law authorizing the ODJFS Director to suspend without prior hearing a child care license under certain conditions (referred to as a summary suspension). These changes include the following:

- Specifying that a license issued to a child day-care center or family day care home may be suspended without prior hearing if ODJFS determines that the owner or licensee does not meet criminal records check requirements, rather than if the owner, licensee, or administrator is charged with fraud as under current law;
- Requiring ODJFS to issue a written order of summary suspension by certified mail or in person;
- Permitting a child day-care center or family day care home whose license was suspended without prior hearing to request an adjudicatory hearing before ODJFS, rather than appeal the suspension to a county court of common pleas as under current law;
- Eliminating the requirement that, when ODJFS initiates the revocation of a license suspended without prior hearing, the suspension must continue until the revocation process is complete;
- Clarifying that ODJFS's authority to suspend a license without prior hearing does not limit its authority to revoke a license generally.

Minimum qualifications for administrators and staff

(R.C. 5104.015 and 5104.016; R.C. 5104.35 and 5104.36, repealed)

Current statutory law establishes eligibility requirements for child care administrators and staff members, including age, experience, and educational requirements. The bill eliminates these requirements from statute and instead requires the ODJFS Director to establish in rule the minimum qualifications for these individuals.

Discrimination prohibition

(R.C. 5104.09)

The bill adds family day-care homes, approved child day camps, and employees to current law that prohibits child care licensees, administrators, and staff members from discriminating in the enrollment of children in a child day-care center on the basis of race, color, religion, sex, or national origin. It also prohibits all of these individuals and entities from discriminating on the basis of disability.

Publicly funded child care

(R.C. 5104.04, 5104.29, 5104.30, 5104.31, 5104.32, and 5104.34 with conforming changes in 3119.05 and 3119.23)

By providing publicly funded child care, ODJFS assists parents who are working or in school in paying for child care. ODJFS also administers the Step Up to Quality Program, a five-star quality rating and improvement system for early learning and development programs.

Approval of child day camps

(R.C. 5104.22)

Under current law, in order to provide publicly funded child care, a child day camp must be approved by the ODJFS Director. To be eligible for approval, a child day camp must either be approved by ODJFS or accredited by the American Camp Association (ACA) or a nationally accredited organization that uses standards substantially similar to the ACA. A camp can be approved for up to two years. Under the bill, before an approval will be granted, (1) ODJFS must inspect the day camp and determine if it meets standards for day camps established in ODJFS rules and (2) the camp must be accredited by the ACA or a nationally recognized organization with comparable standards. The approval period is shortened to a one-year period.

In-home aides

(R.C. 5104.12 and 5104.30)

As described above, in-home aides provide publicly funded child care in a child's own home. Under existing law, an in-home aide must be certified by a county department of job and family services, and the certificate is valid for 12 months. The bill increases that period to two years.

The bill prohibits the following from certification as an in-home aide: (1) the owner of child day-care center or family day care home whose ODJFS-issued license was revoked within the previous five years and (2) an in-home aide whose certificate was revoked within the previous five years. The bill also eliminates the requirement that the JFS Director establish in rule hourly reimbursement ceilings for certified in-home aides.

Step Up to Quality

Under current law, beginning July 1, 2020, publicly funded child care may be provided only by a child care provider that is rated through Step Up to Quality. Existing law also requires ODJFS to ensure that the following percentages of early learning and development programs that are not type B family day-care homes and that provide publicly funded child care are rated in the third highest tier or above in the Step Up to Quality Program:

- By June 30, 2019, 40%;
- By June 30, 2021, 60%;
- By June 30, 2023, 80%;
- By June 30, 2025, 100%.

The bill makes several changes to the foregoing provisions. First, it exempts certain providers from the requirement to be rated through Step Up to Quality by July 1, 2020. These include the following: programs operating only during the summer and for not more than 15 consecutive weeks, only during school breaks, or only on weekday evenings, weekends, or both; programs holding provisional licenses; programs whose Step Up to Quality ratings were removed by ODJFS within the previous 12 months; and programs that are the subjects of revocation actions but whose licenses have not yet been revoked by ODJFS. Second, the bill also provides that these programs are exempt from the percentages of early learning and development programs that must be rated in the third-highest tier or above for Step Up to Quality.

Certificates to purchase publicly funded child care

The bill eliminates the law requiring county departments of job and family services to offer individuals eligible for publicly funded child care the option of obtaining certificates to purchase child care services from eligible child care providers.

Automated child care payment and tracking system

Current law requires ODJFS to establish the Ohio electronic child care system to track attendance and calculate payments for publicly funded child care. The bill renames the system the automated child care system. It also removes a reference to an electronic child care card and instead refers to a personal identification number or password. The bill prohibits a child care provider from knowingly seeking or accepting payment for child care provided to a child who resides in the provider's own home.

Eligibility period

At present, publicly funded child care may be provided only to children under age 13. The bill permits a child to receive special needs child care until age 18. Additionally, if a child turns 13 or a child receiving special needs child care turns 18 during the child's 12-month eligibility period, the caretaker parent may continue to receive publicly funded child care until the end of that 12-month period.

Market rate surveys

The bill removes from statute a requirement that ODJFS contract with a third party every October 1 of even-numbered years to conduct a child care market rate survey for use in establishing child care provider reimbursement ceilings and payments.[102] The third party is required to compile the information and report it to ODJFS by December 1 of each even-numbered year. Although this requirement is repealed, ODJFS remains required under federal law to develop and conduct either a statistically valid and reliable survey of market rates for child care services or an alternative methodology (such as a cost estimation model).[103]

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[102] The information is also used in establishing the child support guidelines.

[103] 45 C.F.R. 98.45.

Child Welfare

Criminal records checks, out-of-home care

(R.C. 2151.86 with conforming changes in R.C. 3107.14 and 5103.0328)

With respect to existing criminal records checks that apply to an entity that employs a person responsible for a child's care in out-of-home care (such as foster caregivers, child care providers, residential facilities, overnight and day camps, and schools), when the entity's appointing or hiring officer requests BCII to conduct a criminal records check, the request ***must*** (rather than ***may***) include an FBI fingerprint check. The bill requires that the request be made at the time of initial application for appointment or employment and every four years thereafter. It also removes an entity's authority to conditionally employ a person while awaiting the results of a criminal records check.

The bill also provides that, in addition to prospective adoptive parents and foster caregivers and adults who reside in the same household, current adoptive parents and foster caregivers and adults who reside in the same household are persons subject to a criminal records check under this provision. It does not, however, specify who is to request criminal records checks for these persons.

Background check for child welfare employment

(R.C. 3107.035, 5103.02, 5103.037, 5103.0310, and 5103.181)

Officers and administrators

The bill requires an institution or association, prior to employing or appointing a person as board president, or as an administrator or officer, to do the following regarding the person:

- Request a summary report of a search of the Uniform Statewide Automated Child Welfare Information System (SACWIS);
- Request a certified search of the Findings for Recovery database;
- Conduct a database review at the federal website known as the System for Award Management;
- Conduct a search of the U.S. Department of Justice National Sex Offender (NSO) public website.

The bill permits an institution or association to refuse to hire or appoint the person based solely on the results of the findings of the SACWIS summary report or the results of the NSO website search. Additionally, an institution or association may refuse to hire or appoint the person based on the results of the certified search of Findings for Recovery or database review of the System for Award Management.

Prospective foster and adoptive parents

The bill requires, prior to certification or recertification of a foster home, a recommending agency to conduct a search of the NSO website regarding the prospective or

current foster caregiver and all persons 18 years of age or older who reside with the caregiver. Certification or recertification may be denied based solely on the results of the search.

Under the bill, the agency or attorney that arranges an adoption for a prospective adoptive parent must conduct a search of the NSO website regarding the prospective adoptive parent, and all persons 18 years old or older who reside with the prospective adoptive parent, as follows: (1) at the time of the initial home study, and (2) every two years after the initial home study, if the home study is updated, and until it becomes part of the final decree of adoption or an interlocutory order of adoption.

The bill permits a petition for adoption to be denied based solely on the results of the search of the NSO website.

Prospective staff of institutions or associations

Under the bill, prior to employing a person, an institution or association must do the following regarding the person:

- Request a summary report of a search of SACWIS;
- Conduct a search of the NSO website.

The bill permits an institution or association to refuse to hire or appoint the person based solely on the results of the findings of the SACWIS summary report or the results of the NSO website search.

For the purpose of this requirement, the bill limits an "institution" or "association" to any incorporated or unincorporated organization, society, association, or agency, public or private, that receives or cares for children for two or more consecutive weeks.

ODJFS rules

The bill requires the ODJFS Director to adopt rules, in accordance with the Administrative Procedure Act, necessary for the implementation and execution of the background check expansion requirements for child welfare employment described above.

Mandatory Kinship Navigator Program

(R.C. 5101.851 and 5101.85)

The bill requires ODJFS to establish a Statewide Kinship Care Navigator Program. Currently, ODJFS may establish a Statewide Program of Kinship Care Navigators but is not required to do so. Under continuing law, the purpose is to assist kinship caregivers who are seeking information regarding, or assistance obtaining, services and benefits available at the state and local level that address the needs of those caregivers residing in each county.

A "kinship caregiver" is defined under continuing law as any of the following adults caring for a child in place of the parents: grandparents (up to "great-great-great"), siblings, aunts, uncles, nephews, and nieces (up to "great-grand"), first cousins and first cousins once removed, stepparents and stepsiblings, spouses and former spouses of the above individuals, or a legal guardian or legal custodian of the child. The bill expands the definition to include any

nonrelative adult having a familiar and long-standing relationship or bond with the child or the family, which relationship or bond will ensure the child's social ties.

Regions

(R.C. 5101.853)

The bill requires the ODJFS Director to divide the state into regions for the Program. There may be as few as five, but not more than 12, regions. In establishing the regions, the Director must take the following into consideration:

- The population size;
- The estimated number of kinship caregivers;
- The expertise of kinship navigators;
- Any other factor the Director considers relevant.

Services provided

(R.C. 5101.854 and 5101.851)

The bill requires each region to provide information and referral services and assistance in obtaining support services for kinship caregivers within its region. Under continuing law, the information and referral services and assistance obtaining support services includes:

- Publicly funded child care;
- Respite care;
- Training related to caring for special needs children;
- A toll-free telephone number that may be called to obtain basic information about the rights of, and services available to, kinship caregivers;
- Legal services.

Kinship navigator payment to PCSAs eliminated

(R.C. 5101.852, repealed)

The bill repeals ODJFS's responsibility to make payments to PCSAs to permit the agencies to provide kinship navigator information and referral services and assistance obtaining support services to kinship caregivers the existing program of kinship care navigators.

Funding; no local share

(R.C. 5101.856)

The bill requires the ODJFS Director to take any action necessary to obtain federal funds available for the program under Title IV-E of the Social Security Act. Title IV-E funds provide for

payments to states for kinship guardian assistance, among other things.[104] The bill also specifies that the program is to be funded to the extent GRF has been appropriated by the General Assembly. The bill earmarks $3.5 million in FY 2020 and FY 2021 for the program.

ODJFS must pay the full nonfederal share for the program. No county department of job and family services or PCSA is responsible for the program's cost.

Rules

(R.C. 5101.855)

ODJFS must adopt rules to implement the program not later than one year after the effective date of the program provisions.

Foster caregiver as mandatory reporter

(R.C. 2151.421)

The bill adds foster caregivers to the list of persons who, acting in a professional or official capacity, must report known or suspected child abuse or neglect. Under continuing law, a mandatory reporter must make the report to the PCSA or a peace officer in the county where the child resides or where the abuse or neglect is occurring or has occurred. Individuals who are not listed as mandatory reporters may, but are not required to, make a report. The PCSA must investigate each report of child abuse or neglect that it receives within 24 hours.

Preteen placement in children's crisis care facility

(R.C. 5103.13)

The bill eliminates the 72-hour placement limit and 14-consecutive-day waiver in favor of a 14-consecutive-day limit for a PCSA or PCPA to place a preteen in a children's crisis care facility. Under current law, the ODJFS Director or the Director's designee can grant the waiver from the 72-hour limit.

Juvenile court hearings

(R.C. 2151.424)

The bill modifies the law governing juvenile court hearings and reviews by doing both of the following:

- Applying the law to a kinship caregiver with custody or with whom a child has been placed, instead of a nonparent relative with custody;
- Specifying that foster caregivers, kinship caregivers, and prospective adoptive parents have the right to be heard, instead of the right to present evidence.

[104] 42 U.S.C. 670, not in the bill.

Under continuing law, a kinship caregiver is any of the following who is at least 18 years old and is caring for a child in place of the child's parents:[105]

- If related by blood or adoption: grandparents, siblings, aunts, uncles, nephews, nieces, first cousins, and first cousins once removed;
- Stepparents and stepsiblings;
- Spouses and former spouses of the above individuals;
- Legal guardians and legal custodians.

These changes apply to a variety of juvenile court hearings and reviews governing child placement, case plans, treatment, and care.

Adoption and foster care assistance

(R.C. 2151.23, 2151.353, 2151.45, 2151.451, 2151.452, 2151.453, 2151.454, 2151.455, 5101.141, 5101.1411, 5101.1412, 5101.1414, 5101.1415, and 5103.30)

Adoption assistance eligibility

Adopted young adult (AYA)

Under the bill, Title IV-E adoption assistance is available to a parent who adopted a person who is an "adopted young adult" (AYA) and (1) the parent entered into an adoption assistance agreement while the AYA was 16 or 17, and (2) the AYA meets other eligibility requirements (see "**Other eligibility requirements for AYAs and EYAs**," below). The bill defines an AYA as a person:

- Who was in the temporary or permanent custody of a PCSA;
- Who was adopted at the age of 16 or 17 and attained the age of 16 before a Title IV-E adoption assistance agreement became effective;
- Who has attained the age of 18; and
- Who has not yet attained the age of 21.

Under continuing law, adoption assistance eligibility also requires that the parent maintain parental responsibility for the AYA.

Under current law, an adopted person had to meet the same requirements as listed above, except that the adoption assistance agreement did not have to be effective/entered into while the person was 16 or 17.

[105] R.C. 5101.85.

AYA not eligible for foster care assistance

The bill states that an AYA who is eligible to receive adoption assistance payments is not considered an emancipated young adult (EYA) and is therefore not eligible to receive Title IV-E foster care payments.

Foster care assistance eligibility

Emancipated young adult (EYA)

Under the bill, Title IV-E foster care payments are available to, or on behalf of, any EYA who signs a voluntary participation agreement and who meets other eligibility requirements (see "**Other eligibility requirements for AYAs and EYAs**," below). The bill defines an EYA as a person:

- Who was in the temporary or permanent custody of a PCSA, a PPLA, or in the Title-IV-E-eligible care and placement responsibility of a juvenile court or other governmental agency that provides Title IV-E reimbursable placement services (instead of just in the temporary or permanent custody of a PCSA, as under current law);
- Whose custody, arrangement, or care and placement was terminated on or after the person's 18th birthday; and
- Who has not yet attained the age of 21.

Under current law, a person who signed a voluntary participation agreement and met the other eligibility requirements would be eligible for foster care assistance if the person (1) had reached age 18 but not 21, and (2) was in PCSA custody on reaching age 18.

Persons ineligible

The bill provides that a person eligible for a dispositional order for temporary or permanent custody until age 21 is not eligible for foster care assistance as an EYA or adoption assistance as an AYA.

Other eligibility requirements for AYAs and EYAs

Under continuing law, an AYA or EYA must meet certain other eligibility requirements to receive adoption assistance or foster care assistance, respectively. Those requirements consist of educational or work related criteria. Under the bill, an AYA or EYA is not required to meet those requirements if he or she is incapable due to a physical or mental incapacity supported by regularly update information in his or her case record or plan. Under current law, this exception is limited only to medical conditions.

Definition of child for foster care and adoption assistance

The bill defines "child" for purposes of Ohio's law governing foster care and adoption assistance to mean any of the following:

- Any person under eighteen years of age or a mentally or physically handicapped person, as defined by ODJFS rule, under twenty-one years of age;
- An AYA;

- An EYA.

Current law defines a child to include the persons who were between 18 and 21 who met the requirements under current law to receive foster care and adoption assistance.

Voluntary participation agreement

The bill permits an EYA who receives foster care assistance payments, or on whose behalf such payments are received, to enter into a voluntary participation agreement, without court approval, with ODJFS, or its representative, for the EYA's care and placement. The agreement must stay in effect until one of the following occurs:

- The EYA enrolled in the program notifies ODJFS, or its representative, that they want to terminate the agreement;
- The EYA becomes ineligible for the program.

The bill requires that, during the 180-day period after the agreement becomes effective (rather than prior to the agreement's expiration, which was 180 days after the agreement was entered into, as under current law), ODJFS or its representative must seek approval from the juvenile court that the EYA's best interest is served by continuing care and placement with ODJFS or its representative.

Under the bill, in order to maintain Title IV-E eligibility for the EYA, ODJFS or its representative must petition the court for, and obtain, a judicial determination that ODJFS or its representative has made reasonable efforts to finalize a permanency plan that addresses OJDFS' or its representative's efforts to prepare the EYA for independence. The petition and determination must occur not later than 12 months after the effective date of the voluntary participation agreement and at least every 12 months thereafter.

Under the bill, a "representative," (which replaces the term "designee" under current law) means a person with whom ODJFS has entered into a contract to carry out the duties required under a state plan to administer federal payments of foster care and adoption assistance.

Juvenile court jurisdiction

Exclusive, original jurisdiction

The bill requires the juvenile court of the county in which an EYA resides to have exclusive original jurisdiction over the EYA for the purpose of determining the following regarding the EYA:

- Not later than 180 days after the voluntary participation agreement becomes effective, make a determination as to whether the EYA's best interest is served by continuing the care and placement with ODJFS or its representative. The bill prohibits an EYA from being eligible for continued care and placement if it is not in the EYA's best interest;
- Not later than 12 months after the date that the voluntary participation agreement is signed, and annually thereafter, make a determination as to whether reasonable efforts have been made to prepare the EYA for independence.

The bill permits the juvenile court, on its own motion, or the motion of any party, to transfer a proceeding described above to another juvenile court because the EYA resides in the county served by the other juvenile court.

Suspension of foster care payments

If the initial and subsequent 12-month determinations are not timely made, the bill requires the EYA's federal foster care payments to be suspended. The payments resume on a subsequent determination that reasonable efforts have been made to prepare the EYA for independence, but only if both of the following apply:

- The EYA continues to meet requirements described in the bill for eligibility for federal foster care payments;
- There has been a timely determination of best interest of the child under the voluntary participation agreement.

ODJFS and representative court appearance

The bill permits, for purposes of making the 180-day and the 12-month determinations regarding an EYA, ODJFS or its representative to file any documents and appear before the court in relation to such filings.

Legal representation of EYA

Under the bill, an EYA is entitled to representation by legal counsel at all stages of proceedings regarding the 180-day and 12-month determinations, and nothing in the bill governing those determinations prohibits an EYA from obtaining legal representation for such purposes. If, as an indigent person, the EYA is unable to employ counsel, the EYA is entitled to have a public defender provided under Ohio's Public Defender Law. If an EYA appears without counsel, the court must determine whether the EYA knows of the right to counsel, and to be provided with counsel, if indigent. The court may continue the case to enable an EYA to obtain counsel, to be represented by the county public defender or the joint county public defender, or to be appointed counsel on request. On written request, prior to any hearing involving the EYA, any report concerning an EYA that is used in, or is pertinent to, a hearing, must for good cause shown be made available to any attorney representing the EYA and to any attorney representing any other party to the case.

Scope of practice and training for case managers

The bill requires ODJFS rules governing adoption and foster care assistance to establish the scope of practice and training necessary for case managers and supervisors caring for EYAs for purposes of the Ohio Child Welfare Training Program. Under current law those practice and training requirements applied to foster care workers and their supervisors.

Multi-system youth action plan

(R.C. 121.374)

The bill states that it is the intent of Ohio and the General Assembly that custody relinquishment for the sole purpose of gaining access to child-specific services for multi-system children and youth must cease.

Under the bill, the Ohio Family and Children First Council must develop a comprehensive multi-system youth action plan that does the following:

- Defines and establishes shared responsibility between county and state child-serving systems for providing and funding multi-system youth services;
- Provides recommendations for flexible spending at the state level within the cabinet council;
- Defines the model and process by which the flexible spending may be accessed to pay for services for multi-system youth;
- Identifies strategies to assist with reducing custody relinquishment for the sole purpose of gaining access to services for multi-system children and youth;
- Implements the full final recommendations of the Joint Legislative Committee for Multi-System Youth;
- Conducts an assessment of the legal and financial conditions that contribute to custody relinquishment for the purposes of receiving child-specific services.

The bill requires, not later than December 31, 2019, the Cabinet Council to submit its final action plan to the General Assembly.

Temporary child hosting

(R.C. 109.572, 2151.421, 2151.90, 2151.901, 2151.902, 2151.903, 2151.904, 2151.906, 2151.907, 2151.908, 2151.909, 2151.9010, 2151.9011, and 5103.02)

When a child may be placed

The bill permits a child to be hosted by a host family only when the all the following conditions are satisfied:

- Hosting is done on a temporary basis (which is a period of time not to exceed one year, unless, upon the request of the child's parent, guardian, legal custodian, host family, or the organization that arranged the host family agreement, the time period is altered by a juvenile court if the court determines there are extenuating circumstances).
- Hosting is done under a host family agreement entered into with a qualified organization's assistance.
- Either one or both of the child's parents, or the child's guardian or legal custodian, are incarcerated, incapacitated, receiving medical, psychiatric, or psychological treatment,

on active military service, or subject to other circumstances under which hosting is appropriate.

- The host family provides care only to that child or only to a single-family group, in addition to the host family's own child or children, if applicable.

When child placement prohibited

A qualified organization is prohibited from authorizing hosting with a host family if any person 18 years of age or older who resides with the prospective host family previously has been convicted of or pleaded guilty to specified crimes (including, for example, murder, aggravated murder, and rape), unless all the following conditions are satisfied:

- If the offense was a misdemeanor, or would be a misdemeanor if the conviction occurred at the time that hosting is being considered, at least three years have elapsed from the date the person was fully discharged from any imprisonment or probation arising from the conviction.
- If the offense was a felony, at least ten years have elapsed since the person was fully discharged from imprisonment or probation arising from the conviction.
- The victim of the offense was not: under 18 years old, a functionally impaired person, developmentally disabled, suffering from a mental illness, or 60 years of age or older.
- Hosting in the host family's home will not jeopardize in any way the child's health, safety, or welfare, as determined by the consideration of the following factors:
  - The person's age at the time of the offense;
  - The nature and seriousness of the offense;
  - The circumstances under which the offense was committed;
  - The degree of participation of the person involved in the offense;
  - The time elapsed since the person was fully discharged from imprisonment or probation;
  - The likelihood that the circumstances leading to the offense will recur;
  - Whether the person is a repeat offender;
  - The person's employment record;
  - The person's efforts at rehabilitation and the results of those efforts;
  - Whether any criminal proceedings are pending against the person;
  - Any other factors the qualified organization considers relevant.

Host family

The bill defines "host family" as any individual who provides care in the individual's private residence for a child or single-family group, at the request of the child's custodial parent, guardian, or legal custodian, under a host family agreement. The individual also may

provide care for the individual's own child or children. The term "host family" excludes a foster home.

Qualified organization

Under the bill, a "qualified organization" means a private association, organization, corporation, nonprofit, or other entity that is not a Title IV-E reimbursable setting and that has established a program that does all of the following:

- Provides resources and services to assist, support, and educate parents, host families, children, or any person hosting a child under a host family agreement on a temporary basis;
- Requires a criminal background check on the intended host family and all adults residing in the host family's household;
- Requires a background check in Ohio's central registry of abuse and neglect from the Ohio Department of Job and Family Services (ODJFS) for the intended host family and all adults residing in the host family's household;
- Ensures that the host family is trained on their rights, duties, responsibilities, and limitations as outlined in the host family agreement;
- Conducts in-home supervision of a child who is the subject of the host family agreement while the agreement is in force as follows:
  - For hostings of fewer than 30 days, within two business days of placement and then at least once a week thereafter;
  - For hostings of 30 days but less than 90 days, within two business days of placement and then twice a month;
  - For hostings of 90 days or more, within two business days of placement and then an option for less frequent supervision, as determined in accordance with the child's best interests.
- Plans for the return of the child who is the subject of the host family agreement to the child's parents, guardian, or legal custodian.

Host family background check

The bill requires, before a qualified organization provides for hosting of a child, and every four years thereafter, a prospective host family and all other persons 18 years of age or older who reside in the host family's home to request, and provide to the qualified organization the results of, the following for the host family and all other persons eighteen years of age or older who reside in the home:

- A criminal records check and information from the Federal Bureau of Investigation (FBI) as part of the criminal records check, including fingerprint-based checks of the national crime information databases;
- A background check in Ohio's central registry of abuse and neglect from ODJFS.

Any person subject to the criminal records check and information required may request the criminal records check and information required from either of the following:

- The superintendent of the Bureau of Criminal Identification and Investigation (BCII);
- Any entity authorized, on behalf of the person, to request the superintendent to conduct the criminal records check and provide the information.

If the person fails to provide the results of the criminal records check and information and the background check to the organization, the organization is prohibited from authorizing hosting with the host family.

The superintendent of BCII, on receipt of a request for a criminal records check and FBI information required under the bill, must conduct a criminal records check in accordance with Ohio law.

The bill specifies that the report of any criminal records check conducted by the BCII in accordance with the bill is not a public record and cannot be made available to anyone except the following:

- The person subject to the criminal records check or the person's representative;
- The qualified organization's administrative director who requested the criminal records check or the administrative director's representative;
- Any court, hearing officer, or other necessary individual involved in a case regarding an organization's decision not to authorize hosting with the host family if the host family either (1) was subject to the criminal records check, or (2) resided with the person subject to the criminal records check.

Employee policy and procedures

The bill requires a qualified organization to develop and implement written policies and procedures for employees, including policies and procedures on all of the following topics:[106]

- Familiarization of the employee with emergency and safety procedures;
- The principles and practices of child care;
- Administrative structure, procedures, and overall program goals of the organization;
- Appropriate techniques of behavior management;
- Techniques and methodologies for crisis management;

[106] R.C. 2151.908.

- Familiarization of the employee with the disciplinary procedures and the discipline and behavior intervention policies required by ODJFS rules and any other similar requirements;[107]
- Procedures for reporting suspected child abuse or neglect;
- An emergency medical plan;
- Universal precautions;
- Knowledge and skills to understand and address the issues confronting adolescents.

Host family training

The bill also requires a qualified organization to develop and implement written policies and procedures for host family training, including training on all the following topics:[108]

- The host family's legal rights and responsibilities;
- The organization's policies and procedures regarding host families;
- The effects that separation and attachment issues have on children and their families;
- The effects of physical abuse, sexual abuse, emotional abuse, neglect, and substance abuse on normal human growth and development, as well as information on reporting child abuse and neglect;
- Behavior management techniques;
- Cultural competence;
- Prevention, recognition, and management of communicable diseases;
- Community health and social services available to children and their families;
- Training on appropriate and positive behavioral intervention techniques;
- Education advocacy training;
- The host family's responsibility to report abuse or neglect of the hosted child.

Child abuse, neglect, and dependency

The bill makes an employee of a qualified organization a mandatory reporter of child abuse or neglect. Additionally, it requires a host family to immediately report to a qualified organization employee the knowledge or reasonable cause to suspect, based on facts that would cause a reasonable person in a similar position to suspect, that the hosted child has

[107] Ohio Administrative Code 5101:2-5-13 and 5101:2-9-21, not in the bill.

[108] R.C. 2151.909.

suffered or faces a threat of suffering any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the child.

The bill prohibits a public children services agency (PCSA) from filing a complaint that a hosted child is an abused, neglected, or dependent child because the child is hosted by a host family in compliance with the bill, unless the PCSA determines that factors other than hosting warrant filing the complaint. This prohibition also covers children who may be unruly, juvenile traffic offenders, or habitually truant, or who violated the prohibition against a child possessing, using, purchasing, or receiving cigarettes or other tobacco products.

The bill also provides that a presumption that a child hosted under a host family agreement is abandoned may be rebutted if the hosting complies with the bill.

ODJFS regulation of qualified organizations

The bill amends the definitions of "association" and "institution" to expressly exclude "qualified organizations" for the purpose of Ohio's laws governing the placement of children. This has the effect of exempting qualified organizations from regulation under ODJFS rules for the adequate and competent management of institutions or associations.

Certification exemption

Under the bill, host families are exempt from certification or supervision requirements under ODJFS rules for management of institutions or associations.

Public Assistance

TANF work requirements demonstration project

(Section 307.96)

The bill requires the ODJFS Director to seek federal approval to operate a two-year demonstration project regarding the work requirements for Ohio Works First. Ohio Works First is one of the state's Temporary Assistance for Needy Families (TANF) programs. It provides time-limited cash-assistance to low-income families with children.

Federal law establishes work participation rates that a state must satisfy to avoid a possible reduction in the federal funds it receives for its TANF programs. Generally, the minimum participation rate is 90% for two-parent families and 50% for all families. To count toward meeting the work participation rates, a recipient of TANF assistance must participate at least a certain number of hours per week in acceptable work activities. The following education-related activities are acceptable work activities within limits: (1) education directly related to employment for recipients who have not received a high school diploma or a certificate of high school equivalency and (2) satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence for recipients who have not completed secondary school or receive such a certificate. A recipient participating in either of these activities also must participate in other activities for a majority of the number of required

hours. A family's TANF assistance may be reduced or terminated if a member who is subject to the work requirements refuses to satisfy them.[109]

The demonstration project for which the bill requires the Director to seek federal approval must enable all of the following:

1. An Ohio Works First participant to satisfy the work requirements by satisfactorily participating in any of the following for up to 24 months:

- On-the-job training.
- Education directly related to employment if the participant has not received a high school diploma or a certificate of high school equivalency.
- A course of study leading to a certificate of general equivalence if the participant has not completed secondary school or received such a certificate.

2. An Ohio Works First participant not to be subject to a penalty due to the participant's satisfaction of the work requirements under the demonstration project;

3. The state to count an Ohio Works First participant's satisfaction of the work requirements under the demonstration project toward the state's work participation rates regardless of whether the participant also participates in other acceptable work activities.

Workforce Development

Comprehensive Case Management and Employment Program

(R.C. 5101.83)

The Comprehensive Case Management and Employment Program (CCMEP) is an existing program administered by ODJFS, through which employment and training services are made available to certain individuals in accordance with an assessment of their needs.[110] The bill provides that if a county director of job and family services determines that an assistance group has received fraudulent assistance, the group is ineligible to participate in CCMEP until that assistance is repaid. Existing law contains a similar provision regarding fraudulent assistance provided under Ohio Works First (cash assistance) and the Prevention, Retention, and Contingency Program (short-term help with employment barriers or crises).

Unemployment Compensation

SharedWork Ohio covered employment

(R.C. 4141.50)

The bill limits the "normal weekly hours of work" considered for purposes of the SharedWork Ohio program to those hours of work in employment covered under Ohio's

[109] 42 U.S.C. 607.

[110] R.C. 5116.01 *et seq*., not in the bill.

Unemployment Compensation Law. SharedWork Ohio is a voluntary layoff aversion program that provides prorated unemployment benefits to eligible employees who have their normal weekly hours of work reduced under an approved shared work plan.

Unemployment compensation debt collection

(R.C. 4141.35)

Under continuing law, if an individual receives unemployment benefits to which the individual was not entitled, the ODJFS Director must issue an order demanding repayment and take additional actions to recover the overpayment. If an overpayment is not repaid within 45 days after repayment is due, the ODJFS Director must certify the amount owed to the Attorney General and notify the Director of Budget and Management of the amount. The Attorney General must collect the amount or sue the individual for the amount and issue an execution for its collection.[111] The bill exempts any overpayment collected by the Attorney General from a continuing law requirement that the amount first be proportionately credited to improperly charged employers' accounts and then to the mutualized account created within the Unemployment Compensation Fund.

Under continuing law, the following sources of recovered overpayments are not subject to that requirement:

- Federal and state tax refund offsets;
- Lottery award offsets;
- Recoveries from unclaimed funds.

Taxable wage base

(R.C. 4141.30)

Ohio's unemployment compensation system consists of two types of employers: contributory employers, who are mostly private sector employers who pay contributions into the Ohio Unemployment Compensation Fund, and reimbursing employers, who are mostly public sector employers and certain nonprofits who reimburse the Fund when benefits are paid. With respect to contributory employers, to determine the amount of the employer's contribution, the Director of Job and Family Services determines the employer's contribution rate and applies it in the following calendar year to the wages of each of the employer's employees.[112] But contributions are payable on employee wages only up to the "taxable wage base." Wages paid by an employer to a particular employee in excess of the taxable wage base are not subject to contribution.

The bill extends a current law temporary increase in the taxable wage base used for the payment of unemployment contributions until January 1, 2021. Under current law, the taxable

[111] R.C. 131.02.

[112] R.C. 4141.25, not in the bill, and Ohio Administrative Code 4141-9-02 and 4141-11-02.

wage base increased from $9,000 to $9,500 beginning January 1, 2018, and returns the taxable wage base to $9,000 on January 1, 2020.[113]

Maximum benefit amounts

(R.C. 4141.01)

The bill extends a current law temporary freeze on the maximum weekly unemployment benefit amount any individual may receive at the maximum benefit amounts in effect for calendar year 2017 until January 1, 2021. The current law temporary freeze ends on January 1, 2020.[114]

Under continuing law, weekly benefit amounts are generally 50% of an individual's average weekly wage during the individual's base period, up to a statutory maximum. The statutory maximums are based on the number of allowable dependents claimed, as follows:

- If an individual has no dependents, 50% of the statewide average weekly wage ($443 in 2017 and for the duration of the freeze).
- If an individual has one or two dependents, 60% of the statewide average weekly wage ($537 in 2017 and for the duration of the freeze).
- If an individual has three or more dependents, $66\frac{2}{3}$% of the statewide average weekly wage ($598 in 2017 and for the duration of the freeze).[115]

Continuing law requires the Director to determine the statewide average weekly wage each year based on the average weekly earnings of all workers in employment subject to Ohio's Unemployment Compensation Law during the preceding 12-month period ending June 30.

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[113] S.B. 235 of the 131st General Assembly.

[114] S.B. 235 of the 131st General Assembly.

[115] Ohio Department of Job and Family Services, *Benefits Chart – 2019*, http://unemployment.ohio.gov/PDF/Benefits_Estimator.pdf.

JUDICIARY/SUPREME COURT

- Requires the Ohio Supreme Court to pay any compensation that is owed as specified under Ohio law to a retired assigned judge in a municipal or county court and provides for the procedure to pay that compensation.
- Removes the requirement that Montgomery County pay the salaries of the part-time county court judges in excess of a specified amount during the transition from a part-time county court to a municipal court.
- Provides that nature or any ecosystem does not have standing to participate in or bring an action in a common pleas court.
- Prohibits any person, on behalf of nature or an ecosystem, from bringing, or intervening in, an action in such court.
- Prohibits any person from bringing an action against a person who is acting on behalf of nature or an ecosystem.
- In provisions regarding the jurisdiction of juvenile courts, modifies certain specified provisions relating to the Summit County Court of Common Pleas Domestic Relations Division and the Richland County Court of Common Pleas Juvenile Division and Domestic Relations Division.
- Modifies recently enacted provisions regarding juvenile court and domestic relations court jurisdiction over certain child support and custody matters.
- Clarifies in the provisions that take away juvenile court jurisdiction the meaning of references to the parents not being married and to the subject child's sibling, that the matter at issue could be ancillary to a prior marriage termination action, and that the domestic relations court has jurisdiction when the juvenile court's is taken away.
- Specifies that the provisions in the preceding dot point apply to all cases initiated after March 22, 2019, and do not affect a juvenile court's authority to issue a support order related to another type of juvenile court proceeding.
- Modifies the provisions regarding a juvenile court's transfer of an action or order to a domestic relations court and specifies that the provisions apply to all orders in effect prior to, and all cases initiated on or after, March 22, 2019.
- Specifies that, when a child support enforcement agency is required to review a court-issued child support order after a juvenile court has granted custody of the child to an individual or entity other than as set forth in the court's order, the agency must take appropriate action, and any objections must be filed in the domestic relations court.
- Clarifies that a domestic relations court's jurisdiction over "domestic relations matters" includes actions transferred or removed from a juvenile court under the provisions described above and over complaints for child support and custody.

Paying retired assigned judges

(R.C. 141.16, 1901.123, and 1907.143)

The bill requires the Ohio Supreme Court, instead of a county treasurer under existing law, to pay any compensation to which an assigned retired municipal court or county court judge is entitled. Annually on August 1, the Administrative Director of the Supreme Court must issue a billing to the county treasurer of any county to which a retired judge was assigned to a municipal court or county court for reimbursement of the county or local portion of the compensation previously paid by the state for the 12-month period preceding June 30. The county or local portion of the compensation is that part of each per diem paid by the state that is proportional to the county or local shares of the total compensation of a resident judge of that municipal or county court. The county treasurer must forward the payment within 30 days and then seek reimbursement from the local municipalities as appropriate.

Judicial salary – Montgomery County

(R.C. 141.04)

The bill removes the requirement that the Chief Administrator of the Ohio Supreme Court, on or before December 1 of each year, notify the administrative judge of the Montgomery County Municipal Court, the Montgomery County Board of County Commissioners, and the state treasurer of the yearly salary cost of five part-time county court judges as of that date. The bill also removes the requirement that, if the total yearly salary costs of all of the Montgomery County Municipal Court judges as of December 1 of that same year exceeds the amount described above, the Administrative Judge cause payment of the excess between those two amounts less any reduced amount paid for the health care costs of the Montgomery County Municipal Court Judges in comparison to the health care costs of the five part-time county court judges.

Prohibition against court action by nature or ecosystem

(R.C. 2305.011)

The bill provides that “nature” or any “ecosystem” does not have standing to participate in or bring an action in any common pleas court. It prohibits any person:

- From bringing, or intervening in, an action in such court on behalf of or representing nature or an ecosystem;
- From bringing an action in such court against a person acting on behalf of or representing nature or an ecosystem.

The bill defines “nature” as the phenomena of the physical world collectively, including plants, animals, the landscape, other earth features and products, the natural environment, and generally areas that are not human or human creations, have not been substantially altered by humans, or that persist despite human intervention. It defines “ecosystem” as a complex community of living organisms in conjunction with their physical environments, all interacting and linked together as a system through nutrient cycles and energy flows in a particular unit of space.

The bill provides that its provisions must not be construed to prevent the state or any of its agencies from enforcing laws dealing with environmental pollution, conservation, wild animals, or other natural communities or ecosystems.

Jurisdiction over child custody or child support matters

Richland County, Summit county court of common pleas

(R.C. 2151.23)

In existing provisions that generally grant juvenile courts exclusive jurisdiction to determine the custody of a child not a ward of another Ohio court or to hear and determine a request for child support that is not ancillary to a specified type of domestic relations proceeding or to a criminal or civil domestic violence proceeding, the bill adds an exception specifying that the grant is subject to existing provisions giving the Summit County Court of Common Pleas Domestic Relations Division jurisdiction over child custody and support matters that are not subject to the exclusive jurisdiction of a juvenile court.

In existing provisions that grant juvenile courts original jurisdiction over child custody and support matters certified to the court after a divorce decree has been granted and over the case of a child certified to the court by any other court in specified circumstances, the bill removes exceptions currently provided with respect to the Richland County Court of Common Pleas Juvenile Division and Domestic Relations Division.

Juvenile court jurisdiction

Prohibition against juvenile court exercise of jurisdiction

(R.C. 2151.233 and 2151.234)

The bill modifies existing provisions that prohibit a juvenile court from exercising jurisdiction in certain situations to determine custody or support for a child in several ways. Under the bill, except as provided in the next paragraph, a juvenile court may not exercise jurisdiction and the domestic relations court has jurisdiction in certain situations to determine custody or support for a child, if: (1) the child's parents are married to each other, (2) the child's parents were married to each other but no longer are married to each other and there is an existing custody or support order regarding the child or another child of the same parents over which the court does not have jurisdiction, or (3) the determination is ancillary to the parents' pending or prior action for divorce, dissolution of marriage, annulment, or legal separation. The bill specifies that these provisions do not apply to any case or proceeding brought under R.C. Chapter 3115 (the Uniform Interstate Family Support Act (UIFSA), not in the bill), or to any case or proceeding initiated outside of Ohio, and that those provisions apply to all cases and proceedings initiated on or after March 22, 2019.

Currently, the provisions modified by the bill as described in the preceding paragraph: (1) do not include the statement that the domestic relations court has jurisdiction, (2) do not expressly state that the child's parents are married to each other, (3) state that the child's parents are not married, instead of stating that the child's parents were married to each other but no longer are married to each other, (4) refer to the child's sibling instead of to another

child of the same parents, and (5) do not include the statement that the determination may be ancillary to a prior action, as well as a pending action.

The bill modifies an existing provision that pertains to the relationship of the existing prohibition against a juvenile court exercising jurisdiction in the situations described above and a different provision of the Juvenile Court Law that grants juvenile courts exclusive jurisdiction concerning an alleged delinquent, unruly, abused, neglected, or dependent child or juvenile traffic offender. Under the bill, the existing prohibition against a juvenile court exercising jurisdiction, as modified by the bill and described in the second preceding paragraph, does not affect a juvenile court's authority to issue a custody or support order under the other provision of the Juvenile Court Law or when granting custody of the child to a relative or placing the child under a kinship care agreement. Currently, this provision does not include a reference to support orders, and it specifies only that the existing prohibition does not affect a juvenile court's authority to issue a custody order related to the other type of juvenile court proceeding granting custody of the child to a relative or placing the child under a kinship care agreement.

The bill defines "domestic relations court" for purposes of these provisions, and the provisions described below, as the division of a court of common pleas that has domestic relations jurisdiction.

Juvenile court transfer of jurisdiction

(R.C. 2151.235)

Discretionary transfer

The bill modifies existing provisions that permit a juvenile court to transfer jurisdiction over an action or order it has issued for child support or custody in specified situations. Under the bill, upon its own motion, the motion of a court with domestic relations jurisdiction, or the motion of any interested party, a juvenile court may transfer jurisdiction over an action or an order it has issued for child support or custody as follows: (1) to the appropriate common pleas court with domestic relations jurisdiction, if the parents of the child subject to the action or order are married to each other and are not parties to a proceeding described below, (2) to the appropriate common pleas court with domestic relations jurisdiction, if the parents of that child were married to each other but no longer are married to each other and there is an existing order for custody or support regarding the child or another child of the same parents over which the juvenile court does not have jurisdiction, or (3) to the common pleas court exercising jurisdiction over a civil domestic violence protection order if that child or both parents of that child are subject to both a child support order and the protection order. Under the bill, any transfer made pursuant to this provision must require the consent of the appropriate court of common pleas with domestic relations jurisdiction.

Currently, the provisions modified by the bill as described in the preceding paragraph: (1) do not expressly state that the child's parents are married to each other, (2) state that the child's parents are not married instead of stating that the child's parents were married to each other but no longer are married to each other, (3) refer to the child's sibling instead of to another child of the same parents, and (4) refer to parents of the child, instead of both parents of the child, being subject to both a child support order and the protection order. Additionally,

the current provisions include a fourth option, repealed by the bill (but see below) – the fourth option is transfer to the common pleas court exercising jurisdiction over a pending divorce, marriage dissolution, legal separation, or annulment proceeding to which the parents of the child subject to the order are parties. Also, the current provisions appear to require the transfer if one of the specified entities or parties makes the motion, the court receiving jurisdiction consents to the transfer, and the juvenile court certifies all or part of the record to the court receiving jurisdiction.

Mandatory transfer

Under the bill, upon its own motion, the motion of a court with domestic relations jurisdiction, or the motion of any interested party, a juvenile court must transfer, and the domestic relations court must accept, jurisdiction over an action or an order it has issued for child support or custody to the appropriate common pleas court exercising jurisdiction over a pending divorce, dissolution of marriage, legal separation, or annulment proceeding to which the parents of the child subject to the action or order are parties. This provision is similar in some regards to the fourth option described above that the bill repeals, but this provision clearly requires a transfer in the specified circumstances.

Procedure upon transfer

The bill specifies duties for both the juvenile court and the domestic relations court involved in a discretionary or mandatory transfer under its provisions described above. In all such transferred cases:

1. The juvenile court must: (a) issue an order granting the request to transfer, (b) certify the relevant part of the record in the action or related to the order to the court receiving jurisdiction, unless the authorizing statute for the domestic and juvenile courts has combined them into a domestic relations division of the same court or designated them as a family court and the transfer would be within the court of the same county, and (c) notify and serve the county child support enforcement agency (CSEA) administering the case of all transfers in writing.

2. The domestic relations court receiving jurisdiction must: (a) issue an order accepting or denying the transfer, and (b) notify and serve the CSEA that is receiving the case or that would have received the case, in writing, of the order accepting or denying the transfer.

Special rules when transfer is due to pending proceeding in domestic relations court

Under the bill, when the juvenile court action or order being transferred is due to a pending divorce, dissolution, legal separation, or annulment proceeding in a common pleas court with domestic relations jurisdiction:

1. The juvenile court and domestic relations court retain concurrent jurisdiction during the pendency of the action or order;

2. The transfer must be completed and included in final orders that are issued regarding child support or custody in the domestic relations action; and

3. If the domestic relations action is dismissed without final orders being issued regarding child support or custody, the transfer is not completed and the juvenile court action or order remains within the jurisdiction of the juvenile court. The domestic relations court must notify the juvenile court, the CSEA in the county of the juvenile court, and the parties of the dismissed action.

Applicability of transfer provisions

The bill specifies that the transfer provisions modified or enacted by the bill, as described above, apply to all orders in effect prior to March 22, 2019, and all actions or proceedings initiated on or after that date. Currently, the existing transfer provisions apply to all orders in effect, and all actions or proceedings pending or initiated, on or after March 22, 2019.

Child Support Enforcement Agency notification and review

(R.C. 2151.236)

Currently, if a child is subject to a support order issued by a domestic relations court and if a juvenile court adjudicates the child to be delinquent, unruly, abused, neglected, or dependent and grants custody of the child to an individual or entity other than as set forth in the domestic relations court, the juvenile court must notify the domestic relations court and the CSEA serving the domestic relations court's county. Additionally, the CSEA must review the child support order under specified provisions that generally govern its review of court child support orders. The bill retains the notification provision, but modifies the CSEA review provision to specify that the CSEA must review the child support order and take appropriate action; any objection to an administrative order issued as an appropriate action taken under the bill's modification must be filed in the domestic relations court.

Certification to a juvenile court

(R.C. 3109.061)

The bill extends the definition of "domestic relations court" that it enacts, described above in "**Prohibition against juvenile court exercise of jurisdiction**," to an existing provision, unchanged by the bill, that states that nothing in specified existing provisions concerning juvenile court jurisdiction, CSEA notification and review, and the designation of common pleas court domestic relations, juvenile, and probate duties is to be construed to prevent a domestic relations court from certifying a case to a juvenile court.

Domestic relations matters definition

(R.C. 3105.011)

The bill modifies the existing definition of "domestic relations matters" that pertains to a provision relating to common pleas courts' (including domestic relations divisions') jurisdiction over domestic relations matters. Under the bill, the term means: (1) any matter committed to the jurisdiction of domestic relations courts as designated in each Ohio county, as well as a complaint for child support and allocation of parental rights and responsibilities, including the enforcement and modification of such orders, and (2) actions and proceedings

under Ohio law governing divorce, spousal support, annulment, dissolution of marriage; children; parentage; neglect, abandonment, or domestic violence; UIFSA; child support; and the Uniform Child Custody Jurisdiction and Enforcement Act, (3) actions pursuant to R.C. 2151.231, (4) actions removed from the jurisdiction of the juvenile court under R.C. 2151.233, and (5) all matters transferred by the juvenile court under R.C. 2151.235.

Currently, the term means: (1) any matter committed to the jurisdiction of domestic relations courts as designated in each Ohio county, and (2) actions and proceedings under Ohio law governing divorce, spousal support, annulment, dissolution of marriage; children; parentage; neglect, abandonment, or domestic violence; UIFSA; child support; and the Uniform Child Custody Jurisdiction and Enforcement Act.

JOINT LEGISLATIVE ETHICS COMMITTEE

- Eliminates the $10 filing fee for certain former state officials and employees who are required to file periodic financial disclosure statements for two years after leaving their positions.

Filing fees

(R.C. 102.021)

The bill eliminates the $10 filing fee for certain former state officials and employees who are required to file financial disclosure statements with the Joint Legislative Ethics Committee (JLEC) in January, May, and September for two years after leaving their positions.

Under continuing law, that filing requirement applies only to a former state elected official or employee who was required to file financial disclosure statements while the person held that position and, after leaving the person's position, either (1) receives income from a legislative agent (lobbyist) or executive agency lobbyist, from the employer of a lobbyist, other than a state agency or political subdivision, or from any entity that, during the last two calendar years, bid on or was awarded state contracts worth $100,000 or more, or (2) makes any expenditure for transportation, lodging, or food or beverages for the benefit of a public officer or employee, if the expenditure would be required to be reported under the Lobbying Law if the person were a lobbyist.

STATE LIBRARY BOARD

- Reduces from 100 to 50 the number of copies of printed state government publications that must be delivered to the State Library.
- Requires a state government body to notify the State Library of documents or other publications that are made available electronically on its website and requires the State Library to retain those publications and provide permanent access and records to each depository library.
- Clarifies that certain print and electronic publications provided to the State Library must be considered already prepared and available for inspection and reproduction at the State Library and each depository library.

State Library; public records

(R.C. 149.11)

The bill reduces from 100 to 50 the number of copies of printed state government publications that must be delivered to the State Library. Under continuing law, each department, division, bureau, board, or commission of the state government must deliver copies of any report, pamphlet, document, or other publication intended for general public use and distribution, and which is reproduced by duplicating processes.

The bill also requires those state government bodies to notify the State Library of the availability of documents or other publications, intended for general public use and distribution, which are made available electronically on its website. And, the State Library must retain those electronic publications in the State Library digital archive and provide permanent access and records to each public or college library in the state designated by the State Library Board to be a depository for state publications.

The bill clarifies that the print and electronic publications described above must be considered already prepared and available for inspection and reproduction by any person at all reasonable times during regular business hours at the State Library and each depository library.

DEPARTMENT OF MEDICAID

Suspension of provider agreements and payments

- Generally conforms the terms and procedures for suspending a Medicaid provider agreement because of a disqualifying indictment to those for suspending a provider agreement because of a credible allegation of fraud.
- Requires, with certain exceptions, that the provider agreement of a hospital, nursing facility, or intermediate care facility for individuals with intellectual disabilities (ICF/IID) be suspended when a disqualifying indictment is issued against the provider or the provider's officer, authorized agent, associate, manager, or employee.
- Requires, with certain exceptions, that the provider agreement of an independent provider be suspended when an indictment charges the provider with a felony or misdemeanor regarding furnishing or billing for Medicaid services or performing related management or administrative services.
- Requires that all Medicaid payments for services rendered be suspended, regardless of the date of service, when the provider agreement is suspended because of a credible allegation of fraud or disqualifying indictment.
- Permits the Department of Medicaid to suspend, without prior notice, a provider agreement and all Medicaid payments to the provider if there is evidence that the provider presents a danger of immediate and serious harm to the health, safety, or welfare of Medicaid recipients.

Rates for hospital inpatient services

- Requires that an urban hospital's Medicaid base rate for inpatient services provided during FY 2020 be at least the average of the base rates for hospitals in the same peer group region if the urban hospital's FY 2019 base rate is less than $4,000.

Rates for nursing facility services

- Provides for a nursing facility's Medicaid payment rate to be $115 per day for services provided to low resource utilization residents regardless of whether the nursing facility cooperates with the Long-Term Care Ombudsman Program in efforts to help those residents receive the services that are most appropriate for their level of care needs.
- Revises the law governing the quality payments that nursing facilities earn under Medicaid for satisfying quality indicators.
- Provides for nursing facilities to earn a quality incentive payment under Medicaid beginning with the second half of FY 2020.
- Repeals, effective July 1, 2021, a provision that would have adjusted nursing facilities' total rates and rates for tax costs by an amount equal to the difference between the Medicare skilled nursing facility market basket index and a budget reduction adjustment factor.

- Provides for the budget reduction adjustment factor to be, for the second half of FY 2020, 2.4%.
- Provides for the budget reduction adjustment factor to be, for FY 2021, equal to the Medicare skilled nursing facility market basket for federal FY 2020.

Rates for personal care waiver services

- Requires that the Medicaid rates for personal care services provided under a Medicaid waiver that is an alternative to nursing facility services be increased annually beginning with FY 2022 by the difference between the Medicare skilled nursing facility market basket index and a budget reduction adjustment factor.

Rates for aide and nursing services

- Repeals a law that required the Department to (1) reduce the Medicaid rates for aide and nursing services on October 1, 2011, and (2) adjust the Medicaid rates for those services not sooner than July 1, 2012, in a manner that reflects certain factors.

Rates for community behavioral health services

- Permits the Department to establish Medicaid rates for community behavioral health services provided during FYs 2020 and 2021 that exceed the Medicare rates paid for the services.

Home-delivered meals under Medicaid waivers

- Requires each home and community-based services Medicaid waiver program that covers home-delivered meals to provide for (1) the meals to be delivered in a format and frequency consistent with individuals' needs and (2) the individual who delivers the meals to meet face-to-face with the individual to whom the meals are delivered.
- Establishes the payment rates for home-delivered meals provided under the MyCare Ohio and Ohio Home Care waiver programs during FYs 2020 and 2021.

MyCare Ohio standardized claim form

- Requires the Medicaid Director to develop a standardized claim form to be used under the Integrated Care Delivery System (MyCare Ohio).
- Generally requires the Director to require that the MyCare Ohio program use the same medical claim codes used under Medicaid's fee-for-service component.

Medicaid managed care

Monitoring of behavioral health services

- Repeals on July 1, 2020, the requirement that the Joint Medicaid Oversight Committee periodically monitor the Department's inclusion of behavioral health services in the Medicaid managed care system.

Prescribed drugs

- Permits, instead of requiring, the Department to include prescribed drugs in the Medicaid managed care system.

Pharmacy benefit managers

- Requires a Medicaid managed care organization (MCO) pharmacy benefit manager (PBM) to (1) disclose to the Department upon request all of the PBM's prescription drugs payment sources and (2) at least annually, contract with an independent third party to conduct an audit of the PBM.
- Requires the Medicaid MCO and the PBM to cooperate with any other compliance audits of the PBM.
- Permits the Director to take certain action if a PBM fails to comply with these requirements or an audit reveals a PBM has violated its contract with the Medicaid MCO or state or federal requirements.

Pharmacy supplemental dispensing fee

- Requires the Department, by January 1, 2020, to adopt rules to provide to retail pharmacies a supplemental dispensing fee under the care management system.
- Provides that the supplemental dispensing fee must include at least three different payment levels based on the number of Medicaid prescriptions a pharmacy location fills each month.

Single preferred drug list

- Requires the Department to establish a single preferred drug list for the care management system and requires Medicaid MCOs and their pharmacy benefit managers to comply with the list.
- Requires the preferred drug list to do certain things, including ease administrative burdens, reduce confusion, and ensure that prescription drug rebates are sent directly to the Department and not to Medicaid MCOs or their pharmacy benefit managers.

Specialty pharmacies

- Beginning January 1, 2020, requires a Medicaid MCO to contract with a specialty pharmacy as a participating provider if the pharmacy meets the standards for participating providers, can provide pharmacy services at the same or lower cost than other specialty pharmacy providers, and seeks to become a participating provider.

Audits of Medicaid MCOs

- Requires the Department to periodically audit Medicaid MCOs to ensure their compliance with their MCO contracts with the Department and with state and federal law and regulations.

Medicaid MCO information from Pharmacy Board

- Allows a Medicaid managed care organization to submit a bulk request to the State Board of Pharmacy for information about all Medicaid recipients enrolled in the organization's Medicaid MCO plan and requires the Board to collaborate with the Office of InnovateOhio to provide the requested information by direct data transfer or in a single electronic file or format.

Recoupment of payments

- Requires a Medicaid MCO to give a provider all of the details of a recoupment of an overpayment.
- Authorizes a Medicaid MCO to include in its plans any service or product that would have a beneficial effect on enrollees' health and is likely to reduce plan costs within three years.

Medicaid prompt payment waiver

- Repeals the requirement that the Medicaid Director apply for a waiver from the federal Medicaid prompt payment requirements that would instead require health insuring corporations to submit claims in accordance with requirements established by the Department of Insurance.

Duties of area agencies on aging

- Requires the Department, if it adds to the Medicaid managed care system during FYs 2020 and 2021 more Medicaid recipients who are aged, blind, disabled, or also enrolled in Medicare, to take certain actions regarding the duties of area agencies on aging relative to home and community-based waiver services.

Integrated Care Delivery System performance payments

- For FYs 2020 and 2021, requires the Department to continue to (1) make performance payments to Medicaid MCOs that provide care to participants of the Integrated Care Delivery System and (2) withhold a percentage of their premium payments for the purpose of providing the performance payments.

Performance metrics

- Requires the Department to establish performance metrics to evaluate Medicaid MCOs performance under their contracts with the Department.
- Requires the Department to post the metrics on its website and update them every quarter with any changes.

Strategies to address social determinants of health

- Requires the Medicaid Director to implement within the Medicaid Program strategies that affect social determinants of health.

Care Innovation and Community Improvement Program

- Requires the Medicaid Director to continue the Care Innovation and Community Improvement Program for the FY 2020-2021 biennium.

Rural Healthcare Workforce Training and Retention Program

- Requires the Medicaid Director to create the Rural Healthcare Workforce Training and Retention Program for FYs 2020 and 2021 under which nonprofit hospital agencies and public hospital agencies may earn supplemental Medicaid payments for graduate medical education costs.

Hospital Care Assurance Program, franchise permit fee

- Continues, for two additional years, the Hospital Care Assurance Program and the franchise permit fee imposed on hospitals under Medicaid.

Health information exchanges

- Eliminates all provisions regarding approved health information exchanges in statutes governing protected health information, including provisions that require the Medicaid Director to adopt rules regarding such exchanges.

Health Care/Medicaid Support and Recoveries Fund

- Requires that money credited to the Health Care/Medicaid Support and Recoveries Fund additionally be used for (1) programs that serve youth involved with multiple government agencies and (2) innovative programs that promote access to health care or help achieve long-term cost savings.

Abolished funds

- Abolishes the Integrated Care Delivery Systems Fund.
- Abolishes the Managed Care Performance Payment Fund.
- Abolishes the Medicaid Administrative Reimbursement Fund.
- Abolishes the Medicaid School Program Administrative Fund in the state treasury.

340B Drug Pricing Program compliance report

- Requires the Director, by January 1, 2021, to submit a report to the General Assembly detailing how the Department, its subcontractors, and Medicaid MCOs have complied with the federal 340B Drug Pricing Program.

Extended authority regarding employees

- Extends through July 1, 2021, the Medicaid Director's authority to establish, change, and abolish positions for the Department and to assign, reassign, classify, reclassify, transfer, reduce, promote, or demote employees who are not subject to collective bargaining.

Updating references

- Updates references to the former U.S. Health Care Financing Administration with references to the U.S. Centers for Medicare and Medicaid Services.

Suspension of provider agreements and payments

(R.C. 5164.36, primary; R.C. 173.391 and 5164.37, repealed)

Suspensions because of disqualifying indictments

The bill makes the terms and procedures for suspending a Medicaid provider agreement because of certain types of indictments, which the bill refers to as disqualifying indictments, generally the same as those for suspending a provider agreement because of a credible allegation of fraud. The bill also makes the following revisions to the law governing the suspension of provider agreements because of a disqualifying indictment:

- Under current law, the Department of Medicaid is required to suspend a provider agreement of a noninstitutional provider, other than an independent provider, if the provider or its owner, officer, authorized agent, associate, manager, or employee is indicted for an act that would be a felony or misdemeanor under Ohio law and the act relates to or results from furnishing or billing for Medicaid services or participating in the performance of management or administrative services relating to furnishing Medicaid services. The bill is generally the same except that (a) the provider agreement of an independent provider or an institutional provider also is to be suspended in this situation (unless, in the case of an institutional provider, the owner is indicted) and (b) the indictment may be for an act that would be a felony or misdemeanor under the laws of the jurisdiction within which the act occurred rather than only under Ohio law. An independent provider is a person who has a provider agreement to provide home and community-based services as an independent provider in a Medicaid waiver program that the Department administers. Hospitals, nursing facilities, and ICF/IIDs are institutional providers.
- Current law requires the Department to terminate Medicaid payments to a provider when the provider agreement is suspended because of a disqualifying indictment. The termination applies only to payments for Medicaid services rendered after the date the Department sends notice of the suspension. Claims for payment for Medicaid services rendered before that date may be subject to prepayment review procedures under which the Department reviews claims to determine whether they are supported by sufficient documentation, in compliance with state and federal law, and otherwise complete. Under the bill, the Department must suspend, rather than terminate, the Medicaid payments, and the suspension applies to payments for all services regardless of the date the services are rendered.

The following table compares the provisions of current law and the bill regarding the suspension of Medicaid provider agreements because of disqualifying indictments.

Current law	The bill
Medicaid providers subject to suspension	
Noninstitutional providers when the Department receives notice and a copy of an indictment that charges any of the following with committing certain acts: 1. The provider; 2. The provider's owner, officer, authorized agent, associate, manager, or employee. *(R.C. 5164.37(C).)*	Any provider, when the Department determines that an indictment has been issued that charges any of the following with committing certain acts: 1. The provider; 2. The provider's officer, authorized agent, associate, manager, or employee; 3. If the provider is a noninstitutional provider, the provider's owner. *(R.C. 5164.36(A)(5) and (6) and (B)(1).)*
Indictments that require suspension	
1. Except for an independent provider, an act that would be a felony or misdemeanor under Ohio law that relates to or results from furnishing or billing for Medicaid services or participating in management or administrative services related to furnishing Medicaid services; 2. For an independent provider, an offense that continuing law specifies is cause to deny or terminate a provider agreement. *(R.C. 5164.37(E).)*	1. Regardless of whether the provider is an independent provider, an act that would be a felony or misdemeanor under Ohio law or the law where the act occurred and that relates to or results from the furnishing or billing for Medicaid services or management or administrative services relating to furnishing Medicaid services; 2. Same. *(R.C. 5164.36(A)(2), (3), and (4).)*
Stopping Medicaid payments	
The Department must terminate Medicaid payments to a suspended provider for Medicaid services rendered after the date when the Department sends the provider notice of the suspension. Claims for services rendered before the notice is sent may be subject to prepayment review procedures. *(R.C. 5164.37(C) and (D)(2).)*	The Department must suspend all Medicaid payments to a suspended provider for services rendered, regardless of the date of service. *(R.C. 5164.37(B)(2).)*

Current law	The bill
Exceptions	
No suspension or payment termination if: 1. The provider or owner submits written evidence that the provider or owner did not directly or indirectly sanction the act that resulted in the indictment; 2. Circumstances that may be specified in rules apply. *(R.C. 5164.37(D)(1) and (H).)*	Same. *(R.C. 5164.36(C) and (I).)*
When suspension is lifted	
1. The proceedings in *the criminal case* are completed through dismissal of the indictment, conviction, entry of a guilty plea, or finding of not guilty; 2. If the Department commences a process to terminate the suspended provider agreement, the termination process is concluded. *(R.C. 5164.37(C).)*	1. The proceedings in *any related case* are completed through dismissal of the indictment, conviction, entry of a guilty plea, or finding of not guilty; 2. Same. *(R.C. 5164.36(B)(3).)*
Restricted Medicaid activities	
A provider, owner, officer, authorized agent, associate, manager, or employee cannot do any of the following during the suspension:	A provider; officer, authorized agent, associate, manager, or employee (if suspension results from an action taken by that person); or owner (if the provider is a noninstitutional provider and the suspension results from an action of the owner) cannot do any of the following during the suspension:
1. Own or provide Medicaid services to any other Medicaid provider or risk contractor;	1. Own services provided, or provide services, to any other Medicaid provider or risk contractor;
2. Arrange for, render, or order Medicaid services;	2. Arrange for, render to, or order services (a) to any other Medicaid provider or risk contractor or (b) for Medicaid recipients;
3. Receive direct payments under Medicaid or indirect payments of Medicaid funds in the	3. Same. *(R.C. 5164.36(B)(4).)*

Current law	The bill
form of a salary, shared fees, contracts, kickbacks, or rebates from or through any other Medicaid provider or risk contractor. *(R.C. 5164.37(C).)*	
Notice of suspension	
The Department must send notice of a provider agreement suspension to the provider or owner not later than five days after suspending the provider agreement. *(R.C. 5164.37(F).)*	The Department must send notice of a provider agreement suspension to the provider or, if the provider is a noninstitutional provider, the owner: 1. Not later than five days after the suspension unless a law enforcement agency makes a written request to temporarily delay the notice; 2. If such a request is made, not later than 30 days after the suspension. A law enforcement agency may request up to two renewed delays, but the notice must be issued not more than 90 days after the suspension. *(R.C. 5164.36(D) and (E).)*
Content of suspension notice	
A notice of a provider agreement suspension must:	A notice of a provider agreement suspension must:
1. Describe the indictment that was the cause of the suspension, without necessarily disclosing specific information concerning any ongoing civil or criminal investigation;	1. Describe the conduct leading to the suspension (without disclosing information concerning an ongoing investigation), the type of Medicaid claims or business units affected by the suspension, and that payments are being suspended;
2. State how long the suspension will continue;	2. Same;
3. Inform the provider or owner of the opportunity to request a reconsideration. *(R.C. 5164.37(F).)*	3. Same. *(R.C. 5164.36(F).)*

Current law	The bill
Reconsideration	
A suspended provider or owner may request a reconsideration within 30 days of receiving the suspension notice. The reconsideration is not subject to an adjudication hearing under the Administrative Procedure Act. The provider or owner must submit to the Department written information about whether (1) the suspension determination was based on a mistake of fact, (2) the indictment resulted from an offense for which the Department is authorized to suspend provider agreements, or (3) the provider or owner can demonstrate that they did not directly or indirectly sanction the action of its authorized agent, associate, manager, or employee that resulted in the indictment. The Department must review the information and documents. After the reviews, the information, the suspension may be affirmed, reversed, or modified, in whole or in part. The review and notification of its results must be completed not later than 45 days after the information and documents are received. *(R.C. 5164.37(G).)*	Same, except an owner may request a reconsideration only if the provider is a noninstitutional provider. *(R.C. 5164.36(G) and (H).)*

Suspensions because of credible allegations of fraud

(R.C. 5164.36)

Current law requires the Department to terminate Medicaid payments to a provider when the provider agreement is suspended because of a credible allegation of fraud for which an investigation is pending under the Medicaid program. The termination applies only to payments for Medicaid services rendered after the date the Department sends the provider notice of the suspension. Claims for payment for Medicaid services rendered before that date may be subject to prepayment review procedures under which the Department reviews claims to determine whether they are supported by sufficient documentation, are in compliance with state and federal statutes and rules, and are otherwise complete. Under the bill, the Department must suspend, rather than terminate, the Medicaid payments, and the suspension applies to payments for all services regardless of the date the services are rendered.

Summary suspensions, danger of immediate and serious harm

(R.C. 5164.37 and 5164.38)

The bill permits the Department to suspend, without prior notice, a Medicaid provider agreement if there is evidence that the provider presents a danger of immediate and serious harm to the health, safety, or welfare of Medicaid recipients. When the Department suspends a provider agreement for this reason, it must:

- Suspend all Medicaid payments to the provider for services rendered, regardless of the date that the services were rendered;
- Not later than five days after suspending the provider agreement, notify the provider of the suspension; and
- Not later than ten business days after suspending the provider agreement, notify the provider that the Department intends to terminate the provider agreement.

The notice that the Department sends regarding the intention to terminate a provider agreement must include the allegation that the provider presents a danger of immediate and serious harm to the health, safety, or welfare of Medicaid recipients. It may also include other grounds for terminating the provider agreement. When terminating the provider agreement, continuing law that requires the Department to issue an order pursuant to adjudication conducted in accordance with the Administrative Procedure Act (R.C. Chapter 119) applies.

The suspension of a provider agreement and Medicaid payments is to cease at the earliest of:

- The Department's failure to provide within the required time a notice regarding the suspension or intent to terminate the provider agreement;
- The Department rescinds its notice to terminate the provider agreement;
- The Department issues an order regarding the termination of the provider agreement pursuant to an adjudication.

The bill states that this provision does not limit the Department's authority to suspend or terminate a provider agreement or Medicaid payments under any other provision of the Revised Code.

Current law provides that the Department is not required to issue an order pursuant to an adjudication when it refuses to enter into or revalidate a Medicaid provider agreement or suspends or terminates a provider agreement if the provider agreement and Medicaid payments are suspended because of a credible allegation of fraud or disqualifying indictment. The bill provides that an adjudication order also is not required if the provider agreement and Medicaid payments are suspended because the provider presents a danger of immediate and serious harm to the health, safety, or welfare of Medicaid recipients.

Rates for hospital inpatient services

(Section 333.170)

The bill requires that an urban hospital's Medicaid base rate for inpatient services provided during FY 2020 be not less than the average of the Medicaid base rates in effect on July 1, 2019, for inpatient services provided by other urban hospitals that, according to the Medicaid program's urban hospital classification system, are located in the same peer group region, if the hospital's Medicaid base rate in effect June 30, 2019, for inpatient services is not more than $4,000.

Rates for nursing facility services

Low resource utilization residents

(R.C. 5165.152)

The bill revises the Medicaid payment rate for nursing facility services provided to low resource utilization residents. A low resource utilization resident is a Medicaid recipient residing in a nursing facility who, for purposes of calculating the nursing facility's Medicaid payment rate, is placed in either of the two lowest resource utilization groups, excluding any resource utilization group that is a default group used for residents with incomplete assessment data.

Under current law, the rate is the following:

- $115 per day if the Department is satisfied that the nursing facility is cooperating with the Long-Term Care Ombudsman Program in efforts to help its low resource utilization residents receive the services that are most appropriate for their level of care needs;
- $91.70 per day if the Department is not satisfied.

The bill provides for the rate to be $115 per day regardless of whether the nursing facility cooperates with the Long-Term Care Ombudsman Program.

Quality payment rates

(R.C. 5165.25)

The bill revises the law governing the quality payments that nursing facilities earn under Medicaid for satisfying quality indicators, as follows:

- Eliminates as a quality indicator a nursing facility's use of the nursing home version of the Preferences for Everyday Living Inventory for all of its residents;
- Establishes as a quality indicator a nursing facility's obtaining at least a target score on the Department of Aging's resident satisfaction survey (for even-numbered state fiscal years) or the family satisfaction survey (for odd-numbered state fiscal years);
- Requires the Department to specify the target score for the satisfaction surveys;
- Eliminates a requirement that the Department, when determining the percentages of a nursing facility's short-stay residents who newly received an antipsychotic medication

and long-stay residents who newly or otherwise received an antipsychotic medication, exclude residents who received the medication in conjunction with hospice care;

- Provides for a nursing facility that undergoes a change of operator to receive, for the state fiscal year following the one during which the change of operator occurs, the mean quality payment regardless of whether the change of operator occurred before or during the last quarter of a calendar year.

Quality incentive payments

(R.C. 5165.26, primary and 5165.15)

Addition of quality incentive payment

The bill adds a quality incentive payment to nursing facilities' Medicaid payment rates beginning with the second half of FY 2020. A nursing facility's quality incentive payment is to be based on the score it receives for meeting certain quality metrics regarding its residents who have resided in the nursing facility for at least 100 days (i.e., long-stay residents).

Nursing facility's score on quality metrics

With certain adjustments, a nursing facility's score for a state fiscal year is to be the sum of the total number of points that the U.S. Centers for Medicare and Medicaid Services (CMS) assigned to the nursing facility under CMS's nursing facility five-star quality rating system for the following quality metrics:

- The percentage of the nursing facility's long-stay residents at high risk for pressure ulcers who had pressure ulcers during the calendar year preceding the calendar in which the fiscal year begins (i.e., the measurement period);
- The percentage of the nursing facility's long-stay residents who had a urinary tract infection during the measurement period;
- The percentage of the nursing facility's long-stay residents whose ability to move independently worsened during the measurement period;
- The percentage of the nursing facility's long-stay residents who had a catheter inserted and left in their bladder during the measurement period.

In determining a nursing facility's score for a fiscal year, the Department must make the following adjustments to the number of points that CMS assigned to the nursing facility for each quality metric:

- Unless CMS assigned the nursing facility the lowest percentile for the quality metric, divide the number of the nursing facility's points for the quality metric by 20;
- If CMS assigned the nursing facility the lowest percentile for the quality metric, reduce the nursing facility's points for the quality metric to zero.

A nursing facility's score is to be zero for a fiscal year if it is not to receive a quality incentive payment for that fiscal year because it does not satisfy the licensed occupancy condition.

Quality incentive conditioned on licensed occupancy

A nursing facility is not to receive a quality incentive payment for a fiscal year, other than the second half of FY 2020, if the nursing facility's licensed occupancy percentage is less than 70%. However, this disqualification does not apply to a nursing facility for a fiscal year if either of the following is the case:

- The nursing facility has a score for meeting the quality metrics for the fiscal year of at least 10 points.
- Not more than four years before the first day of the fiscal year, the nursing facility was initially certified for participation in Medicaid or it underwent a renovation during which it temporarily removed one or more of its licensed beds from service.

A nursing facility's licensed occupancy percentage for a fiscal year is to be determined as follows:

- Multiply the nursing facility's licensed occupancy on the last day of the measurement period by the number of days in that measurement period;
- Divide the number of the nursing facility's inpatient days for the measurement period by the product determined under (1).

Quality incentive payment amount

A nursing facility's per Medicaid day quality incentive payment rate for a fiscal year is to be determined as follows:

1. Determine the sum of the scores on the quality metrics for all nursing facilities.

2. Determine the average score by dividing the sum determined under (1) by the number of nursing facilities for which a score was determined.

3. Determine the following:

   - For the second half of FY 2020, the sum of the total number of Medicaid days for the second half of calendar year 2018 for all nursing facilities for which a score was determined.
   - For all of FY 2021 and each fiscal year thereafter, the sum of the total number of Medicaid days for the measurement period for all nursing facilities for which a score was determined.

4. Multiply the average score determined under (2) by the sum determined under (3).

5. Determine the value per quality point by dividing the total amount to be spent on quality incentive payments for the fiscal year by the product determined under (4).

6. Multiply the value per quality point by the nursing facility's score on the quality metrics.

Total amount spent on quality incentive payments

The bill specifies the total amount that is to be spent on quality incentive payments for each fiscal year.

For the second half of FY 2020, the amount is to be the sum of the following for all nursing facilities, including those that are not to receive a quality incentive payment because they do not meet the licensed occupancy condition:

1. The amount that is 2.4% of the portions of each nursing facility's Medicaid payment rate regarding its ancillary and support, capital, direct care, and tax costs, the critical access incentive payment, and the $16.44 add-on (i.e., the base rate) on January 1, 2020;

2. Multiply the amount determined under (1) by the number of each nursing facility's Medicaid days for the second half of calendar year 2018.

For all of FY 2021 and each fiscal year thereafter, the amount is to be determined pursuant to a two-step process. Under the first step, the following amount is to be determined for each nursing facility, including those that are not to receive a quality incentive payment because they do not meet the licensed occupancy condition:

1. Determine the amount that is 2.4% of each nursing facility's base rate on the first day of the fiscal year;

2. Add the amount determined under (1) to the nursing facility's base rate for nursing facility services provided on the first day of the fiscal year;

3. Multiply the sum determined under (3) by the Medicare skilled nursing facility market basket index for federal fiscal year 2020;

4. Determine the sum of the amounts determined under (1) and (3) above;

5. Multiply the sum determined under (4) by the number of each nursing facility's Medicaid days for the measurement period.

The second step is to determine the sum of the amounts determined under the first step for all nursing facilities.

Budget reduction adjustment factor

(R.C. 5165.15, 5165.21, and 5165.361; Sections 333.270, 812.10, and 812.12)

The bill revises the formula used to determine the total Medicaid payment rates for nursing facility services by removing an adjustment to the rates effective July 1, 2021. The formula has several components and includes specific dollar amounts that are added and subtracted to the sum of the amounts determined for the different components.

For FYs 2018 and 2019, the formula contains a $16.44 add-on, which became part of the formula on July 1, 2016. In FY 2020 and thereafter (other than the first fiscal year in a rebasing cycle), the add-on is instead to be the sum of the following:

1. The amount of the add-on for the preceding fiscal year;

2. The difference between (a) the Medicare skilled nursing facility market basket index determined for the federal fiscal year that began during the state fiscal year preceding the one for which the rate is being determined and (b) the budget reduction adjustment factor for the fiscal year for which the rate is being determined.

The bill provides for the add-on to resume being $16.44 beginning with FY 2022.

Beginning with FY 2020 (other than the first fiscal year in a rebasing cycle), the formula includes the difference between the Medicare skilled nursing facility market basket index and the budget reduction adjustment factor as part of the manner in which the rates for the four cost centers (ancillary and support costs, capital costs, direct care costs, and tax costs) are determined. The bill removes that amount as part of the rate calculation for tax costs effective July 1, 2021, but retains it for the other cost centers.

The bill provides that the budget reduction adjustment factor for the second half of FY 2020 is to be 2.4%. For FY 2021, it is to be an amount equal to the Medicare skilled nursing facility market basket index determined for all of federal fiscal year 2020.

Rates for personal care waiver services

(R.C. 5166.09, primary and 5166.01)

The bill requires that the Medicaid rate for personal care services provided under a Medicaid waiver that covers home and community-based services as an alternative to nursing facility services be increased each state fiscal year beginning with state fiscal year 2020. The amount of the increase is to be the difference between the following:

1. The Medicare skilled nursing facility market basket index determined for the federal fiscal year that begins during the state fiscal year immediately preceding the state fiscal year for which the determination is being made;

2. The budget reduction adjustment factor for the state fiscal year for which the determination is being made.

The budget reduction adjustment factor for a state fiscal year is to be the same as the budget reduction adjustment factor that is used for that state fiscal year in determining the Medicaid rates for nursing facility services. (See "**Rates for nursing facility services**" above.)

Rates for aide and nursing services

(R.C. 5164.77 (repealed))

The bill repeals a law that required the Department to (1) reduce the Medicaid rates for aide and nursing services on October 1, 2011, and (2) adjust the Medicaid rates for those services not sooner than July 1, 2012, in a manner that reflects, at a minimum, labor market data, education and licensure status, home health agency and independent provider status, and length of service visit.

Rates for community behavioral health services

(Section 333.180)

The bill permits the Department to establish Medicaid payment rates for community behavioral health services provided during FY 2020 and FY 2021 that exceed the authorized rates paid for the services under the Medicare program. This does not apply, however, to such services provided by hospitals on an inpatient basis, nursing facilities, or ICF/IIDs.

Home-delivered meals under Medicaid waivers

(R.C. 5166.04; Section 333.160)

The bill requires a Medicaid waiver that covers home-delivered meals to provide for the format in which the meals are delivered to an individual and the frequency of the deliveries to be consistent with the individual's needs as specified in the individual's written plan of care or individual service plan. Such a waiver also must prohibit an individual who delivers the meals from leaving the meals with the individual to whom they are delivered unless the individuals meet face-to-face at the time of the delivery.

The bill sets the payment rates for home-delivered meals provided under the MyCare Ohio and Ohio Home Care waivers during FYs 2020 and 2021 at the following amounts:

- For each meal delivered daily on a per-meal delivery basis by a volunteer or employee of the provider, $7.19;
- For each meal delivered in a chilled or frozen format on a weekly delivery basis by a volunteer or employee of the provider, $6.99;
- For each meal delivered in a chilled or frozen format on a weekly basis by a common carrier used by the provider, $6.50.

MyCare Ohio standardized claim form

(R.C. 5164.91)

The bill requires the Medicaid Director to develop a standardized claim form for each provider type that can be used by medical providers providing medically necessary health care services under the Integrated Care Delivery System (known as MyCare Ohio). The required form must be selected from universally accepted claim forms used in the United States.

The Director must require the MyCare Ohio program to use the same medical claim codes as used under Medicaid's fee-for-service component, except:

- MyCare Ohio can use other claim codes to collect information that is reported to the Healthcare Effectiveness Data and Information Set (HEDIS) maintained by the National Committee for Quality Assurance.
- The Director can require MyCare Ohio to use different claim codes for program integrity standards.

- MyCare Ohio can use different claim codes as agreed to in contract between the Department or its designee and the medical provider.

Medicaid managed care

Monitoring of behavioral health services

(R.C. 103.416 and 5167.04; Section 125.10)

The bill repeals a requirement that the Joint Medicaid Oversight Committee periodically monitor the Department's inclusion of alcohol, drug addiction, and mental health services in the Medicaid managed care system. The repeal takes effect July 1, 2020.

Medicaid MCO information from Pharmacy Board

(R.C. 4729.801)

Continuing law authorizes the State Board of Pharmacy to establish a drug database to monitor the misuse and diversion of controlled substances, medical marijuana, and other dangerous drugs. The Board must provide the medical or pharmacy director of a Medicaid MCO information from the database relating to a Medicaid recipient enrolled in a plan offered by the MCO if the director requests the information and the MCO has entered into a data security agreement with the Board.

The bill provides a Medicaid MCO may submit a request to the Board for information about all Medicaid recipients enrolled in a plan offered by the MCO and the Board must collaborate with the Office of InnovateOhio to provide the information by direct data transfer or in a single electronic file or format.

Recoupment of payments

(R.C. 5167.22)

The bill requires a Medicaid MCO, when it seeks to recoup an overpayment made to a provider, to provide the provider all of the details of the recoupment, including all of the following information:

- The name, address, and Medicaid identification number of the Medicaid recipient to whom the agency provided the services;
- The date or dates that the services were provided;
- The reason for the recoupment;
- The method by which the provider may contest the proposed recoupment.

Prescribed drugs

(R.C. 5167.05 and 5167.12)

The bill provides that the Department is permitted instead of required to include prescribed drugs in the Medicaid managed care system. Under current law, the Department must require Medicaid MCOs to cover prescribed drugs.

Pharmacy benefit managers

(R.C. 5167.124)

The bill requires a pharmacy benefit manager (PBM) under contract with a Medicaid managed care organization (MCO) for the administration of pharmacy services under the care management system to:

- Upon request from the Department, disclose to the Department all sources of payment the PBM receives for prescribed drugs, including any benefits such as drug rebates, discounts, credits, clawbacks, fees, grants, chargebacks, reimbursements, or other payments related to services provided for the Medicaid MCO;
- At least annually, contract with an independent third party to complete a service organization controls report (commonly known as an SOC-1) audit of the PBM's services and activities. The PBM must provide the report to the contracting Medicaid MCO and, upon request, to the Department.

In addition to the SOC-1 audit described above, the bill requires a Medicaid MCO and its contracted PBM to cooperate with and grant full access to any independent entity retained by the Department to perform periodic audits of the PBM to measure the PBM's compliance with its obligations under its contract with the Medicaid MCO and with federal and state requirements.

If a PBM fails to comply with these requirements, or an audit reveals that the PBM has failed to comply with its contract obligations or federal and state requirements, the Director may do either or both of the following:

- Assess against the Medicaid MCO any financial penalty permitted under the Medicaid MCO's contract with the Department;
- Make a recommendation to the Superintendent of Insurance that the PBM's administrator license be suspended.

Pharmacy supplemental dispensing fee

(Section 333.280)

The bill requires the Department of Medicaid, by January 1, 2020, to adopt rules to provide a supplemental dispensing fee under the care management system to retail pharmacies. The supplemental dispensing fee must have at least three different payment levels based on the number of Medicaid prescriptions a pharmacy location fills each month. The supplemental dispensing fee cannot cause a reduction in other payments made to the pharmacy for providing prescribed drugs under the care management system.

Single preferred drug list

(R.C. 5167.122)

The bill requires the Department to establish a single preferred drug list for the care management system and requires Medicaid MCOs and their pharmacy benefit managers (PBMs) to comply with the list. The list must:

- Streamline pharmacy benefits under the care management system;
- Ease administrative burdens for prescribers;
- Reduce misinterpretation of prescription decisions by health care providers and Medicaid MCOs and their contracted PBMs;
- Decrease unnecessary prior authorization requirements;
- Reduce the possibility of errors relating to prescribing and dispensing prescribed drugs;
- Reduce confusion and the burden on Medicaid recipients when receiving a prescription from a health care provider and filling that prescription at a pharmacy;
- Ensure that all supplemental rebates for prescription drugs are sent directly to the Department and are not retained by the Medicaid managed care organization or its PBM.

Specialty pharmacies

(R.C. 5167.123)

Beginning on January 1, 2020, the bill requires Medicaid MCOs to contract with specialty pharmacies as participating pharmacies under the organization's MCO plan if the pharmacy (1) meets the Medicaid MCO's standards for pharmacy providers under the plan, (2) can provide pharmacy services at the same or a lower cost than other participating pharmacies, and (3) seeks to become a participating provider under the plan.

Audits of Medicaid MCOs

(R.C. 5167.104)

The bill requires the Department to periodically audit Medicaid MCOs to ensure their compliance with their MCO contracts with the Department and with state and federal law and regulations.

Shared savings and quality incentive programs

(R.C. 5167.15)

The bill authorizes a Medicaid MCO to include in its Medicaid MCO plans any service or product that would have a beneficial effect on the health of enrollees and that, because of the beneficial effect, is likely to reduce the per recipient per month costs under the plan by the end of the first three years that the service or product is covered.

Medicaid prompt payment waiver

(R.C. 5167.25, repealed, with conforming changes in R.C. 3901.3814)

The bill repeals the requirement that the Medicaid Director apply to CMS for a waiver from the federal Medicaid prompt payment requirements that would instead require health insuring corporations to submit claims in accordance with requirements established by the Department of Insurance.

Duties of area agencies on aging

(Section 333.190)

The bill requires the Department, if it expands the inclusion of the aged, blind, and disabled Medicaid eligibility group or Medicaid recipients who are also eligible for Medicare in the Medicaid managed care system during the FY 2020-2021 biennium, to do both of the following for the remainder of the biennium:

- Require area agencies on aging to be the coordinators of home and community-based waiver services that the recipients receive and permit Medicaid MCOs to delegate to the agencies full-care coordination functions for those and other health care services;
- In selecting Medicaid MCOs, give preference to organizations that will enter into subcapitation arrangements with area agencies on aging under which the agencies perform, in addition to other functions, network management and payment functions for services that those recipients receive.

Integrated Care Delivery System performance payments

(Section 333.60)

The Department is authorized under continuing law to implement a demonstration project to test and evaluate the integration of care received by individuals dually eligible for Medicaid and Medicare. In statute the project is called the Integrated Care Delivery System. It may be better known as MyCare Ohio.

The bill continues for FYs 2020 and 2021, a requirement that the Department provide performance payments to Medicaid MCOs that provide care under the Integrated Care Delivery System. The Department has been required to provide such performance payments since FY 2014.[116]

If participants receive care through Medicaid MCOs under the system, the Department must both:

- Develop quality measures designed specifically to determine the effectiveness of the health care and other services provided to participants by Medicaid MCOs; and
- Determine an amount to be withheld from the Medicaid premium payments paid to Medicaid MCOs for participants.

For purposes of the amount to be withheld from premium payments, the Department must establish a percentage amount and apply the same percentage to all Medicaid MCOs providing care to participants of the Integrated Care Delivery System. Each organization must agree to the withholding as a condition of receiving or maintaining its Medicaid provider agreement. The bill provides that a Medicaid managed care organization providing care under

[116] Section 323.300 of H.B. 59 of the 130th General Assembly.

the system is not subject to withholdings under the Medicaid Managed Care Performance Payment Program for premium payments attributed to participants of the system during FYs 2020 and 2021.

Performance metrics

(R.C. 5167.103)

The bill requires the Department to establish performance metrics to evaluate and compare how Medicaid MCOs perform under their MCO contracts with the Department. The performance metrics can include financial incentives and penalties. These metrics are in addition to the managed care performance program under existing law, under which the Department provides payments to Medicaid MCOs that meet certain performance standards. The Department must post the metrics on its website and update its website quarterly to reflect any changes it makes to the metrics.

Clarification and simplification of statutes

(R.C. 5167.01, primary; R.C. 3701.612, 4729.80, 5166.01, 5167.03, 5167.04, 5167.05, 5167.051, 5167.10, 5167.101, 5167.102, 5167.11, 5167.12, 5167.13, 5167.14, 5167.17, 5167.171, 5167.172, 5167.173, 5167.18, 5167.20, 5167.201, 5167.22, 5167.23, 5167.26, 5167.41, and 5168.75)

The bill clarifies and simplifies statutes governing the Medicaid managed care system. For the sake of clarity, the bill provides for Medicaid recipients to enroll in Medicaid MCO plans rather than, as under current law, enrolling in Medicaid managed care organizations. "Medicaid MCO plan" is defined as a plan that a Medicaid MCO, pursuant to its contract with the Department, makes available to Medicaid recipients participating in the Medicaid managed care system. For the sake of simplicity, the bill requires Medicaid MCOs to comply with various requirements rather than, as under current law, requiring the contracts that the Department enters into with Medicaid MCOs to include the requirements. For the sake of simplicity, the bill uses the term "enrollee," which is defined as a Medicaid recipient who participates in the Medicaid managed care system and enrolls in a Medicaid MCO plan.

Strategies to address social determinants of health

(R.C. 5162.72)

The bill requires the Medicaid Director to implement within the Medicaid program strategies that address social determinants of health, including housing, transportation, food, interpersonal safety, and toxic stress.

Care Innovation and Community Improvement Program

(Section 333.220)

The bill requires the Medicaid Director to continue the Care Innovation and Community Improvement Program for the FY 2020-2021 biennium. The Director was originally required to establish the program for the FY 2018-2019 biennium.[117]

Any nonprofit hospital agency affiliated with a state university and any public hospital agency may volunteer to participate if it operates a hospital that has a Medicaid provider agreement. The nonprofit and public hospital agencies that participate in the program are responsible for the state share of the program's costs and must make or request the appropriate government entity to make intergovernmental transfers to pay for the costs. The Director must establish a schedule for making the transfers.

Each participating hospital agency must undertake at least one of the following tasks in accordance with strategies, and for the purpose of meeting goals designed to benefit Medicaid recipients, the Director is to establish:

- Sustain and expand community-based patient centered medical home models;
- Expand access to community-based dental services;
- Improve the quality of community care by creating and sharing best practice models for emergency department diversions, care coordination at discharge and during transitions of care, and other matters related to community care;
- Align community health improvement strategies and goals with the State Health Improvement Plan and local health improvement plans;
- Expand access to ambulatory drug detoxification and withdrawal management services;
- Train medical professionals on evidence-based protocols for opioid prescribing and drug addiction risk assessments;
- In collaboration with other nonprofit and public hospital agencies that also do this task, create and implement a plan to assist rural areas to (a) expand access to cost-effective detoxification, withdrawal management, and prevention services for opioid addiction and (b) disseminate evidence-based protocols for opioid prescribing and drug addiction risk assessment.

If a hospital agency chooses the task to expand access to ambulatory drug detoxification and withdrawal management services, or the task to create and implement a plan to assist rural areas, it must give priority to the areas of the community it serves with the greatest concentration of opioid overdoses and deaths. Regardless of the task chosen, a hospital agency

[117] Section 333.320 of H.B. 49 of the 132nd General Assembly.

must submit annual reports to the Joint Medicaid Oversight Committee summarizing its work on the task and progress in meeting the program's goals.

Each participating hospital agency is to receive supplemental Medicaid payments for physician and other professional services that are covered by Medicaid and provided to Medicaid recipients. The payments must equal the difference between the Medicaid rate and average commercial rates for the services. The Director may terminate, or adjust the amount of, the payments if funding for the program is inadequate.

The Director must establish a process to evaluate the work done under the program by nonprofit and public hospital agencies and their progress in meeting the program's goals. The process must be established by January 1, 2020. The Director may terminate a hospital agency's participation if the Director determines that it is not performing at least one of the tasks discussed above or making progress in meeting the program's goals.

The bill establishes in the state treasury the Care Innovation and Community Improvement Program Fund and requires that all intergovernmental transfers made under the program be deposited into the existing Care Innovation and Community Improvement Program Fund. Money in the fund and the corresponding federal funds must continue to be used to make the supplemental payments to hospital agencies under the program.

Rural Healthcare Workforce Training and Retention Program

(Section 333.227)

The bill requires the Medicaid Director to create the Rural Healthcare Workforce Training and Retention Program for FYs 2020 and 2021. Any nonprofit hospital agency affiliated with a state university and any public hospital agency may volunteer to participate if the agency operates a hospital that has a Medicaid provider agreement and an approved graduate medical education program.[118]

Nonprofit hospital agencies and public hospital agencies participating in the program are responsible for the state share of the program's costs and must make or request the appropriate government entity to make intergovernmental transfers to pay for the costs. The Medicaid Director is required to establish a schedule for making the transfers.

Each nonprofit hospital agency and public hospital agency participating in the program is required to do all of the following tasks in accordance with strategies, and for the purpose of meeting goals, that the Medicaid Director must establish:

[118] Both of the following are approved graduate medical education programs: (1) a residency program approved by the Accreditation Council for Graduate Medical Education, the American Osteopathic Association, the Commission on Dental Accreditation of the American Dental Association, or the Council on Podiatric Medical Education of the American Podiatric Medical Association and (2) a program otherwise recognized as an approved medical residency program for purposes of direct graduate medical education payments under Medicare. (42 C.F.R. 415.152.)

- Increase residency positions in primary, specialty, or dental care as identified by the Medicaid Director;
- Create incentives to increase recruitment and retention of graduates of Ohio residency and fellowship programs in primary, specialty, or dental care as identified by the Director;
- Increase training opportunities for physician assistants, psychologists, and advanced practice registered nurses in primary care, alcohol and drug treatment, or mental health, as appropriate for their scope of practice;
- Report to the Director about how the above tasks will address the workforce needs of critical access hospitals and rural hospitals (i.e., hospitals that are Medicare certified or accredited by a national accrediting organization approved by the Centers for Medicare and Medicaid Services, registered with the Department of Health, and located in a county that has a population of less than 125,000);
- Create opportunities for persons to receive training in serving medically underserved populations, providing team-based care, and undergoing clinical rotations in federally qualified health centers, facilities operated by community addiction services providers and community mental health services providers, critical access hospitals, and rural hospitals.

The Medicaid Director is required to consult with the Director of Health and Director of Mental Health and Addiction Services to ensure that the program's strategies and goals are consistent with the state's healthcare workforce objectives.

The bill provides for participating nonprofit hospital agencies and public hospital agencies to receive supplemental Medicaid payments at least once during FY 2020 and at least once again during FY 2021 for graduate medical education costs that are apportioned to the provision of hospital inpatient services included in the Medicaid managed care system and provided to Medicaid recipients. The amount of the supplemental payments is to equal the difference between (1) Medicaid payments for direct and indirect graduate medical education and (2) the Medicaid payment based in part on Medicare direct and indirect graduate medical education reimbursement principles.

The Medicaid Director is required to consult with participating nonprofit hospital agencies and public hospital agencies to create a centralized database that tracks (1) how participating agencies are encouraging physicians in residency programs to practice medical specialties for which there is a need in this state and (2) physicians' decisions to practice medicine in this state, the locations at which they practice, and whether they become Medicaid providers or obtain employment with Medicaid providers.

The bill creates in the state treasury the Rural Healthcare Workforce Training and Retention Program Fund. All intergovernmental transfers made under the program are to be deposited into the fund. Money in the fund and the corresponding federal match are to be used to make supplemental Medicaid payments under the program.

Hospital Care Assurance Program, franchise permit fee

(Sections 601.22 and 601.23, amending Sections 125.10 and 125.11 of H.B. 59 of the 130th G.A.)

The bill continues the Hospital Care Assurance Program (HCAP) for two additional years. The program is scheduled to end October 16, 2019, but under the bill is to continue until October 16, 2021. Under HCAP, hospitals are annually assessed an amount based on their total facility costs, and government hospitals make annual intergovernmental transfers. The Department distributes to hospitals money generated by the assessments and intergovernmental transfers along with federal matching funds. A hospital compensated under the program must provide (without charge) basic, medically necessary, hospital-level services to Ohio residents who are not recipients of Medicare or Medicaid and whose income does not exceed the federal poverty line.

The bill also continues for two additional years another assessment imposed on hospitals; that assessment is to end on October 1, 2021, rather than October 1, 2019. The assessment is in addition to HCAP, but like that program, it raises money to help pay for the Medicaid program. To distinguish the assessment from HCAP, the assessment is sometimes called a hospital franchise permit fee.

Health information exchanges

(R.C. 3798.01 and 3798.07; R.C. 3798.06, 3798.08, 3798.14, 3798.15, and 3798.16, all repealed)

The bill eliminates all provisions regarding approved health information exchanges in statutes governing protected health information.[119] Current law defines "approved health information exchange" as a health information exchange that has been approved by the Medicaid Director or that has been certified by the Office of the National Coordinator for Health Information Technology in the U.S. Department of Health and Human Services. A health information exchange is any person or government entity that provides a technical infrastructure to connect computer systems or other electronic devices used by covered entities to facilitate the secure transmission of health information.[120]

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[119] "Protected health information" is defined in a federal regulation generally as individually identifiable health information that is transmitted by or maintained in electronic media or any other form or medium. (45 C.F.R. 160.103.) "Individually identifiable health information" is defined in the same federal regulation as health information, including demographic information collected from an individual, that (1) is created or received by a health care provider, health plan, employer, or health care clearinghouse, (2) relates to (a) the past, present, or future physical or mental health or condition of an individual, (b) the provision of health care to an individual, or (c) the past, present, or future payment for the provision of health care to an individual, and (3) identifies the individual or reasonably could be used to identify the individual.

[120] "Covered entity" is defined in federal regulations as a health plan, health care clearinghouse, or health care provider that transmits any health information in electronic form in connection with a transaction covered by federal rules governing the privacy of personal health information (the HIPAA Privacy Rule). (45 C.F.R. 160.103.)

Specifically, the bill repeals statutes that do the following:

- Require the Medicaid Director to adopt rules that establish (a) standards and processes for approving health information exchanges, (b) processes for the Director to investigate and resolve concerns and complaints regarding approved health information exchanges, and (c) processes and content for agreements under which covered entities participate in approved health information exchanges (participation agreements);
- Permit a covered entity to disclose an individual's protected health information to a health information exchange without a valid authorization if (a) the exchange is an approved health information exchange, (b) the covered entity is a party to a valid participation agreement with the exchange, (c) the disclosure is consistent with all procedures established by the exchange, and (d) the covered entity, before making the disclosure, furnishes written notice to the individual or the individual's personal representative;
- Give covered entities and approved health information exchanges immunity to civil and criminal liability for actions authorized by the statutes governing approved health information exchanges.

The bill also eliminates a requirement that a covered entity, when it discloses an individual's protected health information to a health information exchange, restrict disclosure in a manner that is consistent with a written request from the individual or the individual's personal representative concerning specific categories of protected health information to the extent the Medicaid Director's rules require the covered entity to comply with such a request. The Director's duty to adopt such rules is eliminated as part of the bill's repeal of the statute that requires the Director to adopt rules establishing the content of participation agreements.

Health Care/Medicaid Support and Recoveries Fund

(R.C. 5162.52)

The bill establishes two additional purposes for which the ODM is to use money credited to the Health Care/Medicaid Support and Recoveries Fund. Specifically, the money is to be used to pay for (1) programs that serve youth involved with multiple government agencies and (2) innovative programs that ODM has the statutory authority to implement and that promote access to health care or help achieve long-term cost savings to the state.

Under continuing law, ODM must use money credited to the fund to pay for Medicaid services and costs associated with the administration of Medicaid.

Abolished funds

Integrated Care Delivery Systems Fund

(R.C. 5162.58, repealed; R.C. 5162.01)

The bill abolishes the Integrated Care Delivery Systems Fund, which is part of the state treasury. Under current law, a portion of the amounts that the Integrated Care Delivery System saves the Medicare program must be deposited into the fund if the terms of an agreement with

the federal government provide for the state to receive those amounts. The Department must use money in the fund to further develop integrated delivery systems and improved care coordination for individuals eligible for both Medicare and Medicaid (dual eligible individuals).

The purpose of the Integrated Care Delivery System is to test and evaluate the integration of care that dual eligible individuals receive under Medicare and Medicaid.[121] The system is commonly called MyCare Ohio.

Managed Care Performance Payment Fund

(R.C. 5162.60, repealed)

The bill abolishes the Managed Care Performance Payment Fund. The fund, which is part of the state treasury, consists of:

- Amounts transferred to it for the Managed Care Performance Payment Program;
- All fines imposed on and collected from Medicaid managed care organizations for failure to meet performance standards or other requirements specified in provider agreements with the Department of Medicaid or rules adopted by the Medicaid Director;
- All of the fund's investment earnings.

Current law requires that the fund be used to do the following:

- Make performance payments to Medicaid managed care organizations under the Managed Care Performance Payment Program;
- Meet obligations specified in Medicaid provider agreements;
- Pay for Medicaid services provided by Medicaid managed care organizations;
- Reimburse a Medicaid managed care organization that has paid a fine for failure to meet performance standards or other requirements if the organization comes into compliance.

Medicaid Administrative Reimbursement Fund

(R.C. 5162.62, repealed)

The bill abolishes the Medicaid Administrative Reimbursement Fund. The balance of this fund was transferred to a different fund in FY 2018, and it currently has a zero cash balance.

Medicaid School Program Administrative Fund

(R.C. 5162.64, repealed)

The bill repeals the law establishing the Medicaid School Program Administrative Fund in the state treasury. The law requires Medicaid to use money in the fund to pay for the school

[121] R.C. 5164.91, not in the bill.

component of Medicaid, including refunding a Medicaid school provider any overpayment the provider made to Medicaid. Although the fund was authorized in 2013, it was never created.

340B Drug Pricing Program compliance report

(Section 333.260)

The bill imposes on the Department requirements regarding the federal 340B Drug Pricing Program, which requires drug manufacturers to provide outpatient drugs to eligible health care organizations and covered entities at significantly reduced prices.

The bill requires the Director, by January 1, 2021, to submit a report to the General Assembly detailing how the Department, its subcontractors, and Medicaid MCOs have complied with the federal 340B Drug Pricing Program requirements. In the report, the Department must detail processes and methods that it has implemented to:

1. Ensure that data used under the Medicaid program to invoice drug manufacturers does not include claims data from drugs purchased under the 340B Program;

2. Identify a Medicaid provider that is a 340B covered entity (including a provider under contract with a Medicaid MCO) and any pharmacy that has a contract to dispense on the provider's behalf prescription drugs purchased under the 340B Program.

Temporary authority regarding employees

(Section 333.20)

The bill extends until July 1, 2021, the Medicaid Director's authority to establish, change, and abolish positions for the Department, and to assign, reassign, classify, reclassify, transfer, reduce, promote, or demote employees who are not subject to the state's public employees collective bargaining law.

The Director has had this authority since July 1, 2013. It is currently scheduled to expire July 1, 2019.[122]

The authority includes assigning or reassigning an exempt employee to a bargaining unit classification if the Director determines that the bargaining unit classification is the proper classification for that employee.[123] The Director's actions must comply with a federal regulation establishing standards for a merit system of personnel administration. If an employee in the E-1 pay range is assigned, reassigned, classified, reclassified, transferred, reduced, or demoted to a position in a lower classification, the Director, or for a transfer outside the Department, the

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[122] Section 323.10.30 of H.B. 59 of the 130th General Assembly, Section 327.20 of H.B. 64 of the 131st General Assembly, and Section 333.20 of H.B. 49 of the 132nd General Assembly.

[123] An exempt employee is a permanent full-time or permanent part-time employee paid directly by warrant of the Director of Budget and Management whose position is included in the job classification plan established by the Director of Administrative Services, but who is not subject to the collective bargaining law. (R.C. 124.152, not in the bill.)

Director of Administrative Services, must assign the employee to the appropriate classification and place the employee in Step X. The employee is not to receive any increase in compensation until the maximum rate of pay for that classification exceeds the employee's compensation. Actions either Director takes under this provision are not subject to appeal to the State Personnel Board of Review.

Updating references

(R.C. 3901.381, 5168.03, 5168.05, 5168.06, and 5168.08)

The bill updates Revised Code references to the former U.S. Health Care Financing Administration with references to the U.S. Centers for Medicare and Medicaid Services. The federal government announced this name change in 2001.

STATE MEDICAL BOARD

Licenses to practice

- Eliminates statutory references to certificates to practice issued by the State Medical Board and, instead, refers to licenses to practice for the following: massage therapists, cosmetic therapists, anesthesiologist assistants, acupuncturists, Oriental medicine practitioners, and radiologist assistants.
- Eliminates remaining statutory references to certificates to practice issued to physicians and physician assistants and, instead, refers to licenses to practice.

Procedures for license issuance

- Eliminates a requirement under which an affirmative vote of at least six members of the Board is necessary to determine whether various license types may be issued by the Board to an applicant.

Expedited license eligibility – malpractice claims

- Modifies an eligibility requirement that applies to a physician seeking an expedited license by endorsement by specifying that the applicant must not have been the subject of more than two malpractice claims resulting in a finding of liability in the ten years preceding the date of application.

Limited branches of medicine – prior licensure eligibility

- Modifies an eligibility requirement that applies to a person seeking licensure to practice a limited branch of medicine based on holding a license in another state, by specifying that the applicant must have held a license to practice massage therapy or cosmetic therapy during the five-year period preceding the date of application.

License renewal dates

- Eliminates dates established in statute for the renewal of licenses issued by the Board and, instead, provides that each license is valid for a two-year period, expires on the date that is two years after the date of issuance, and may be renewed for additional two-year periods.

Continuing education

- Reduces to 50 (from 100) the number of hours of continuing education that a physician or podiatrist must complete every two years to be eligible to renew the physician's or podiatrist's license to practice.
- Reduces the number of hours of continuing education that a physician or podiatrist may earn providing health care services as a volunteer.
- Eliminates the requirement that a physician assistant complete at least 100 hours of continuing education every two years and, instead, requires the physician assistant to

complete the continuing education necessary to maintain certification from the National Commission on Certification of Physician Assistants.

- Authorizes the Board to impose on the holder of a license to practice cosmetic therapy, massage therapy, dietetics, or respiratory care or a limited permit to practice respiratory care a civil penalty of not more than $5,000 if the holder fails to complete the continuing education required to maintain a license or limited permit.

Fitness to practice – license issuance and restoration

- Authorizes the Board to impose terms and conditions regarding an applicant's fitness to practice, as follows: (1) when seeking issuance of a license without having been engaged in practice or participating in a training or educational program for more than two years and (2) when seeking restoration of a license suspended for more than two years.

Elimination of certificates

- Eliminates telemedicine certificates and requires the Board to convert existing certificates into standard physician licenses.
- Eliminates limited certificates, which authorize the practice of medicine in hospitals operated by the state by individuals who are not U.S. citizens.

Training certificates

- Allows an individual in an internship, residency, or clinical fellowship program seeking to renew a training certificate to apply for renewal not more than 30 days after the certificate's expiration date if the individual pays a $150 reinstatement fee.

Clinical fellowship programs

- Specifies that an accredited clinical fellowship program constitutes (1) graduate medical education recognized by the Board and (2) a program that an individual may participate in by obtaining a training certificate.

Physician assistants

- Limits a physician assistant's existing authority to personally furnish samples of drugs and therapeutic devices to the drugs and devices included in the physician assistant's physician-delegated prescriptive authority.
- Requires that medical care provided by an out-of-state physician assistant at a charitable event in Ohio be supervised by the event's medical director or another physician authorized to practice in Ohio.
- Requires a physician assistant to retain a copy of the physician assistant's supervision agreement with a physician in the records maintained by the physician assistant.
- Authorizes the Board, if it finds that a supervision agreement has not been maintained in the records of a physician or physician assistant, to permit the individual in violation to correct the violation and pay a civil penalty.

Physician assistant license application fee

- Reduces to $400 (from $500) the fee that must be paid to the State Medical Board when applying for an initial license to practice as a physician assistant.

License to practice

(R.C. Chapters 4731, 4760, 4762, and 4774, generally; Section 747.40; conforming changes in numerous other R.C. sections)

With respect to massage therapists, cosmetic therapists, anesthesiologist assistants, acupuncturists, Oriental medicine practitioners, and radiologist assistants, who are authorized to practice by the State Medical Board, the bill eliminates references to certificates to practice issued by the Board and, instead, refers to licenses to practice. The bill also eliminates remaining references in the Revised Code to certificates to practice issued by the Board to physicians and physician assistants and, instead, refers to licenses to practice.

The bill authorizes the Board to take any action it considers necessary to rename the certificates that have been issued as licenses.

Board procedures for issuance of licenses

(R.C. 4730.12, 4731.05, 4731.14, 4731.17, 4731.56, 4760.03, 4762.03, 4774.03, and 4778.03)

The bill eliminates an existing law requirement under which an affirmative vote of not fewer than six Board members is needed to determine if any of the following license types may be issued to an applicant: physician assistant; medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery; limited branches of medicine; anesthesiologist assistant; Oriental medicine practitioner; acupuncturist; radiologist assistant; and genetic counselor.

The bill specifies instead that the Board must adopt internal management rules regarding the issuance of licenses.

Expedited license eligibility – malpractice claims

(R.C. 4731.299)

The bill modifies an eligibility requirement that applies to individuals seeking an expedited license by endorsement to practice medicine and surgery or osteopathic medicine and surgery. Under current law, an applicant for an expedited license must certify to the Board that the applicant has not had more than two malpractice claims filed against the applicant within a period of ten years. The bill clarifies that the applicant must certify that they have not had more than two malpractice claims resulting in a finding of liability in the ten-year period preceding the date of application.

Limited branches of medicine – prior licensure eligibility

(R.C. 4731.19)

The bill specifies that an applicant for licensure to practice a limited branch of medicine may receive a license upon evidence that the applicant has held a license to practice massage therapy or cosmetic therapy in another state during the five-year period preceding the date of application. Current law does not specify when the five years of practice must have occurred.

License renewal dates

(R.C. 4730.14, 4731.15, 4731.281, 4759.06, 4760.04, 4761.06, 4762.04, 4762.06, 4774.04, 4774.06, 4778.05, and 4778.06)

The bill eliminates dates established in statute for the renewal of licenses issued by the Board to the following practitioners: physicians, podiatrists, physician assistants, massage therapists, cosmetic therapists, dietitians, anesthesiology assistants, respiratory care professionals, acupuncturists, Oriental medicine practitioners, radiologist assistants, and genetic counselors. The bill instead provides that each license is valid for a two-year period, expires on the date that is two years after the date of issuance, and may be renewed for additional two-year periods.

Continuing education

(R.C. 4730.14, 4730.49, 4731.155, 4731.282, 4731.293, 4745.04, 4759.06, 4761.06, and 4778.06)

With respect to physicians and podiatrists, the bill reduces to 50 (from 100) the number of hours of continuing education that must be completed every two years to be eligible to renew a license to practice. The bill includes a corresponding change for the three-year renewal period that applies to clinical research faculty physicians.

The bill also reduces the number of hours of continuing education that a physician or podiatrist may earn by providing health care services as a volunteer. Currently, up to one-third of the continuing education requirement may be met by providing volunteer services to indigent and uninsured persons. The bill limits the number of hours that may be earned in this manner to three.

In the case of physician assistants, the bill eliminates the requirement that a physician assistant complete at least 100 hours of continuing education every two years. Instead, it requires the physician assistant to complete the continuing education necessary to maintain certification from the National Commission on Certification of Physician Assistants. Although the bill eliminates the 100-hour requirement, it maintains the current requirement that a physician assistant complete at least 12 hours of continuing education in advanced pharmacology every two years.

Failure to complete continuing education

Under current law, if a physician or podiatrist fails to complete continuing education requirements, the Board may take disciplinary action against the physician or podiatrist, impose a civil penalty, or permit the physician or podiatrist to agree in writing to complete the

requirements and pay the civil penalty. The bill extends to the Board this same authority with respect to physician assistants, cosmetic therapists, massage therapists, dietitians, respiratory care professionals, or genetic counselors who fail to satisfy continuing education requirements. In such instances, the bill permits the Board to do either of the following:

- Take disciplinary action against the practitioner, impose a civil penalty, or both;
- Permit the practitioner to agree in writing to complete the continuing education and pay a civil penalty.

If the Board takes disciplinary action, its finding must be made pursuant to an adjudication under the Administrative Procedure Act and by an affirmative vote of at least six of its 12 members. A civil penalty, whether paid voluntarily by a practitioner or imposed by the Board, must be in an amount specified by the Board, not exceeding $5,000.

In the case of a physician assistant, under current law, the Board is authorized to impose a civil penalty of not more than $5,000, in addition to or instead of disciplinary action, if it finds that a physician assistant failed to complete continuing education requirements. But current law provides that, if the Board imposes only a civil penalty and takes no other action, it cannot conduct an adjudication under the Administrative Procedure Act. Also, existing law does not expressly provide for a physician assistant to agree in writing to a civil penalty.

Fitness to practice – license issuance and restoration

(R.C. 4730.28, 4731.222, 4759.063, 4760.061, 4761.061, 4762.061, 4774.061, and 4778.071)

Current law authorizes the Board to impose terms and conditions related to fitness to practice on a physician, podiatrist, cosmetic therapist, and massage therapist under the following circumstances:

- When the practitioner seeks issuance of a license or certificate and the practitioner has neither been engaged in practice nor participating in a training or educational program for more than two years;
- When the practitioner seeks restoration of a license or certificate that has been suspended or inactive for any reason for more than two years.

The bill extends to the Board this same authority as part of its regulation of anesthesiology assistants, Oriental medicine practitioners, acupuncturists, radiation assistants, genetic counselors, dietitians, respiratory care professionals, and physician assistants. Current law already authorizes the Board to impose terms and conditions on a genetic counselor, dietitian, and respiratory care professional when such an individual seeks to restore a license suspended for more than two years as a result of a failure to renew the license. Existing law also already authorizes the Board to impose terms and conditions on a physician assistant seeking to restore a license that has been suspended or inactive for more than two years for any cause.

The terms and conditions related to fitness to practice that may be imposed include the following:

- Requiring an applicant to pass an oral or written examination, or both;
- Requiring an applicant to obtain additional training and to pass an examination on the completion of the training;
- Requiring an assessment of the applicant's physical skills;
- Requiring an assessment of the applicant's skills in recognizing and understanding diseases and conditions;
- Requiring an applicant to undergo a physical examination;
- Restricting or limiting the applicant's extent, scope, or type of practice.

Elimination of telemedicine certificates

(R.C. 4731.296 (repealed) and 109.572, 4731.14, and 4731.294; Section 747.40)

The bill eliminates the Board's issuance of telemedicine certificates. Under existing law, a telemedicine certificate authorizes the practice of medicine in Ohio through the use of any communication by a physician located outside of the state. The bill requires the Board to convert all existing telemedicine certificates to licenses to practice medicine and surgery or osteopathic medicine and surgery.

Elimination of limited certificates

(R.C. 4731.292 (repealed))

The bill eliminates the Board's issuance of limited certificates. Under current law, a limited certificate authorizes an individual who is not a U.S. citizen to practice medicine in hospitals that are operated by the state. According to representatives of the Board, no one currently holds such a certificate and the Board has not issued one in a number of years.

Training certificates

(R.C. 4731.291 and 4731.573)

The bill allows an individual seeking to renew a training certificate to submit an application for renewal not less than 30 days after the certificate's expiration date if the individual includes with the application a $150 reinstatement fee.

Under current law, a training certificate may be granted to an unlicensed individual seeking to pursue an internship, residency, or clinical fellowship program related to the practice of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery. A training certificate is valid for an initial period of three years, but may be renewed for one additional three-year period.

Clinical fellowship programs

(R.C. 4731.04, 4731.291, and 4731.573)

The bill clarifies, for purposes of physician licensure and regulation, that a clinical fellowship program constitutes graduate medical education if it is either accredited or conducted at an institution with an accredited residency program.

Similarly, regarding issuance of a training certificate to allow an individual to pursue a clinical fellowship program, the bill clarifies that the applicant must provide evidence that the individual will be participating in a clinical fellowship program that is either accredited or conducted at an institution with an accredited residency program.

Physician assistants

Furnishing of sample

(R.C. 4730.43)

The bill limits a physician assistant's existing authority to personally furnish samples of drugs and therapeutic devices to those that are included in the physician assistant's physician-delegated prescriptive authority. This limitation was in prior law, but was eliminated by S.B. 259 of the 132nd General Assembly (effective March 20, 2019). The bill restores the limitation that was eliminated by S.B. 259.

Volunteering at charitable events

(R.C. 4730.02)

Current law permits an out-of-state physician assistant to practice as a volunteer during an Ohio charitable event that lasts not more than seven days. The bill requires that the medical care provided at such an event be supervised by the event's medical director or by another physician authorized to practice in Ohio.

Supervision agreements

(R.C. 4730.19)

In order to practice as a physician assistant, current law requires a supervision agreement with a supervising physician. The supervising physician must keep a copy of the agreement in the physician's records. The bill requires that a physician assistant also keep a copy of the agreement in the physician assistant's records.

If the Board finds that the agreement is not maintained in records as described above, the bill authorizes the Board to permit the individual to correct the violation and pay a civil penalty. Alternatively, the bill maintains current law that authorizes the Board to take disciplinary action against the individual.

Physician assistant license application fee

(R.C. 4730.10)

Under current law, an applicant for an initial license to practice as a physician assistant must pay to the State Medical Board a $500 application fee. The bill reduces the fee amount to $400.

DEPARTMENT OF MENTAL HEALTH AND ADDICTION SERVICES

Stabilization centers

- Requires alcohol, drug addiction, and mental health services (ADAMHS) boards to establish and administer, in collaboration with the other ADAMHS boards that serve the same state psychiatric hospital region, six mental health crisis stabilization centers.
- Requires the establishment and administration, in collaboration with the other boards that serve the same state psychiatric hospital region, acute substance use disorder stabilization centers.

Substance use disorder treatment in drug courts

- Creates a medication-assisted drug court program to provide addiction treatment to persons with substance use disorders.
- Requires community addiction services providers to provide specified treatment to the participants in the program based on the individual needs of each participant.

Psychotropic Drug Reimbursement Program

- Clarifies that the psychotropic drugs for which counties may receive reimbursement under the Psychotropic Drug Reimbursement Program include those administered or dispensed in a long-acting injectable form.
- Requires counties to ensure that inmates have access to all psychotropic drugs covered by Medicaid's fee-for-service system.

Former Bureau of Recovery Services

- Maintains preexisting responsibilities regarding recovery services that were given to the Department of Mental Health and Addiction Services (MHAS) when the Bureau of Recovery Services in the Department of Rehabilitation and Correction was abolished.

Family and Children First Flexible Funding Pool

- Permits a county family and children first council to create a flexible funding pool to assure access to services by families, children, and seniors in need of protective services.

Clinician Recruitment Program

- Expands the program that recruits physicians to provide services at MHAS-operated institutions to also include the recruitment of physician assistants and advanced practice registered nurses.

Criminal records checks for residential facility staff

- Requires that criminal records checks for residential facility staff be conducted under the BCII criminal records check procedures.

Court costs for mental health adjudications

- Requires MHAS to reserve a portion of its appropriations to cover court costs for mental health adjudications in counties that did not receive an allocation for adjudication-related expenses.

Suicide study

- Requires MHAS and the Department of Veteran Services to jointly conduct a study on the rates of suicide in the state.

Medication-Assisted Treatment Drug Reimbursement Program

- Creates in MHAS the Medication-Assisted Treatment (MAT) Drug Reimbursement Program to reimburse counties for the costs of MAT for substance use disorders among inmates of county jails.

Corrective changes

- Consolidates and coordinates provisions of recent enactments involving opioid treatment programs.

Stabilization centers

(Sections 337.50(C) and 337.150)

Mental health crisis stabilization centers

The bill requires the Department of Mental Health and Addiction Services (MHAS) to allocate among the alcohol, drug addiction, and mental health services (ADAMHS) boards, in each of FY 2020 and FY 2021, $1.5 million for six mental health crisis stabilization centers. Each board must use its allocation to establish and administer a stabilization center in collaboration with the other ADAMHS boards that serve the same state psychiatric hospital region. One center is to be located in each of the six state psychiatric hospital regions established by the Department.

ADAMHS boards must ensure that each mental health crisis stabilization center complies with all of the following:

- It must admit individuals before and after they receive treatment and care at hospital emergency departments or freestanding emergency departments.
- It must admit individuals before and after they are confined in state correctional institutions, local correctional facilities, or privately operated and managed correctional facilities.
- It must have a Medicaid provider agreement.
- It must be located in a building previously constructed for another purpose.

- It must admit individuals who have been identified as needing the stabilization services provided by the center.
- It must connect individuals when they are discharged from the center with community-based continuum of care services and supports.

Substance use disorder stabilization centers

The bill requires the establishment and administration, in collaboration with the other ADAMHS boards that serve the same state psychiatric hospital region, acute substance use disorder stabilization centers. There must be one center in each state psychiatric hospital region.

Substance use disorder treatment in drug courts

(Section 337.70)

The bill requires MHAS to conduct a program to provide substance use disorder treatment, including medication-assisted treatment and recovery supports, to persons who are eligible to participate in a medication-assisted treatment (MAT) drug court program. MHAS's program is to be conducted in a manner similar to programs that were established and funded by the previous three main appropriations acts.

In conducting the program, MHAS must collaborate with the Ohio Supreme Court, the Department of Rehabilitation and Correction, and any state agency that may be of assistance in accomplishing the objectives of the program. MHAS also may collaborate with the ADAMHS board that serves the county in which a participating court is located and with the local law enforcement agencies serving that county.

MHAS must conduct its program in collaboration with any counties in Ohio that are conducting MAT drug court programs. MHAS also may conduct its program in collaboration with any other court with a MAT drug court program.

Selection of participants

A MAT drug court program must select the participants for MHAS's program. The participants are to be selected because of having a substance use disorder. Those who are selected must be either (1) criminal offenders, including offenders under community control sanctions, or (2) involved in a family drug or dependency court. They must meet the legal and clinical eligibility criteria for the MAT drug court program and be active participants in that program. The total number of participants in MHAS's program at any time is limited to 1,500, subject to available funding. MHAS may authorize additional participants in circumstances it considers appropriate. After being enrolled, a participant must comply with all of the MAT drug court program's requirements.

Treatment

Only a community addiction services provider is eligible to provide treatment and recovery supports under MHAS's program. The provider must:

- Provide treatment based on an integrated service delivery model that consists of the coordination of care between a prescriber and the provider;
- Assess potential program participants to determine whether they would benefit from treatment and monitoring;
- Determine, based on the assessment, the treatment needs of the participants;
- Develop individualized goals and objectives for the participants;
- Provide access to long-lasting antagonist therapies, partial agonist therapies, or full agonist therapies, that are included in the program's medication-assisted treatment;
- Provide other types of therapies, including psychosocial therapies, for both substance abuse disorder and any co-occurring disorders;
- Monitor program compliance through the use of regular drug testing, including urinalysis, of the participants; and
- Provide access to time-limited recovery supports that are patient-specific and help eliminate barriers to treatment, such as assistance with housing, transportation, child care, job training, obtaining a driver's license or state identification card, and any other relevant matter.

In the case of medication-assisted treatment, the following conditions apply:

--A drug may be used only if the drug has been federally approved for use in treating dependence on opioids, alcohol, or both, or for preventing relapse.

--One or more drugs may be used, but each drug that is used must constitute a long-acting antagonist therapy or partial or full agonist therapy.

--If a partial or full agonist therapy is used, the program must provide safeguards, such as routine drug testing of participants, to minimize abuse and diversion.

Planning

To ensure that funds appropriated to support MHAS's program are used in the most efficient manner, with a goal of enrolling the maximum number of participants, the bill requires the Medicaid Director to develop plans in collaboration with major Ohio health care plans. However, there can be no prior authorizations or step therapy for medication-assisted treatment for program participants. The plans must ensure:

- The development of an efficient and timely process for review of eligibility for health benefits for all program participants;
- A rapid conversion to reimbursement for all health care services by the participant's health care plan following approval for coverage of health care benefits;
- The development of a consistent benefit package that provides ready access to and reimbursement for essential health care services, including primary health care, alcohol

and opioid detoxification services, appropriate psychosocial services, and medication for long-acting injectable antagonist therapies and partial or full agonist therapies; and

- The development of guidelines that require the provision of all treatment services, including medication, with minimal administrative barriers and within time frames that meet the requirements of individual patient care plans.

Psychotropic Drug Reimbursement Program

(R.C. 5119.19)

The main appropriations act for the FY 2018-FY 2019 biennium (H.B. 49 of the 132nd General Assembly) created the Psychotropic Drug Reimbursement Program. The program's purpose is to provide state reimbursement through MHAS to counties for the cost of psychotropic drugs that are dispensed to inmates of county jails. Under current law, "psychotropic drug" generally means a drug that has the capability of changing or controlling mental function or behavior through direct pharmacological action. Examples include antipsychotic medications, antidepressant medications, anti-anxiety medications, and mood-stabilizing medications. It does not include a stimulant prescribed for attention deficit hyperactivity disorder.

The bill clarifies that "psychotropic drug" includes an antipsychotic medication administered or dispensed in a long-acting injectable form. It requires that each county ensure that county jail inmates have access to all psychotropic drugs covered by the fee-for-service component of Medicaid.

Former Bureau of Recovery Services

(Section 337.80)

H.B. 64 of the 131st General Assembly abolished the Bureau of Recovery Services in the Department of Rehabilitation and Correction on June 30, 2015, and transferred its functions, assets, and liabilities to MHAS. The bill maintains these preexisting provisions regarding the transfer.

Under the bill, MHAS must continue to complete any business regarding recovery services that the Department of Rehabilitation and Correction started before, but did not complete by, July 1, 2015. Rules, orders, and determinations pertaining to the former Bureau continue in effect until MHAS modifies or rescinds them, and any reference to the former Bureau continues to be deemed to refer to MHAS or its director, as appropriate. All of the former Bureau's employees continue to be transferred to MHAS and retain their positions and benefits, subject to the layoff provisions pertaining to state employees under continuing law. Rights, obligations, and remedies continue to exist unimpaired despite the transfer, and MHAS must continue to administer them.

Family and Children First Flexible Funding Pool

(Section 337.180)

The bill permits a county family and children first council to establish and operate a flexible funding pool to assure access to needed services by families, children, and older adults who need protective services. A county council that desires such a pool must abide by all of the following:

--The pool must be created and operate according to formal guidance issued by the Family and Children First Cabinet Council.

--The county council must produce an annual report on its use of the pooled funds. The report must conform to guidance issued by the Family and Children First Cabinet Council.

--Unless otherwise restricted, the pool may receive transfers of state general revenues allocated to local entities to support services to families and children.

--The pool may receive only transfers of amounts that can be redirected without hindering the objective for which the initial allocation is designated.

--The director of the local agency that originally received the allocation must approve the transfer to the pool.

Clinician Recruitment Program

(R.C. 5119.85)

The bill changes the name of MHAS's Physician Recruitment Program to the Clinician Recruitment Program and expands the program to include physician assistants and advanced practice registered nurses. Under the current program, the Department may agree to repay all or part of a physician's educational loans in exchange for the physician providing health care services at institutions operated by the Department. The bill authorizes MHAS to enter into agreements with physician assistants and advanced practice registered nurses.

Criminal records checks for residential facility staff

(R.C. 109.572)

The bill requires that criminal records checks for residential facility staff be conducted under BCII criminal records check procedures. Current law, unchanged by the bill, tasks the MHAS Director with establishing in rules procedures for conducting background investigations for residential facility operators, employees, volunteers, and others who may have direct access to facility residents.[124]

[124] R.C. 5119.34(L)(3), not in the bill.

Court costs for mental health adjudications

(R.C. 5122.43; R.C. 2101.11, not in the bill)

Under law unchanged by the bill, each county must pay for the costs of personnel involved in mental health adjudications in that county, including police and health officers, sheriffs, physicians, and attorneys appointed for the indigent. Each fiscal year, however, the MHAS must allocate an amount from its appropriations to reimburse counties for these costs. The amount that MHAS allocates to a particular county is based on past allocations, historical utilization, and other factors that MHAS considers appropriate.

The bill specifies that a county's allocation may be zero. If one or more counties receive a zero allocation, MHAS must reserve an amount of its appropriations to cover the court costs of mental health adjudications in those counties.

Suicide study

(Section 337.30(B))

The bill requires MHAS to allocate up to $500,000 in each of FY 2020 and FY 2021 for supporting suicide prevention efforts. As part of this allocation, the bill requires MHAS, in coordination with the Department of Veterans Services (DVS), to conduct a study on the rates of suicide in the state for the previous ten calendar years. The study is required to examine the rates of suicide for the general population as a whole and suicide rates for veterans of the U.S. armed forces as a subgroup. The bill requires MHAS and DVS to complete and submit a report to the General Assembly within one year of the effective date of the bill. The report is required to include the Departments' conclusions regarding the causes of suicides and recommendations for reducing the rates of suicide in the state.

Medication-Assisted Treatment Drug Reimbursement Program

(R.C. 5119.39)

The bill creates in MHAS the Medication-Assisted Treatment (MAT) Drug Reimbursement Program to reimburse counties for the costs of MAT for substance use disorders among inmates of county jails. MHAS must allocate funds to each county for reimbursement based on factors it considers appropriate. The drugs used for MAT must be approved by the U.S. Food and Drug Administration for use in MAT, including full opioid agonists, partial opioid agonists, and injectable long-acting or extended-release opioid antagonists.

The MHAS Director may adopt rules in accordance with the Administrative Procedure Act as necessary to implement the program.

Corrective changes

(R.C. 3715.08 (renumbered as 3719.064) and 3719.064, repealed)

The bill consolidates and coordinates provisions of recent enactments that include duplicative but inconsistent references to opioid treatment programs. Under H.B. 111 of the 132nd General Assembly, programs that use opioid agonist medications, such as methadone and

buprenorphine, must be licensed as opioid treatment programs beginning June 29, 2019. Under S.B. 119 of the 132nd General Assembly, certain references to opioid treatment are included but do not reflect the program licensure required by H.B. 111.

DEPARTMENT OF NATURAL RESOURCES

Hunting and fishing license fees

- Increases certain recreational hunting and fishing licenses and permits fees, but decreases nonresident youth deer permit and wild turkey permit fees.

Transfers from the Waterways Safety and Wildlife Funds

- Authorizes the Controlling Board, at the request of the Director, to approve the expenditure of the federal revenue received in the Waterways Safety Fund or Wildlife Fund for purposes for which the federal revenue was granted.
- Eliminates the Controlling Board's authority to make transfers of nonfederal revenue received into those funds.

Scenic Rivers Protection Fund

- Authorizes the Department of Natural Resources to collect donations for the protection and enhancement of Ohio's scenic rivers and deposit those donations into the Scenic Rivers Protection Fund.

"Ohio Geology" License Plate Fund

- Eliminates the "Ohio Geology" License Plate Fund and transfers the money from that fund to the Geological Mapping Fund.
- Specifies that the contributions from "Ohio Geology" license plates must still be used primarily for grants to state college and university geology departments and secondarily for providing geological kits to state elementary and secondary school, as specified in current law.

Mine Safety Fund

- Eliminates the defunct Mine Safety Fund.

Oil and Gas Leasing Commission administrative costs

- Authorizes the existing Geological Mapping Fund to be used for the administration of the Oil and Gas Leasing Commission.

Oil and gas

- Prohibits a person from operating an oil and gas well without first registering with and obtaining an identification number from the Chief of the Division of Oil and Gas Resources Management.
- Requires an assignee or transferee of an oil and gas lease that includes a well to notify the Division of that assignment or transfer if:

  --The assignor or transferor failed to provide the notice as required by current law; and

--The assignor or transferor is deceased, dissolved, cannot be found, or is otherwise incapable of providing the notice.

- Specifies that when the assignee or transferee provides the notice to the Division, the assignee or transferee must attest to ownership of the lease and is not required to pay a notice fee.
- Eliminates the $100 nonrefundable fees that must be paid by the assignor or transferor of an oil and gas lease when notifying the Division of the assignment or transfer and when submitting an application for the assignment or transfer of a well.
- Alters the manner by which the quarterly oil and gas regulatory cost recovery assessment is calculated for well owners.
- Clarifies when an appeal of a Chief's order must be made to the Oil and Gas Commission by specifying that a person to whom the order is issued must make the appeal within 30 days after receiving the order.
- Eliminates the requirement that the Chief's order be sent via certified mail.

Hunting and fishing license fees

(R.C. 1533.10, 1533.11, 1533.111, 1533.112, 1533.32, and 1533.321; Section 715.10)

The bill increases the fees for all of the following recreational hunting and fishing licenses and permits:

- An annual fishing license fee from $18 to $24 for an Ohio resident;
- An annual fishing license fee from $18 to $24 for a nonresident who is a resident of a state with which Ohio has an agreement to charge resident fee rates (reciprocal state);
- A three-day tourist fishing license from $18 to $24 for a nonresident who is not a resident of a reciprocal state;
- A one-day fishing license fee from $10 to $13 (55% of the three-day tourist fishing license);
- An annual deer permit fee from $23 to $30 for an Ohio resident;
- An annual youth deer permit fee from $11.50 to $15 for an Ohio resident under 18;
- An annual wild turkey permit fee from $23 to $30 for an Ohio resident; and
- An annual wild turkey permit fee from $28 to $37 for a nonresident.

The bill decreases the fees for both of the following nonresident youth permits:

- An annual deer permit fee from $74 to $15 for a nonresident youth under 18 (the same as Ohio resident youths under the bill); and

- An annual wild turkey permit fee from $28 to $15 for a nonresident youth under 18 (the same as Ohio resident youths under the bill).

The bill also specifies that except for the $9.00 nonresident youth hunting license fee, the annual fee for nonresidents applying for a hunting license, fishing license, or deer permit through December 31, 2019, is the fee specified in the fee schedule established in H.B. 49 of the 132nd General Assembly as follows:

License or permit type	Cost in 2019
Hunting license – nonresident, and not a resident of a reciprocal state	$157
Apprentice hunting license – nonresident, and not a resident of a reciprocal state	$157
Fishing license – nonresident, and not a resident of a reciprocal state	$46
Deer permit – nonresident	$57

Transfers from Waterways Safety and Wildlife funds

(R.C. 131.35)

The bill authorizes the Controlling Board, at the request of the Director, to approve the expenditure of the federal revenue received in the Waterways Safety Fund or Wildlife Fund for purposes for which the federal revenue was granted. Current law puts stipulations on the expenditure of federal revenue received by the state.

The bill also eliminates the Controlling Board's authority to make transfers of nonfederal revenue received into those funds. Current law authorizes the Controlling Board to make transfers of nonfederal revenue received into the funds.

Scenic Rivers Protection Fund

(R.C. 4501.24 and 4503.56, not in the bill)

The bill authorizes the Department of Natural Resources to collect donations for the Scenic Rivers Protection Fund to be used to help finance conservation efforts, education, corridor protection, restoration, and habitat enhancement and clean-up projects along the wild, scenic, and recreational river areas. Under current law, the fund's only source of revenue comes from contributions collected from the sale of "Scenic Rivers" License Plates. The contribution amount for those license plates is $40 each time a person voluntarily applies for or renews a motor vehicle registration.

"Ohio Geology" License Plate Fund

(R.C. 1505.09 and 4503.515, not in the bill; R.C. 1505.12 and 1505.13, repealed)

The bill eliminates the "Ohio Geology" License Plate Fund and transfers the money currently directed to it to the Geological Mapping Fund. The bill does not change the current contribution amount or purposes of the contribution, only the fund into which the contributions are directed.

The "Ohio Geology" License Plate cannot be requested in a new application for motor vehicle registration. It can only be renewed because fewer than 25 individuals currently have and consistently renew the plates. The plate has a $15 annual contribution, which are used primarily for annual grants to state college and university geology departments for research conducted at locations of geological interest in the state. The Director of Natural Resources also may use contributions to provide materials such as rock and mineral kits to elementary and secondary schools to assist students in geological studies.

Mine Safety Fund

(R.C. 1561.24, repealed, makes conforming changes in R.C. 1561.011)

The bill eliminates the Mine Safety Fund. Current law authorizes money to be transferred to the fund from the Coal-Workers Pneumoconiosis Fund by the Administrator of Workers' Compensation to be used for mine safety purposes. However, the Mine Safety Fund has not received any transfers since 2012.

Oil and Gas Leasing Commission administrative costs

(R.C. 1505.09)

The bill authorizes the existing Geological Mapping Fund, which is administered by the Chief of the Division of Geological Survey, to be used for the administration of the Oil and Gas Leasing Commission. Currently, only the Oil and Gas Leasing Commission Administration Fund may be used for that purpose. However, that fund does not have any money in it. In addition, the Chief of the Division of Geological Survey serves as the chairperson of the Oil and Gas Leasing Commission.

Oil and gas

Registration and identification and transfer and assignment

(R.C. 1509.31)

The bill prohibits a person from operating an oil and gas well without first registering with and obtaining an identification number from the Chief of the Division of Oil and Gas Resources Management. Thus, if a person transfers or assigns a well to another person, that other person (the assignee or transferee) is prohibited from operating the well until the assignee or transferee registers and obtains the identification number.

The bill also alters the procedures associated with the assignment or transfer of an oil and gas lease. Under current law, whenever the entire interest of an oil and gas lease is assigned or otherwise transferred, the assignor or transferor (person who sold or transferred

the lease) must notify the holders of the royalty interests and, if a well or wells exist on the lease, the Division. The notice must:

- Include specified information, including the name and address of the assignee or transferee;
- Be sent on a form prescribed by the Division by certified mail, return receipt requested, within 30 days of the assignment or transfer;
- Be accompanied with a $100 nonrefundable notice fee.

The bill eliminates the $100 nonrefundable notice fee that must be paid by the assignor or transferor of an oil and gas lease (the bill also eliminates a $100 nonrefundable application fee that must be paid by the assignor or transferor of a well). It also requires an assignee or transferee of an oil and gas lease to notify the Division of the assignment or transfer if (1) the assignor or transferor fails to submit the notice, and (2) the assignor or transferor is deceased, dissolved, cannot be located, or is otherwise incapable of complying with the notification requirement.

The bill specifies that when the assignee or transferee is the individual or entity providing the notice, the assignee or transferee must attest to ownership of the lease. It further specifies that the Division may not charge a fee when the assignee or transferee submits the notice.

Oil and gas regulatory cost recovery assessment

(R.C. 1509.50)

Under current law, the owner of an oil and gas well is subject to an oil and gas cost recovery assessment that is paid quarterly and is based on the amount of oil and gas produced by the well. The bill alters the manner in which the oil and gas regulatory cost recovery assessment is calculated from a formula to a flat rate assessment as follows:

Sub. H.B. 166 flat rate assessment	
Natural gas produced	Oil produced
$0.005 per 1,000 cubic feet of natural gas for all of the wells of the owner	10¢ per barrel of oil for all of the wells of the owner

Under current law, the assessment is calculated using the following formula:

Current law calculation of the assessment	
10¢ per barrel of oil for all the wells of the owner	
+	
$0.005 per 1,000 cubic feet of natural gas for all of the wells of the owner	
+	
Severance tax levied on each severer for all of the wells of the owner	
TOTAL	
If the TOTAL is greater than the sum of $15 for each well owned by the owner, the assessment is the sum of 10¢ per barrel of oil for all of the wells of the owner and $0.005 per 1,000 cubic feet of natural gas for all of the wells of the owner.	If the TOTAL is less than the sum of $15 for each well owned by the owner, the assessment is the sum of $15 for each well owned by the owner minus the amount of the severance tax levied on each severer for all of the wells of the owner.

Oil and gas appeal process

(R.C. 1509.36)

Under current law, any person adversely affected by an order of the Chief may appeal the order to the Oil and Gas Commission. The appeal must be filed within 30 days after the date on which the appellant received notice of the order by certified mail. Current law presumes that the appellant is the person who received the order. Thus, the bill clarifies that the person to whom the order is issued must file an appeal to the Commission within 30 days after receiving the order. It retains current law that provides that any other adversely affected person must file the appeal within 30 days after the date of the order. It also eliminates the requirement that notice of the Chief's order be sent to the appellant via certified mail.

BOARD OF NURSING

- Eliminates obsolete references to certificates of authority held by advanced practice registered nurses.
- Prohibits a certified registered nurse anesthetist from knowingly using the term "anesthesiologist" or "nurse anesthesiologist."
- Corrects a reference to the Ohio Board of Nursing's Substance Use Disorder Monitoring Program.

Certificates of authority

(R.C. 4723.08 and 4723.28)

The bill removes obsolete references to the certificates of authority that used to be issued by the Ohio Board of Nursing to advanced practice registered nurses. Effective in 2017, H.B. 216 of the 131st General Assembly established an advanced practice registered nurse license that, like the certificate of authority it replaced, authorizes a registered nurse with advanced education and training to practice as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, and certified nurse practitioner.

Use of the term "anesthesiologist"

(R.C. 4723.44 and 4723.99, not in the bill)

The bill prohibits an advanced practice registered nurse who is designated as a certified registered nurse anesthetist (CRNA) from knowingly using the term "anesthesiologist" or "nurse anesthesiologist" or any other title implying that the CRNA is authorized to practice the medical specialty of anesthesiology. A CRNA who violates this prohibition is guilty of a fifth degree felony on a first offense and a fourth degree felony on each subsequent offense.

Substance use Disorder Monitoring Program

(R.C. 4723.06)

The bill corrects a reference to the Ohio Board of Nursing's Substance Use Disorder Monitoring Program.

OCCUPATIONAL THERAPY, PHYSICAL THERAPY, AND ATHLETIC TRAINERS BOARD

- Permits an individual to engage in the 3-D printing of open-source prosthetic kits without having to obtain a license from the Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board.
- Requires the Board to grant the 3-D printing authority to an individual who applies for the authority and meets the Board's requirements specified in rules.

Prosthetics by 3-D printing

(R.C. 4779.02, 4779.08, and 4779.40)

The bill establishes a means by which an individual may engage in the 3-D printing of open-source prosthetic kits without having to obtain a prosthetics license or an orthotics and prosthetics license from the Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board. According to Board staff, engaging in the 3-D printing of prosthetics is included in the practice of prosthetics; therefore, under current law, an individual who does so without the appropriate license is subject to criminal penalties.[125]

The bill requires the Board to prescribe an application form that individuals seeking to obtain the 3-D printing authority without licensure may use to apply to the Board to receive that authority. The Board must grant the authority to an applicant who meets the Board's requirements, which are to be specified through the adoption of rules.

An individual who receives the 3-D printing authority from the Board is expressly exempt from having to be licensed. The bill specifies that the individual cannot represent himself or herself as being authorized to practice prosthetics or to practice orthotics and prosthetics.

[125] Telephone interview with staff of the Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board (June 12, 2019).

STATE BOARD OF PHARMACY

- Authorizes the State Board of Pharmacy to provide information from its Ohio Automated Rx Reporting System (OARRS) to a prescriber or pharmacist from, or participating, in a prescription monitoring program operated by a federal agency, but only under certain conditions.
- Includes churches and other places of worship within the list of service entities that may procure naloxone without obtaining a Board of Pharmacy-issued license and whose employees or volunteers may administer the drug in emergency situations.
- Creates in the state treasury the Board of Pharmacy Federal Equitable Sharing Justice Fund and the Board of Pharmacy Federal Equitable Sharing Treasury Fund to be used for depositing moneys derived from forfeitures of property pursuant to federal law.

OARRS access, federal monitoring programs

(R.C. 4729.80; conforming change in R.C. 4729.86)

Existing law authorizes the State Board of Pharmacy to establish a drug database to monitor the misuse and diversion of medical marijuana, controlled substances, naltrexone, and other prescription drugs.[126] The Board's database, known as the Ohio Automated Rx Reporting System (OARRS), provides information about drug use to prescribers, pharmacists, and others.

In addition to the OARRS information the Board is authorized or required under current law to provide, the bill authorizes the Board to provide information requested by a prescriber or pharmacist from, or participating in, a prescription drug monitoring program operated by a federal agency. The Board may provide this information only if both of the following apply:

- The Board has approved the federal agency's prescription drug monitoring program;
- There is a written agreement between the Board and agency under which the information is to be used and disseminated according to Ohio law.

Naloxone and service entities

(R.C. 4729.514)

The bill adds churches and other places of worship to the list of service entities that, under existing law, may procure naloxone without having to obtain a license from the State Board of Pharmacy and whose employees, volunteers, or contractors may administer the drug in emergency situations. As a result, those persons are not liable or subject to any of the following for injury, death, or loss to person or property that arises from an act or omission associated with procuring, maintaining, accessing, or using naloxone, unless it constitutes

[126] R.C. 4729.75.

willful or wanton misconduct: damages in a civil action, prosecution in a criminal proceeding, or professional discipline.

Accounting of federal forfeiture moneys

(R.C. 4729.65)

The bill creates in the state treasury the Board of Pharmacy Federal Equitable Sharing Justice Fund and the Board of Pharmacy Federal Equitable Sharing Treasury Fund. Moneys derived from forfeitures of federal property are to be deposited in the funds as determined by the source of the money, rather than deposited into the Board of Pharmacy Drug Law Enforcement Fund, as under current law. The separate funds are required by the Department of Justice and Department of the Treasury Asset Forfeiture Programs, which permit the sharing of federal forfeiture proceeds with state and local law enforcement agencies through equitable sharing.[127]

[127] U.S. Department of Justice and U.S. Department of the Treasury, *Guide to Equitable Sharing for State, Local, and Tribal Law Enforcement Agencies*, July 2018, https://www.justice.gov/criminal-afmls/file/794696/download.

STATE PUBLIC DEFENDER

- Authorizes the State Public Defender to enter into agreements to license, lease, sell, or market for sale intellectual property it owns, and use the payments for operations of the Office of the Public Defender and indigent defense programs.
- Changes how much a county is required to pay the State Public Defender for the provision of legal representation of an indigent defendant such that the county must pay 100% of the legal fees and expenses, but may submit the combined cost to the State Public Defender for up to full reimbursement.
- Requires the State Public Defender to reimburse county governments the cost they incur in providing indigent defense in cases, including capital cases, subject to a proportional reduction of reimbursement if the General Assembly's appropriation to the State Public Defender is insufficient to cover the counties' costs for indigent defense.
- Changes the name of the Ohio Legal Assistance Foundation to the Ohio Access to Justice Foundation.
- Requires the State Public Defender, in each fiscal year, to make certain determinations with regards to county reimbursements for indigent defense and report those findings and determinations the following fiscal year to the Governor and specified members of the General Assembly.

State Public Defender powers

(R.C. 120.04)

The bill authorizes the State Public Defender to enter into agreements to license, lease, sell, and market for sale intellectual property owned by the Office of the Public Defender and receive payments from those agreements for the operation of the Office and programs for indigent persons' defense. All funds received under the agreements must be deposited to the credit of the existing Public Defender Gifts and Grants Fund.

State Public Defender billing practices

(R.C. 120.06)

The bill provides that, when (1) the State Public Defender is designated by a court or requested by a county or joint county public defender to provide legal representation for an indigent person, other than pursuant to a contract, and (2) the State Public Defender sends the involved county a bill for the actual cost of the representation that itemizes the legal fees and expenses so involved, the county must pay the State Public Defender 100% of the legal fees and expenses itemized in the bill. But the county may submit the combined cost of the legal fees and expenses to the State Public Defender for reimbursement under R.C. 120.33, as amended by the bill and described below.

Currently, in this situation, the county: (1) must pay 100% of the amount identified in the State Public Defender's submitted bill that is identified as legal fees, less a calculated state reimbursement rate reduction, and 100% of the amount identified as expenses, and (2) may submit the cost of the expenses, excluding legal fees, to the State Public Defender for reimbursement.

Reimbursement for indigent defense

(R.C. 120.08, 120.18, 120.28, 120.33, 120.34, 120.35, and 2941.51)

The bill requires the State Public Defender to reimburse county governments for the costs they incur in providing indigent defense in cases, including capital cases, but the reimbursement percentage may be reduced by an equal amount for all counties if the General Assembly's appropriation to the State Public Defender is insufficient to cover the counties' costs for indigent defense. The bill retains a related provision that specifies that the amount to be reimbursed for indigent defense in capital cases in any fiscal year cannot exceed the total amount appropriated by the General Assembly for that year for reimbursements. Current law requires 50% reimbursement by the State Public Defender for the total cost of indigent defense in capital and noncapital cases, subject to the same type of allowance for a proportional reduction of the reimbursements and to the same capping of the reimbursements at the total amount of the General Assembly's appropriation for the year.

Legal Assistance Foundation name change

(R.C. 120.52, 120.521, 120.53, 1901.26, 1907.24, 2303.201, 3953.231, and 4705.10; Section 371.10)

The bill changes the name of the Ohio Legal Assistance Foundation to the Ohio Access to Justice Foundation.

Under continuing law, the Foundation is a nonprofit organization that supports the delivery of civil legal services to indigent clients. The Foundation is created in statute, and receives much of its funding from local court fees and the Interest on Lawyers Trust Accounts (IOLTA) and Interest on Trust Accounts (IOTA) programs.

State Public Defender reimbursement study and report

(R.C. 120.041)

In addition to the State Public Defender's other duties under Ohio law, the State Public Defender must make certain determinations for each state fiscal year and prepare a report that includes all of its findings and determinations described below for that fiscal year. Not later than October 1 in the state fiscal year following the fiscal year covered by the report, the State Public Defender must submit copies of the report to the President and Minority Leader of the Senate, the Speaker and Minority Leader of the House, and the Governor.

These determinations are as follows:

1. Determine the total dollar amount of all requests for reimbursements that were submitted for that fiscal year by counties under R.C. 120.18, 120.28, 120.33, 120.35, and 2941.51;

2. Determine the total dollar amount paid to all counties as reimbursements under the requests described in (1) above that were submitted for that fiscal year;

3. Determine the percentage of total costs submitted by counties under the requests described in (1) above that was paid to all counties as reimbursements for that fiscal year;

4. Commencing in state fiscal year 2021, determine the increase or decrease in the total dollar amount found under (2) above for that fiscal year from the total dollar amount found under (2) above for the previous fiscal year;

5. Determine, out of the total dollar amount found under (2) above that was paid to all counties as a reimbursement, the total amount of that money used by all of the counties for each of the following categories of costs in that fiscal year:

- Costs for appointed counsel;
- Costs for personnel;
- Costs for expert witnesses;
- Costs for investigations;
- Costs for transcripts;
- Costs for rent or lease, utilities, furnishings, maintenance, and equipment;
- Costs for travel;
- Any other category of costs set by the State Public Defender.

6. Commencing in state fiscal year 2021, determine the increase or decrease in the amount of money found under (5) above to have been used for each category of costs described in (5) above for that fiscal year from the amount of money found under that division to have been used for each such category of costs for the previous fiscal year;

7. Analyze the cost per each felony, misdemeanor, traffic, or juvenile delinquency case assigned to a public defender or counsel pursuant to R.C. 120.06, 120.16, 120.26, or 120.33.

DEPARTMENT OF PUBLIC SAFETY

State Fire Marshal CDL exemption

- Exempts a qualified person who operates fire equipment for the State Fire Marshal from the requirement to hold a commercial driver's license (the same exemption applies to a qualified person who operates fire equipment for a local fire department).

Salvage certificate of title notary exemption

- Exempts a power of attorney (or other appropriate document) from notarization and verification requirements when an insurance company, under certain circumstances, applies for a salvage certificate of title.

Abolished funds

- Eliminates the Multi-Agency Radio Communications System Fund, which has been in disuse by the Department of Public Safety (DPS) since 2010. DPS previously used the fund for MARCS-related equipment maintenance, which is now conducted by the Department of Administrative Services.
- Eliminates the Public Safety Investigative Unit Salvage and Exchange Fund and redirects money received by the DPS Investigative Unit from the sale of excess motor vehicles and other equipment from that fund to the Ohio Investigative Unit Fund.

Infrastructure Protection Fund

- Permits DPS to use the funds deposited into the Infrastructure Protection Fund for the Department's operating expenses.

Reinstatement Fee Debt Reduction and Amnesty Program

- Extends the "Driver's License Reinstatement Fee Debt Reduction and Amnesty Program" to December 31, 2019.

State Fire Marshal CDL exemption

(R.C. 4506.03)

Under current law, generally, no person may operate a commercial motor vehicle unless the person has a valid commercial driver's license or permit. However, there are several exemptions, which include qualified persons who operate fire equipment for a fire department, volunteer or nonvolunteer fire company, fire district, or joint fire district.

The bill adds the State Fire Marshal to this exemption – that is, a qualified person who operates fire equipment for the State Fire Marshal is not required to hold a commercial driver's license or permit.

Salvage certificate of title notary exemption

(R.C. 4505.11)

Generally, when an insurance company (1) comes into possession of a salvage motor vehicle, (2) declares it economically impractical to repair, (3) has paid for the vehicle, and (4) a physical certificate of title was not issued for the vehicle, the insurance company may nonetheless apply for a certificate of title. This application for a certificate of title must be accompanied by a properly executed power of attorney (or other appropriate document) from the motor vehicle owner. Under current law, these documents must be notarized and verified.

The bill exempts the accompanying power of attorney (or other appropriate document) from notarization and verification requirements. Under current law, only the application, and not the accompanying documents, for the salvage certificate of title is so exempt.

A similar notarization and verification exemption for a power of attorney exists in current law when (1) to (3) above apply but the insurance company obtains the physical certificate of title.

MARCS Fund

(R.C. 4501.16)

The bill eliminates the Multi-Agency Radio Communications System (MARCS) Fund, which consisted of money the State Highway Patrol received from MARCS users. DPS previously used the fund to provide maintenance for MARCS-related equipment located at both MARCS facilities and tower sites. This maintenance is now conducted by DAS.

Ohio Investigative Unit Fund

(R.C. 125.13, 4501.10, and 5502.132, not in the bill)

The bill eliminates the Public Safety Investigative Unit Salvage and Exchange Fund and redirects money from that fund to the Ohio Investigative Unit Fund. The redirected money comes from money received by the Department of Public Safety (DPS) Investigative Unit from the sale of excess motor vehicles and other equipment. Under current law, unchanged by the bill, the money derived from such sales must be used to purchase replacement motor vehicles and other equipment for the DPS Investigative Unit.

Infrastructure Protection Fund

(R.C. 4737.045)

The bill permits DPS to use the funds deposited into the Infrastructure Protection Fund for DPS's operating expenses. Under current law, the money in the fund may only be used for developing and maintaining the Scrap Metal Dealer Registry. Any person who engages in the business of a scrap metal dealer or a bulk merchandise container dealer in Ohio must register annually with the Director of Public Safety to be included in the Registry. An initial registration costs $200 and a renewal costs $150. The registration fees along with any fees paid to recover an impounded vehicle that was used in the theft or illegal transportation of metal, a special

purchase article, or bulk merchandise container are deposited into the Infrastructure Protection Fund.

Reinstatement Fee Debt Reduction and Amnesty Program

(Section 601.07 and 601.08, amending Section 1 of H.B. 336 of the 132nd G.A.)

The bill extends the "Driver's License Reinstatement Fee Debt Reduction and Amnesty Program to December 31, 2019. The program was created during the 132nd General Assembly and allows an eligible applicant to pay either a reduced reinstatement fee or to receive a complete waiver of all pending reinstatement fees in order for the applicant to have his or her driver's license reinstated. The program is currently set to expire on July 31, 2019.[128]

[128] See https://www.legislature.ohio.gov/download?key=10202&format=pdf to learn more about the program.

PUBLIC UTILITIES COMMISSION

- Adds that where current law requires the Public Utilities Commission (PUCO) to determine whether an electric distribution utility had or is likely to have significantly excessive earnings, for affiliated utilities that operate under a joint electric security plan, the total of the utilities' earned return on common equity must be used.
- Permits the PUCO, in making its determination of whether a utility had significantly excessive earnings, to consider the revenue, expenses, or earnings of any affiliate that is an Ohio electric distribution utility.
- Permits a natural gas company's property, equipment, or facilities that enable either of the following to be considered instrumentalities and facilities for distribution service if PUCO determines that treatment is just and reasonable:
  - Interconnection with or receipt from any property, equipment, or facilities used to generate, collect, gather, or transport biologically derived methane gas;
  - The supply of biologically derived methane gas to consumers within Ohio.
- Requires, if PUCO makes that treatment determination, the property, equipment, or facilities to be considered used and useful in rendering public utility service for purposes of fixing utility rates.

Electric distribution utility significantly excessive earnings

(R.C. 4928.143)

The bill adds that where current law requires the Public Utilities Commission (PUCO) to determine whether an electric distribution utility had or is likely to have significantly excessive earnings, for affiliated utilities that operate under a joint electric security plan, the total of the utilities' earned return on common equity must be used. Current law requires the PUCO to make these determinations in two cases:

1. Following the end of each annual period of an electric security plan, the PUCO must determine if certain adjustments to the plan resulted in excessive earnings as measured by whether the earned return on common equity of the electric distribution utility is significantly in excess of the return on common equity that was earned during the same period by publicly traded companies that face comparable business and financial risk.

2. If an electric security plan has a term of more than three years, then the PUCO must, in the fourth year, determine if the plan will be substantially likely to provide the electric distribution utility with a return on common equity that is significantly in excess of the return on common equity that is likely to be earned by publicly traded companies that face comparable business and financial risk.

The bill also permits the PUCO, in making its determination under (1), above, to consider the revenue, expenses, or earnings of any affiliate that is an Ohio electric distribution utility.

Current law prohibits the PUCO, in making its determination under (1), above, from considering, directly or indirectly, the revenue, expenses, or earnings of "any affiliate or parent company." Current law does not restrict the PUCO in this regard for making its determination under (2), above.

Biologically derived methane

(R.C. 4929.18)

Under the bill, any property, equipment, or facilities installed or constructed by a natural gas company that enable either of the following may be considered instrumentalities and facilities for distribution service, if PUCO determines that treatment is just and reasonable:

- Interconnection with or receipt from any property, equipment, or facilities used to generate, collect, gather, or transport biologically derived methane gas (which is gas from the anaerobic digestion of organic materials, including animal waste and agricultural crops and residues);
- The supply of biologically derived methane gas to consumers within Ohio.

If PUCO makes that determination, the property, equipment, or facilities must be considered used and useful in rendering public utility service for purposes of fixing utility rates.

STATE RACING COMMISSION

- Allows a person to own more than two horse racing facilities or more than two casino facilities, provided that the person is not the operator of any additional facility and is not a management company for the operator.

Racetrack and casino operators and landowners

(R.C. 3769.07 and 3772.19)

The bill allows a person to own more than two horse racing facilities or more than two casino facilities, provided that the person is not the operator of any additional facility and is not a management company for the operator. Existing law prohibits a person from holding a majority interest in, or being a management company for, more than two horse racing facilities or more than two casino facilities. Under the bill, a person may exceed that limit as long as the person is a passive landowner.

The bill also clarifies and reorganizes provisions of continuing law that:

- Prohibit a person from operating more than two horse racing facilities or more than two casino facilities;
- Prohibit a person from being a management company for operators licensed to operate more than two horse racing facilities or more than two casino facilities;
- Prohibit a person from conducting thoroughbred horse racing meetings at more than one facility.

DEPARTMENT OF REHABILITATION AND CORRECTION

Supervision of offenders serving community control sanctions

- Clarifies that when a county lacks a probation department, a sentencing court may place offenders subject to community control sanctions under supervision of the Adult Parole Authority (APA) if the court has entered an agreement with the APA for its services.
- Specifies that an offender's violation of a community control sanction, condition of release, or law, or departure from the state without permission, must be reported to the APA if the court has entered into an agreement with the APA for its services.
- Allows the APA to offer a county funding for probation services if the county does not contract with the APA for those services under continuing law and as long as the General Assembly has appropriated sufficient funds for that purpose.

Targeted community alternatives to prison

- Removes references in the targeted community alternatives to prison program to "target counties," continuing the program only for counties that elect to participate.

F4 and F5 presumption against prison sentence

- In the Felony Sentencing Law mechanism establishing a presumption in favor of a community control sanction, instead of a prison term, for most F4s and F5s, repeals a criterion for the presumption to apply that pertains to the Department of Rehabilitation and Correction (DRC) providing the court with a list of available community control sanctions.

Minimum standards for jails

- Modifies an action by the Director of DRC to enjoin compliance with the minimum standards and minimum renovation, modification, and construction criteria for minimum security jails by expanding the applicable standards and criteria to those for jails instead of only for minimum security jails.

DRC authority to provide laboratory services

- Repeals DRC's authority to provide laboratory services.

Community-based correctional facility awards

- Modifies the effectivity of financial award agreements between DRC and the governing board of a community-based correctional facility from a period of one year from the date of the agreement to not longer than the state fiscal biennium in which the assistance is to be awarded.

Ohio Penal Industries

- Requires the Office of Enterprise Development Advisory Board to solicit business proposals offering job training, apprenticeship, education programs, and employment opportunities for Ohio Penal Industries.

Supervision of offenders serving community control sanctions

(R.C. 2929.15)

The bill clarifies when a sentencing court may place offenders subject to community control sanctions under the supervision of the Adult Parole Authority (APA). If a county lacks a probation department, offenders serving a community control sanction may be supervised by the APA if the court has entered into an agreement with the APA for its services.

Similarly, the bill clarifies that if an offender violates a community control sanction, condition of release, or law, or leaves the state without permission, the violation or departure must be reported to the APA if the court has entered into an agreement with the APA for its supervisory services.

Supplemental probation funding from adult parole authority

(R.C. 2301.32)

The bill allows the APA to offer a county funding for probation services in lieu of entering an agreement for the provision of services under continuing law, provided that the General Assembly has appropriated sufficient funds for that purpose.

Existing law, unchanged by the bill, allows a county court of common pleas to enter into an agreement with the APA to allow a county department of probation established under continuing law to receive supplemental investigation and supervisory services from the APA. In a county that has not established a department of probation under continuing law, the court of common pleas may contract with the APA to place defendants under a criminal control sanction in charge of the APA and for the county to provide payments to the APA for those placements in amounts that are provided for in the agreement.

Targeted community alternatives to prison

(R.C. 2929.34 and 5149.38)

The bill removes a requirement that certain prison terms imposed for a fifth degree felony be served in a county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, in a community alternative sentencing center or district community alternative sentencing center, or in a community-based correction facility if the court that imposed the fifth degree felony term was a common pleas court of a "target county." The "target counties" are: Franklin, Cuyahoga, Hamilton, Summit, Montgomery, Lucas, Butler, Stark, Loran, and Mahoning.

Under continuing law, in any county, the board of county commissioners and the administrative judge of the general division of the common pleas court may agree to have the

county participate in these local confinement provisions. These counties are referred to in continuing law as "voluntary counties."

F4 and F5 presumption against prison sentence

(R.C. 2929.13)

A Felony Sentencing Law mechanism establishes a presumption in favor of a community control sanction, instead of a prison term, for an offender convicted of an F4 or F5 that is not exempt from the mechanism. The presumption applies if four specified criteria are satisfied. The sentencing court may impose a prison term, notwithstanding the presumption, if any of 11 specified circumstances apply. Offenses of violence and a few assault offenses are exempt from the mechanism.

The bill repeals one of the criteria that must be satisfied for the presumption to apply, and a related circumstance that authorizes a court to impose a prison term if that criterion is not satisfied. The repealed criterion and circumstance pertain to the Department of Rehabilitation and Correction (DRC) providing the court, upon its request, with a list of available community control sanctions. Specifically, the bill repeals the provisions that: (1) require the sentencing court to request from DRC a detailed list of community control sanctions available for offenders it sentences, if it believes that no appropriate community control sanction is available, (2) require DRC to provide such a list to the requesting court within a specified period of time after the request, (3) specify that if DRC timely provides the requesting court with such a list, the presumption applies, and (4) specify that if DRC does not timely provide the requesting court with such a list, the court has discretion to impose a prison term.

Minimum standards for jails

(R.C. 5120.10 with conforming changes in R.C. 341.34 and 753.21)

The bill modifies the DRC Director's authority to initiate an action in the court of common pleas to enjoin compliance with the minimum standards for jails or with the minimum standards and minimum renovation, modification, and construction criteria for jails by eliminating the specific reference to *minimum security* in regard to those minimum standards and minimum renovation, modification, and construction criteria, thus expanding those standards and criteria to apply for all jails. It makes conforming changes in the laws establishing minimum security jails in municipal corporations and counties to references to minimum standards and minimum renovation, modification, and construction criteria for jails instead of for *minimum security* jails.

DRC authority to provide laboratory services

(R.C. 5120.135, repealed, with conforming changes in R.C. 5119.44)

The bill repeals DRC's authority to provide laboratory services to certain state departments, federal, state, county, or local agencies, public or private entities, and private persons. Under current law, these "laboratory services" include the performance of medical laboratory analysis; professional laboratory and pathologist consultation; the procurement, storage, and distribution of laboratory supplies; and the performance of phlebotomy services.

Community-based correctional facility awards

(R.C. 5120.112)

The bill modifies the effectivity of state financial agreements between the Director of DRC and the Deputy Director of the Division of Parole and Community Services on the part of the state, and the facility governing board of a community-based correctional facility and program or a district community-based correctional facility and program that outline the agreement's terms and conditions, from an annual basis or a period of one year from the date of the agreement under current law to not longer than the state fiscal biennium in which the financial assistance is to be awarded.

Ohio Penal Industries

(R.C. 5145.162)

The Office of Enterprise Development Advisory Board advises and assists DRC with the creation of training programs and jobs for inmates and releasees through partnerships with private sector businesses. Among the duties of the Board is to solicit business proposals offering job training, apprenticeship, education programs, and employment opportunities for inmates and releasees. The bill requires the Board to also solicit these business proposals for Ohio Penal Industries.

SECRETARY OF STATE

Homeland Security Advisory Council

- Makes the Secretary of State a member of the Homeland Security Advisory Council in the Department of Public Safety.

Chief information security officer

- Requires the Secretary of State to appoint a chief information security officer to advise the Secretary on matters of information security.

Audits of election results

- Requires a board of elections to audit the official results of every general election and of every primary election held in an even-numbered year.
- Provides the minimum requirements and a timeline for the audit, and requires the Secretary of State to prescribe certain procedures for the audit.
- Specifies that the audit must use a risk-limiting audit protocol, a percentage-based audit protocol, or another protocol approved by the Secretary, and allows the Secretary to either choose the protocol the boards must use or permit the boards to choose a protocol.
- Requires the audit to be open to observers appointed under the Election Law.

Presidential primary

- Moves the date of a presidential primary from the second Tuesday after the first Monday in March to the third Tuesday after the first Monday in March.

Certification of presidential and vice-presidential candidates

- Delays the deadline for major political parties to certify presidential and vice-presidential candidates to the Secretary of State for the 2020 general election from the 90th day before the day of the general election to the 60th day before the day of the general election.

Minimum number of precinct election officials

- Reduces from four to two the minimum number of precinct election officials per precinct in a multi-precinct voting location in which electronic pollbooks are used.
- Requires a board of elections that chooses to make that reduction to approve the change by a vote of at least three of its members.

Election Reform/Health and Human Services Fund

- Eliminates the Election Reform/Health and Human Services Fund.

Homeland Security Advisory Council

(R.C. 5502.011)

The bill makes the Secretary of State a member of the Homeland Security Advisory Council. Currently, the Director of Public Safety appoints all of the members of the Council. Under continuing law, the Council is responsible for advising the Director on homeland security, including homeland security funding efforts. The Director must appoint state and local government officials to the Council who have homeland security or emergency management responsibilities and who represent first responders. Members of the Council serve without compensation.

Chief information security officer

(R.C. 111.09)

Under the bill, the Secretary of State must appoint a chief information security officer to advise the Secretary on matters of information security and to perform other duties assigned by the Secretary.

Audits of election results

(R.C. 3505.21 and 3505.331)

Audit procedure

The bill requires a board of elections to audit the official results of every general election and of every primary election held in an even-numbered year no earlier than six days after the results are declared and to complete the audit by the 21st day after they are declared. If a board conducts a recount under the Election Law, the board must conduct the audit immediately after the board certifies the results of the recount and complete the audit by the 14th day after the board certifies the results of the recount.

Under the bill, the Secretary of State must prescribe the procedures for conducting an audit, which must include the following:

- The board must audit at least three contested races, questions, or issues that appear on the ballot at an election, as directed by the Secretary. If less than three contested races, questions, or issues appear on the ballot, the board must audit every contested race, question, or issue that appeared on the ballot. However, if the board ordered an automatic countywide recount of the results of a race, question, or issue, the recount must be considered an audit for purposes of meeting the requirement that the board audit at least three contested races, questions, or issues.
- Every ballot that was included in the canvass of election results must be eligible for audit, including regular ballots cast the day of the election, absent voter's ballots, and provisional ballots.
- The Secretary of State must either select an audit protocol from the list of approved protocols or allow each board to select a protocol (see "**Audit protocols**," below).

An audit is conducted by hand counting ballots. If the county uses direct recording electronic voting machines (touchscreen machines that electronically record the votes cast), the voter verified paper audit trail produced by the machine is considered the ballot for hand counting purposes.

The bill requires the board to certify the audit results to the Secretary within five days of completing it. The Secretary must make the audit results available on the Secretary's official website. If the results of a completed audit indicate that the canvass or previously declared official election results must be amended, the board must promptly do so.

The board must give public notice of the times and places, in accordance with the Open Meetings Law, for conducting an election audit. Briefly, the Open Meetings Law requires a public body to give at least 24 hours advance notice of each special meeting to all news media that have requested notification. The Open Meetings Law also requires a public body to promptly prepare, file, and maintain minutes of all meetings and to make those minutes available for public inspection.

The board also must allow observers appointed under the Election Law to observe the audit. Only board members or designated employees are allowed to handle a ballot during the auditing process.

Audit protocols

The bill requires the Secretary of State either to select an audit protocol or to allow the boards of elections to select one, provided that the protocol must be a risk-limiting audit protocol, a percentage-based audit protocol, or another protocol approved by the Secretary of State.

Risk-limiting audit protocol

In a risk-limiting audit, unlike in a percentage-based audit, the actual number of ballots to be hand counted (audited) in a particular race is calculated using a statistical formula and varies based on the margin of victory for the race in the initial results, how many counting errors are discovered during the course of the audit, and the risk limit set for the audit. The bill refers to this protocol as using statistical methods to limit to acceptable levels the risk of certifying an incorrect outcome for a particular race, question, or issue.

The risk limit, expressed as a percentage, represents the chance that, if the initial results declared the wrong winner in a race, the audit will not detect that error. For example, with a 10% risk limit, if the initial results indicated the wrong winner, there is at most a 10% chance that the audit will not catch the mistake and at least a 90% chance that the audit will correct the error. The lower the risk limit an audit uses, the more ballots must be hand counted. If the risk limit is 0%, meaning that there is no risk of an incorrect election result going uncorrected by the audit, then the election officials must hand count every ballot cast in the race. The bill requires the Secretary of State to determine the risk limit to be used.

The protocol requires a bipartisan team of election officials to physically examine and hand count randomly sampled ballots. The officials must continue to hand count randomly sampled ballots until the results of the hand count provide sufficiently strong evidence (based

on the risk limit) that a hand count of all of the ballots would confirm the declared election result or until all of the ballots have been counted, whichever occurs first.

If the race to be audited was decided by a large margin and the first several ballots hand counted are consistent with the initial results recorded by the voting equipment, the number of ballots the election officials must hand count might be significantly smaller than in a percentage-based audit. Conversely, if the race was decided by a small margin or the initial hand counting reveals some errors, the election officials might be required to hand count more ballots than they would in a percentage-based audit, and with a small enough margin or enough errors discovered, the officials might even be required to hand count all ballots cast in the race.[129]

Percentage-based audit protocol

A percentage-based audit protocol requires a bipartisan team of election officials to physically examine and hand count a number of randomly sampled ballots equal to a given percentage of the total number of ballots cast in the county at that election. After the officials complete the audit, the board must calculate the accuracy rate for each audited race, question, or issue. For example, if 1,000 ballots were cast in a race, and the election officials must hand count 5% of those ballots, 50 ballots would be hand counted. If the officials discovered that the voting equipment incorrectly counted five of those ballots, the accuracy rate would be 90% (100% - (5/50)).

If any accuracy rate is less than the acceptable accuracy rate provided by the Secretary, the board must escalate the audit by requiring bipartisan teams of election officials to physically examine and hand count a second set of randomly sampled ballots equal to a given percentage of the total number of ballots cast in the county at that election. The second set of ballots should not include any ballots from the first set of audited ballots. After the second set of ballots is audited, the board must calculate the combined accuracy rate for both audited sets of ballots. Continuing the above example, if the hand count of a second set of 50 ballots in that race revealed three inaccurately counted ballots, the accuracy rate for the second set would be 94% (100% - (3/50)), and the combined accuracy rate would be 92% (100% - (8/100)).

If the accuracy rate, after completing a second, escalated audit, is less than the acceptable combined accuracy rate provided by the Secretary, the Secretary may require the board to order bipartisan teams of election officials to physically examine and hand count all ballots cast for that race, question, or issue.

Current procedures

While the existing statute does not require post-election audits, the Secretary of State currently requires the boards of elections to conduct those audits by directive for every general

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[129] See also Mark Lindeman & Philip B. Stark, *A Gentle Introduction to Risk-Limiting Audits*, IEEE Security & Privacy, September-October 2012, at 42, prepublication copy available at stat.berkeley.edu/~stark/Preprints/gentle12.pdf.

election held in an even-numbered year and for every presidential primary election. The bill's requirements for conducting an audit are the same as the Secretary's, except that the boards of elections currently may choose which audit protocol to use.[130]

The Secretary has required the boards to conduct post-election audits at least since 2010, based on the terms of a settlement agreement that expired in 2015. The agreement ended a federal lawsuit in which the plaintiffs argued that Ohio's election administration procedures violated the Fourteenth Amendment to the U.S. Constitution.[131]

Presidential primary

(R.C. 3501.01, 3513.01, and 3513.12)

The bill moves the date of a presidential primary election from the second Tuesday after the first Monday in March to the third Tuesday after the first Monday in March. Under current law, all other primary elections in Ohio that are not a presidential primary election are held on the first Tuesday after the first Monday in May.

Certification of presidential and vice-presidential candidates

(Section 735.11)

The bill delays the deadline for major political parties to certify presidential and vice-presidential candidates to the Secretary of State for the 2020 general election. For the 2020 general election, presidential and vice-presidential candidates must be certified to the Secretary not later than the 60th day before the 2020 general election. Under continuing law, major political parties must certify the names of the presidential and vice-presidential candidates to the Secretary for placement on the ballot on or before the 90th day before the day of the general election. A major political party is a political party organized under the laws of the state whose candidate for governor or nominees for presidential electors received not less than 20% of the total vote cast at the most recent regular state election.

Additionally, the bill requires the Secretary to certify to the boards of elections the forms of the official ballots to be used at the 2020 general election on or before the 50th day before the 2020 general election. Under continuing law, the Secretary must certify the forms of the official ballots to be used at a general election on the 70th day before a general election.[132]

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[130] Ohio Secretary of State, *Ohio Election Official Manual*, Chapter 9, Section 1.03, available at sos.state.oh.us/ globalassets/elections/directives/2017/dir2017-14_eom_ch_09.pdf.

[131] *League of Women Voters of Ohio v. Brunner*, Case No. 3:05-CV-7309, Order enforcing settlement agreement, Exhibit B at 7 (N.D. Ohio June 19, 2009), available at moritzlaw.osu.edu/electionlaw /litigation/documents/LWVBlackwell-Order-6-19-09.pdf.

[132] R.C. 3501.01(F)(1), 3505.01, and 3505.10(B)(1), not in the bill.

Minimum number of precinct election officials

(R.C. 3501.22)

In a voting location that serves more than one precinct, if electronic pollbooks are used at that location, the bill reduces the minimum number of precinct election officials who must be appointed from four per precinct to two. Under the bill, a board of elections that wishes to make that reduction must approve the change by a vote of at least three of its members. Continuing law generally allows board decisions to be made by a vote of 2-2, with the Secretary of State casting a tiebreaking vote.

Additionally, the bill makes a technical correction to change the term "presiding judge" to "voting location manager," which is the term currently used in the Election Law.[133]

Election Reform/Health and Human Services Fund

(R.C. 111.28; Section 516.10)

The bill eliminates the Election Reform/Health and Human Services Fund (Fund 3AH0). Currently, that fund exists in the state treasury to receive grants from the U.S. Department of Health and Human Services under the federal Help America Vote Act of 2002 for assuring voting access for persons with disabilities.[134]

Continuing law requires the Secretary of State to deposit any federal grant moneys the Secretary receives, other than those that must be deposited in a specific fund, in the Miscellaneous Federal Grants Fund. As a result, the bill would not affect the Secretary's ability to receive any grant moneys that previously would have been deposited in the Election Reform/Health and Human Services Fund.

[133] R.C. 3501.11(X), not in the bill.

[134] 52 U.S.C. 21021 through 21025.

DEPARTMENT OF TAXATION

Income taxes

- Reduces income tax rates by 8% over two years.
- Eliminates the lowest two income tax brackets, thereby reducing the number of brackets from seven to five.
- For 2020 and thereafter, eliminates the special 3% flat tax on business income.
- Requires that income excluded under the business income deduction be "added back" when determining a taxpayer's eligibility for means-tested tax benefits.
- Suspends the annual inflation indexing adjustment of income tax brackets and personal exemption amounts for taxable years beginning in 2019 and 2020.
- Extends, from 60 to 90 days, the time in which an individual must file an amended state return after an adjustment is made to the individual's federal tax return.
- Establishes reporting and payment procedures for pass-through entity owners whose state tax liability is affected by an IRS partnership level audit.
- Repeals the income tax credit for contributions to campaigns for statewide office.
- Repeals the income tax credit for a pass-through entity investor's share of the financial institutions tax (FIT).
- Authorizes the Director of Health to award nonrefundable income tax credits for up to $10,000 in costs incurred to abate lead in an Ohio residence constructed before 1978.
- Limits the amount of credits that may be awarded to $5 million per fiscal year.
- Authorizes a personal income tax deduction of up to $250 of an Ohio teacher's out-of-pocket expenses for professional development and classroom supplies.
- Eliminates the Ohio political party fund income tax checkoff for taxable years beginning after 2019.
- Prohibits tax return preparers from engaging in certain conduct and prescribes penalties for preparers that engage in that conduct.

Municipal income taxes

- Extends, to the fifteenth day of the fourth month of each taxable year, the date by which a taxpayer must opt-in or opt-out of the state-administered municipal income tax.
- Allows taxpayers up to 24 months to terminate the taxpayer's initial election to opt-in to the state-administered tax.
- Requires the Tax Commissioner to create an online portal that will be used to securely exchange information with municipalities.

- Allows, rather than requires, the Tax Commissioner to withhold tax collections from a municipality that fails to comply with reporting requirements.
- Requires a municipal corporation to pay money to the Treasurer of State if the net distribution amount for the municipal corporation's state-administered municipal income tax accounts is less than zero in any month.
- Allows the Tax Commissioner to recover unpaid amounts by reducing a delinquent municipal corporation's various state administered tax distributions.
- Requires the Director of Budget and Management to transfer money from the GRF to the Municipal Income Tax Fund in the event that the balance of the Municipal Income Tax Fund is not sufficient to cover the required monthly distributions from that fund.
- Creates a separate Municipal Net Profit Tax Fund to receive revenue solely from the state-administered municipal tax on business income.
- Modifies the return filing rules for taxpayers that have multiple taxable years beginning in a single calendar year.
- Requires, rather than allows, the Commissioner to conduct an audit of a taxpayer when the matter is referred by a municipality.
- Requires the Commissioner to notify municipalities when conducting an examination of a taxpayer and to share any records obtained as a result of the examination.
- Requires that income from any retirement benefit plan, including one that does not qualify for favorable federal tax treatment, be exempt from municipal income tax.

Sales and use taxes

- Modifies the set of activities sufficient to create a presumption that an out-of-state seller has substantial nexus with Ohio, thus requiring the seller to collect and remit use tax.
- Requires persons that own, operate, or control a physical or electronic marketplace through which retail sales are facilitated ("marketplace facilitators") to register as a seller and collect and remit the use tax due on all transactions facilitated through that marketplace.
- Changes the phrasing of three nexus-related references in current law involving sellers of tobacco products from "nexus in this state" to "substantial nexus with this state" in order to obtain consistency with use tax law.
- Repeals the sales tax exemption for sales of vehicles, parts, and repair services to a professional motor racing team.
- Exempts from sales and use tax sales of equipment and supplies used to clean equipment that is used to produce or process food for people.

- Specifies the manner by which a technology platform operator's services are subject to sales and use tax.
- Allows counties and transit authorities to levy their local sales and use taxes in increments of 0.05%.

County sales tax

- Authorizes noncharter counties to levy an additional ½% sales and use tax to be used exclusively to construct, acquire, equip, or repair detention facilities, provided the tax is approved by voters.
- Reduces the maximum sales and use tax rate available to an overlapping transit authority commensurately.
- Allows for the extension of an existing county lodging tax that is levied by 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.
- Allows a convention facilities authority (CFA) created between July and December of 2019 to levy an additional lodging tax of up to 3%.
- Increases from 15% to 25% the maximum amount of lodging tax revenue received by the Muskingum County CFA that may be diverted by the CFA to various county fairground purposes.

Property taxes

- Authorizes the board of trustees of a state community college district to levy a property tax for permanent improvements, or a combination bond issuance and tax levy for that purpose.
- Authorizes the board of education of a school district to propose a tax levy for school safety and security and give some of the revenue to chartered nonpublic schools located in the district to be used for that purpose.
- Modifies the calculation of rental income when determining eligibility for existing tax exemptions for property held or occupied by a fraternal or veterans' organization.
- Excuses community schools from the requirement to file annual applications with the Tax Commissioner as a condition of obtaining a property tax exemption.
- Limits the amount that can be held in the reserve balance account (i.e., rainy day fund) of a county board of developmental disabilities.
- Imposes restrictions on a county budget commission's ability to reduce the amount of taxes that a county levies on behalf of a county board of developmental disabilities.
- Requires property tax bills to show the respective shares of the billed amount to be received by the various taxing units.

- Extends, by two years, the deadline by which an owner or lessee of a renewable energy facility may apply for existing law's property tax exemption for such facilities.
- Clarifies the calculation of payments-in-lieu-of-taxes (PILOTs) that must be paid by solar energy facilities that receive the renewable energy property tax exemption.
- Exempts from real property taxation convention centers and arenas owned by the Hamilton County CFA and leased to a private enterprise.

Commercial activity tax

- Reduces the percentage of commercial activity tax (CAT) revenue devoted to offset the Department of Taxation's administrative expenses from 0.75% to 0.65% beginning July 1, 2019.
- 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.

Other tax provisions

- Levies an excise tax on the distribution, sale, or use of liquid or other consumable vapor products containing nicotine at a rate of 1¢ per 0.1 milliliter or gram of product.
- Applies the new tax at the first point at which the vapor product is received in Ohio.
- Administers the new tax in a similar manner to an existing excise tax on tobacco products other than cigarettes.
- Excludes gross receipts used to pay the new tax from those gross receipts taxable under the commercial activity tax (CAT).
- Requires monthly vapor products tax returns and all existing monthly tobacco products tax returns to be filed by the 23rd of the following month.
- Extends the authority for townships and municipal corporations to levy a new gross receipts tax (up to 2%) on businesses within a tourism development district (TDD) until December 31, 2020.
- Authorizes townships and municipal corporations to enter into agreements with owners of property located within a TDD to impose a development charge equal to a percentage (up to 2%) of gross receipts derived from sales made at the property.
- Temporarily increases the amount to be credited to the Local Government Fund (LGF) in FYs 2020 and 2021, from 1.66% to 1.68% of the state tax revenue credited to the GRF each month.
- Modifies the formula for making direct payments from the LGF to municipalities.
- Allows the Department of Taxation to orally disclose to the Department of Education personal income information to verify eligibility for the Educational Choice Scholarship Pilot Program.

- Modifies the employment and investment requirements that businesses must meet to receive a Job Retention Tax Credit (JRTC).

Income taxes

The bill includes several changes to Ohio's income tax, principally: a reduction in income tax rates, the elimination of the two lowest income tax brackets, and the elimination of the special 3% flat tax on business income.

Tax bracket elimination

Current law prescribes seven tiered tax brackets, with increasingly greater rates assigned to higher income brackets. For 2018, the lowest bracket begins at $10,850 of adjusted gross income and the highest applies to income of $217,400 or more. Individuals with an adjusted gross income of less than $10,850 are exempt from the tax.[135]

The bill eliminates the first two tax brackets ($10,850-$16,300 and $16,300-$21,750 for the 2018 taxable year). Beginning in 2019, individuals with an adjusted gross income (minus personal exemptions) of less than $21,750 would be exempt from the tax. (Similar to current law, individuals with income of more than $21,750 would still pay the tax on their first $21,750 of income. That tax is reflected as a dollar amount added to the remaining tax brackets.)[136]

Reduction in tax rates

The bill reduces the tax rates applicable to the remaining five tax brackets by a total of 8%. Currently, the rates in those five brackets range from 2.969% to 4.997%. Under the bill, those rates would range from 2.731% to 4.597%.[137]

The reduction is phased in over two years, with a decrease of 4% in 2019 and an additional 4% in 2020. (Both reductions are expressed as a percentage of current law rates.)

Taxation of business income

Elimination of 3% flat tax

Under continuing law, a taxpayer may deduct the first $250,000 of the taxpayer's business income from the taxpayer's adjusted gross income. (For married taxpayers that file separate returns, the deduction equals $125,000.) Currently, a 3% flat tax applies to all business income in excess of that amount. The bill eliminates this flat tax, beginning in the 2020 taxable year, and instead subjects business income to the same tiered tax rates that apply to nonbusiness income (i.e., the same tiered rates that the bill reduces by 8%).[138]

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[135] These income amounts reflect inflation-indexing adjustments for the 2018 taxable year.

[136] R.C. 5747.02(A)(3) and 5747.06 and Section 757.150.

[137] R.C. 5747.02(A)(2) and (3) and Sections 757.150 and 757.160.

[138] R.C. 5747.01(HH) and 5747.02(A)(4) and Section 757.150.

Eligibility for tax benefits

The bill requires that income excluded under the business income deduction be "added back" when determining a taxpayer's eligibility for means-tested tax benefits. The affected benefits include the homestead exemption, personal and dependent exemptions, $20 personal and dependent credit, joint filer credit, retirement income credits, and senior citizen credit.

As an example: Consider Business Owner, a taxpayer with total business income of $275,000, and Nurse, a taxpayer with nonbusiness income of $50,000. Under current law, after taking the $250,000 business income deduction, Business Owner's Ohio AGI is $25,000. Nurse's Ohio AGI is $50,000.

Under current law, Business Owner would be eligible for several means-tested benefits, while Nurse would not. Such benefits include the homestead exemption (which has an income threshold of $32,000 for 2018) and several income tax exemptions and credits, such as the $20 personal exemption (which has an income threshold of $30,000).

Under the bill, Business Owner would be required to add-back any amount taken as a business income deduction when determining eligibility for means-tested benefits. Consequently, for the purposes of those benefits, Business Owner's AGI would be considered to be $250,000 and Business Owner would not be eligible for any of the means-tested benefits.[139]

Reporting of business income tax revenue

The bill repeals a requirement that the Department of Taxation report to OBM the tax liability (before tax credits) attributable to the taxation of business income versus the amount attributable to nonbusiness income. OBM then must separately list these figures when reporting revenue estimates to the Governor and General Assembly.[140]

Inflation indexing adjustment

(R.C. 5747.02 and 5747.025; Section 757.160)

Continuing law requires the Tax Commissioner to adjust the income tax brackets and personal exemption amounts for inflation on an annual basis. The act suspends these adjustments for taxable years beginning in 2019 and 2020. Consequently, the 2018 income tax brackets will apply through 2020 (although the number of those brackets, and the tax rates corresponding with those brackets, will be reduced as described above).

Individual amended returns

(R.C. 5747.10 and 5747.11; Section 757.70)

The bill extends, from 60 to 90 days, the time in which an individual must file an amended state return after an adjustment is made to the individual's federal tax return.

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[139] R.C. 323.151, 5747.01(JJ), 5747.022, 5747.025, 5747.05, 5747.054, 5747.055, and 5748.01 and Section 757.150.

[140] R.C. 5747.031.

Under continuing law, if an individual's state tax liability will change due to adjustments made on the individual's federal tax return – whether by the individual or by the IRS – the individual is required to file an amended state return.

Timeline for refunds

Under current law, when the changes on an amended return result in a refund, the application for refund must be filed by the same deadline prescribed for the amended return (currently, 60 days) or, if still applicable, before the general deadline to apply for refunds (four years from the date of the overpayment).

The bill correspondingly extends the former deadline to 90 days.

Partnership level audits

The bill also prescribes reporting and payment procedures for pass-through entity owners whose state tax liabilities are affected by an IRS audit. The procedures apply to partnerships and to LLCs that are taxed as partnerships under federal law (hereinafter, simply referred to as "partnerships").

Federal partnership level audit changes

The new procedures are in response to changes in federal law governing the payment and collection of taxes when a partnership is audited. The new rules, enacted in the "Bipartisan Budget Act of 2015" (BBA), apply to federal returns filed for 2018 and thereafter.

Under continuing law, partnerships file a federal tax return on their partners' behalf, but each partner separately reports and pays the partner's share of the entity's tax liability on the partner's own return. Before the BBA, audits functioned similarly – a partnership could be audited at the entity level, but, generally, any increase or decrease in tax liability was "passed through" to each partner's return and taxes were collected at the partner level.

Under the BBA, the IRS will audit partnerships at the partnership level and, if additional tax is due, the partnership will generally pay that tax, rather than pass the tax through to its partners.

Partnerships may elect to "push out" the tax liability to individual partners, in which case the liability shifts from the entity level to the individual partner level. In addition, certain partnerships may elect to "opt out" of the new BBA rules, and instead operate under the rules in place before the BBA.[141]

[141] Internal Revenue Code Subtitle F, Chapter 63, Subchapter C. Generally, to opt out, the partnership must have fewer than 100 partners and each partner must be a qualifying individual or entity.

New state procedures

The bill prescribes new procedures in response to this change in federal law. The new procedures are similar to those drafted in a model statute adopted by the Multistate Tax Commission.[142]

Under the bill, the default method for reporting changes in state tax liability arising from a federal audit is similar to the federal "push out" procedure. First, the audited partnership must report the changes in federal liability ("adjustments") to the Tax Commissioner, notify its direct partners of each partner's share of the adjustments, and submit an amended return that includes any additional tax that would have been due from the entity's nonresident direct partners if the items requiring adjustment had been reported correctly. Each direct partner is then responsible for filing a separate report and paying any additional tax due (less any amount already paid by the partnership on the partner's behalf). If the partner is itself a pass-through entity, that entity would follow the same reporting and payment procedures on behalf of its own partners (i.e., the "indirect" partners of the audited partnership).

However, a partnership may elect to pay the additional tax liability directly, at the partnership level. Under this election, the partnership pays an amount "in lieu of" the taxes due from its partners: the amount generally equals the portion of the partnership's federal adjustments that can be apportioned to Ohio (but includes a resident partner's entire share of the adjustments), multiplied by the state's highest income tax rate.

Under this election, a partnership might pay more than the actual tax due from each partner as a result of the federal adjustments, but the partners avoid the administrative burden of each filing a separate report with the Department of Taxation. If the election is made, a partner may, later, file an amended return to receive a refund of the difference between the amount paid on the partner's behalf and the amount actually due from that partner.

The bill also allows a partnership to request an alternative reporting and payment method, which the Tax Commissioner may approve at his or her discretion.

Partnership representative

Federal law requires a partnership to designate a "partnership representative" to act on the partnership's behalf during a federal audit. Individual partners are bound by the representative's actions.

The bill requires that the partnership also designate a state partnership representative. By default, the state representative is the same individual designated during the federal audit. However, the bill allows partnerships to designate a different individual as the state representative, in accordance with rules adopted by the Department of Taxation.

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[142] The model statute is available at http://www.mtc.gov/Uniformity/Adopted-Uniformity-Recommendations.

Automatic extension for large partnerships

Under the bill, an audited partnership with more than 10,000 partners may automatically extend the reporting and payment deadlines prescribed in the new rules by an additional 60 days, provided that the partnership notifies the Tax Commissioner that it will take the extension.

Application date

The new procedures apply to final federal adjustments made on or after October 1, 2019.

Tax credit repeal

The bill repeals two income tax credits: (1) the credit for campaign contributions and (2) the credit for a pass-through entity investor's share of the financial institutions tax (FIT).

The campaign contribution tax credit is a nonrefundable credit for contributions made to the campaign committees of candidates for a statewide office (e.g., governor or member of the General Assembly). The credit cannot exceed $50 per individual taxpayer.[143]

The second credit repealed by the bill allows a taxpayer that owns a pass-through interest in a financial institution to claim an income tax credit that offsets the owner's share of the institution's FIT tax payments. The refundable credit equals the owner's proportionate share of the lesser of the FIT due or paid during the taxable year.[144]

The credits are repealed for taxable years beginning in 2019 or thereafter.[145]

Lead abatement income tax credit

(R.C. 3742.50, 5747.02, 5747.08, 5747.26, and 5747.98; Section 757.10)

The bill authorizes a nonrefundable income tax credit for expenses incurred by a taxpayer to abate lead in an Ohio residence constructed before 1978. Specifically, the credit is based on the sum of the following "lead abatement costs" incurred in a taxable year, up to $10,000 per taxpayer:

- Costs for a licensed specialist to conduct a lead risk assessment, lead abatement project, or clearance examination (a test conducted to verify that the lead hazard has been abated);
- Costs to relocate the dwelling's occupants to protect them during the lead abatement process.

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[143] R.C. 5747.29.

[144] R.C. 5747.65.

[145] R.C. 5747.01, 5747.02, and 5747.98; Section 757.150.

The credit is not available on the basis of any lead abatement cost for which the taxpayer is reimbursed or that the taxpayer deducted or intends to deduct for federal or state income tax purposes.

To obtain a credit, the taxpayer submits an application to the Director of Health listing the taxpayer's lead abatement costs incurred during the taxable year. After verifying those costs and that the dwelling was constructed before 1978 and has passed a clearance examination, the Director issues a certificate authorizing the applicant to claim a nonrefundable income tax credit equal to the lesser of the costs listed on the application, the actual costs verified by the Director, or $10,000.

The Director may not issue credit certificates lead abatement costs incurred in taxable years beginning before 2020, nor may the Director issue more than $5 million in certificates in a fiscal year. The Director may adopt rules for the administration of the lead abatement credit program, in consultation with the Tax Commissioner.

The taxpayer may claim, for the taxable year in which the certificate is issued, a nonrefundable income tax credit equal to the amount stated on the certificate. Any unclaimed balance may be carried forward for up to seven years. Upon request, the taxpayer must furnish the Commissioner with documentation verifying the taxpayer's credit eligibility.

Income tax deduction for teacher expenses

(R.C. 5747.01(A)(34); Section 757.150(C))

The bill authorizes Ohio teachers to deduct up to $250 of unreimbursed expenses incurred each year for professional development and classroom supplies, beginning with taxable years that begin in 2020. The deduction piggy-backs on an existing federal income tax deduction for teacher expenses. As with the federal deduction, the Ohio deduction would apply to the following expenses, when not reimbursed to the teacher:

1. Books, supplies, computers and other equipment, and supplementary materials used in the classroom. With respect to supplies for a health or physical education class, the deduction only applies to amounts spent on athletic supplies.

2. Expenses paid to participate in professional development courses related to the teacher's curriculum or students.

To qualify, a teacher must be licensed in Ohio or hold an Ohio-issued certificate or permit and be eligible for the federal deduction. Persons eligible for the federal deduction include any kindergarten through 12th grade teacher, instructor, counselor, principal, or aide who works in a primary or secondary school for at least 900 hours per school year.

The deduction applies to expenses that exceed what the teacher may claim as a federal deduction. For example, if a teacher incurs $350 of qualifying expenses in a year, the teacher may claim $250 as a federal deduction, and the remaining $100 as a deduction from Ohio taxes. (The first $250 deduction is already factored into the teacher's Ohio tax liability, since Ohio uses

federal adjusted gross income (FAGI) as the starting point on the Ohio income tax return and the federal deduction directly reduces FAGI.)[146]

Political party fund checkoff

(R.C. 5747.081, 131.44, 3501.05, 3517.01, 3517.10, 3517.102, 3517.1012, 3517.11, 3517.12, 3517.153, 3517.16, 3517.17, 3517.18, 3517.23, 3517.99, 3517.992, 5703.05, 5747.03, and 5747.04; Sections 757.240 and 815.10)

The bill eliminates the Ohio political party fund income tax checkoff for taxable years beginning after 2019. Under current law, an individual may choose an option on their return to credit $1 (or $2 for married couples filing joint returns) of their income tax liability to the fund. Money in the fund is divided among Ohio's major political parties. The money cannot be used to further the election or defeat of any particular candidate or to influence the outcome of an issue election.

Under the bill, the fund will be dissolved on January 1, 2021, or earlier if the Commissioner determines that all or substantially all of the checkoff contributions for taxable years beginning before the termination date have been received by the fund. Amounts received by the fund before its dissolution would be distributed and utilized in the same manner prescribed by current law.

The bill relieves the Auditor of State of a current duty to conduct annual audits of the use of money distributed from the fund. The audit requirement is eliminated after the fund is dissolved and all money is disturbed by the treasurers of the state executive committees of the major political parties.

Requirements for tax return preparers

(R.C. 5703.263; Section 757.281)

The bill prohibits tax return preparers from engaging in certain conduct and authorizes the Tax Commissioner to impose penalties or request that the Attorney General seek an injunction against a tax return preparer that engages in that conduct. For this purpose, a "tax return preparer" is defined to be a person operating a business that prepares tax returns or applications for refund for a taxpayer in exchange for compensation. The definition expressly excludes attorneys admitted to the Ohio bar, accountants registered in Ohio or elsewhere, and individuals working for a public accounting firm under the supervision of an accountant.

Also excluded are persons that only do any of the following:

- Perform typing, reproducing, or other mechanical assistance;
- Prepare a return or application for refund on behalf of their employer or an officer or employee of that employer;
- Prepare an application for refund as a fiduciary; or

[146] Internal Revenue Code section 62 (26 U.S.C. 62).

- Prepare a return or application for refund in response to a notice of deficiency or a waiver of restriction after the commencement of an audit.

The bill authorizes the Commissioner, beginning in 2020, to require a tax return preparer to include their federal tax identification number on any state tax form they prepare. If the Commissioner imposes such a requirement, the penalty for failing to provide the number or for providing false, inaccurate, or incomplete information is $50 for each incident. The maximum penalty is $25,000 per calendar year.

The bill expressly prohibits tax return preparers from doing any of the following:

- Recklessly, willfully, or unreasonably understating the taxpayer's tax liability;
- Failing to properly file returns or keep records;
- Failing to cooperate with the Commissioner or comply with tax law;
- Failing to act diligently to determine a taxpayer's eligibility for tax reductions;
- Misrepresenting their experience or credentials;
- Cashing a refund check without the taxpayer's permission;
- Guaranteeing tax refunds or credits; or
- Engaging in other fraudulent and deceptive conduct.

Each time a tax return preparer engages in prohibited conduct, the Commissioner may request that the Attorney General apply to a court for an injunction against the tax return preparer. Generally, if the court determines an injunction is appropriate, the tax return preparer is enjoined only from continuing the prohibited conduct. However, if the court finds that the tax return preparer has continually or repeatedly engaged in prohibited conduct and that a standard injunction is not a sufficient deterrent, the court may enjoin the tax return preparer from preparing tax returns and applications for refund in Ohio. The bill specifies that a prior injunction for engaging in prohibited conduct issued to the same tax return preparer by a federal or any state's court in the preceding five years is sufficient evidence for a court to conclude that another injunction is appropriate in response to subsequent violations.

If the Commissioner has previously warned a tax return preparer in writing of the consequences of continuing to engage in prohibited conduct, the Commissioner may impose a penalty of up to $100 for each incident. This penalty and the penalty for failure to include a federal tax identification number on a return or application for refund is collected in the same manner as delinquent taxes. The bill allows the Commissioner to abate the penalties for good cause.

Municipal income taxes

State administration of municipal income taxes

Beginning in 2018, continuing law allows businesses (other than sole proprietors) to choose between filing a separate tax return for each municipal corporation in which the business operates and filing a single return with the Department of Taxation that covers the

business' total tax liability to all municipalities. Each municipality continues to administer its tax on businesses that choose to file separate returns. The Department assumes all aspects of administering the taxes of businesses that choose to file a single return. The Tax Commissioner is required to distribute municipal income tax revenue on a monthly basis, after deducting 0.5% of such revenue to cover the Department's administrative expense.

Taxpayer opt-in

(R.C. 718.80)

The bill extends the date by which a business may opt-in or opt-out of the state-administered tax. Current law requires taxpayers to make the election on or before the first day of the third month after the beginning of their taxable year (March 1 for calendar year taxpayers), while the bill would allow taxpayers until the fifteenth day of the fourth month (April 15 for calendar year taxpayers) to opt-in or out.

The bill also creates an exception to this general rule for the period immediately after a business makes its initial election to opt-in. Under the bill, after making the initial election, a taxpayer would have up to 24 months to reverse its decision. If a taxpayer notifies the Tax Commissioner of its decision to opt-out during that time, the initial election would terminate 60 days after the notice is sent.

Notice to municipalities

Under current law, when a business opts-in or opts-out of the state-administered tax, it must notify both the Tax Commissioner and each municipality to which it owes taxes. The bill removes the municipal notification requirement. Instead, under the bill, the business would notify the Commissioner of its decision and provide the Commissioner with a list of municipalities where it does business, and the Commissioner would, in turn, notify each such municipality within five business days.

Web portal

(R.C. 718.841; Section 757.321)

The bill requires the Tax Commissioner to create an online portal through which the Commissioner and municipalities can exchange information about taxpayers that have opted-in to the state-administered tax. Examples of information shared through the portal would include taxpayer information, notification of a taxpayer's decision to opt-in or out of state administration, municipal contact details, and estimated payments data.

In addition, the bill authorizes (but does not require) the Commissioner to expand the functionality of the portal to allow information-sharing related to the state-administered municipal income tax on electric companies and income tax collections.

Withholding of revenue distributions

(R.C. 718.80)

Continuing law requires that, once a municipality receives notice of a taxpayer's election, the municipality must provide information about the taxpayer to the Tax

Commissioner, such as any net operating loss the taxpayer is carrying forward and any credits that the taxpayer is entitled to claim in future years. Each year the municipality must also certify its tax rate.

Currently, if a municipality fails to provide such information, the Commissioner must instruct OBM to withhold 50% of the municipality's revenue distribution for each month the municipality is not in compliance. The bill makes this withholding optional (and, therefore, at the discretion of the Tax Commissioner), rather than required.

Net distribution deficiency

(R.C. 718.83, 321.24, and 5747.05; Sections 812.20 and 815.10)

The bill addresses negative cash-flow issues with the state's Municipal Income Tax Fund that arise when a municipal corporation's net distribution of revenue from tax accounts administered by the Department is less than zero. This might happen if audit adjustments and refunds exceed collections in a given month. In such cases, the bill requires the municipal corporation to remit payment to the Treasurer of State within 30 days of receiving a notice of deficiency from the Department. If a municipal corporation does not reimburse the state in a timely manner, the bill authorizes the Commissioner to recover the deficiency by reducing the municipal corporation's future municipal income tax distributions, electric light and telephone company income tax distributions, and property tax distributions.

The bill exempts the provision from the referendum, causing the provision to take effect immediately upon becoming law.

Municipal Net Profit Tax Fund

(R.C. 718.83, 718.85, and 718.90; Section 701.20)

The Department of Taxation currently administers two income taxes on behalf of municipal corporations. Beginning in 2018, businesses may file their municipal income taxes centrally with the Department. In addition, the Department administers a separate municipal income tax on electric and telephone companies.

Under current law, revenue from both taxes is deposited into a single Municipal Income Tax Fund. The bill creates a separate fund – the Municipal Net Profit Tax Fund – to receive revenue from the state-administered municipal tax on business income. Revenue from municipal taxes on electric and telephone companies will continue to be credited to the Municipal Income Tax Fund.

Amounts credited to both funds are returned to the municipal corporations that levy the underlying taxes, after an allowance for the Department's administrative costs.

Taxable years

(R.C. 718.81 and 718.85)

Under current state-administered tax rules, if a business has multiple taxable years beginning in a single calendar year, the business must aggregate the information necessary to compute the tax for all such years onto one return. (A business may have multiple taxable years

in one calendar year if the business is just starting, is changing ownership, or is changing its taxable year for federal income tax purposes.)

The bill would instead require such a business to file a separate return for each taxable year. This latter practice is consistent with existing rules for the federal, state, and locally administered income taxes.

Taxpayer audits

(R.C. 718.84)

Under continuing law, when a municipality has information about a business that could change the business's liability, and that business has opted-in to the state-administered tax, the municipality can refer the business to the Commissioner for an audit. Currently, the Commissioner may begin an audit based on such a referral, but is not required to do so.

The bill would require the Commissioner to conduct an audit after receiving a referral. The audit must commence within 30 days after the referral is made, and the Commissioner must provide updates to the municipality every 30 days thereafter. When the audit is completed, the Commissioner must inform the municipality and provide it with any documents related to the audit.

Taxpayer investigations

(R.C. 718.93)

Continuing law also allows the Tax Commissioner to examine the books, records, and tax returns of businesses that have opted-in to the state-administered tax and to compel representatives of such businesses to appear for a hearing.

The bill authorizes municipal tax administrators to examine the records of such businesses as well. In addition, the bill requires that, when the Commissioner holds a hearing with a taxpayer, the Commissioner must notify each affected municipality and provide the municipality, upon its request, with any information gained as a result of the hearing.

Municipal taxation of retirement plans

(R.C. 718.01; Section 757.220)

The bill specifies that income from any retirement benefit plan, including a "nonqualified plan" that is not eligible for favorable federal tax treatment, is exempt from municipal income tax. Continuing law prescribes categories of income that a municipal corporation must exempt from its municipal income tax. One category of exempt income is pension income.

Current law does not define the term "pension," so presumably municipal corporations have some authority to clarify what plans they consider to qualify as a pension and, thus, exempt from municipal income tax. For example, the City of Cleveland recently argued it had the authority to impose municipal income tax on income from a type of nonqualified employee benefit plan on the ground that the plan is not a pension. In *Macdonald v. Cleveland Income Tax Board of Review*, the Ohio Supreme Court considered Cleveland's argument that it could

impose a tax on income from supplemental executive retirement plans (SERPs) or "top hat plans" (see "**SERPs and other nonqualified plans**," below). The Court held that the term "pension," as used in Cleveland's ordinances, encompassed SERPs and that Cleveland could not tax SERP income because it had exempted pension compensation from its municipal income tax.[147]

The bill specifically defines pensions to include SERPs and other nonqualified plans, essentially requiring every municipal corporation to exempt income from such plans from its municipal income tax. Under the bill, a pension is defined as any retirement benefit plan regardless of (1) whether the plan qualifies for favorable federal income tax treatment, (2) whether the plan is subject to federal Medicare and Social Security withholding taxes, and (3) whether and when the plan is included in the employee's taxable wages. A retirement benefit plan, in turn, is defined to be any arrangement by which benefits are provided to individuals on or after their retirement or termination of service, excluding wage continuation, severance, or leave accrual payments.

The exemption changes apply beginning for municipal taxable years beginning on or after January 1, 2020.

SERPs and other nonqualified plans

The bill specifically ensures that SERPs and other nonqualified retirement plans are exempt from municipal income taxes regardless of how they may be treated under a given municipality's ordinance. SERPs are unfunded employee benefit plans maintained by an employer primarily to provide deferred compensation for a select group of management or highly compensated employees. Income from SERPs, and several other types of nonqualified plans, may be subject to federal and state income tax as part of the beneficiary's taxable wages before the beneficiary actually withdraws money from the plan.[148] In addition, nonqualified plans are generally (1) exempt from certain federal pension regulations, i.e., ERISA[149] ("Employee Retirement Income Security Act") and (2) subject to Social Security and Medicare withholding taxes[150] (referred to collectively as "Federal Insurance Contributions Act" taxes, or FICA taxes). In contrast, qualified plans are generally tax-exempt until distributed to beneficiaries, exempt from FICA taxes, and subject to ERISA regulations. Among the requirements for such favorable federal tax treatment is that a plan does not discriminate among employees in terms of contributions or benefits; accordingly, SERPs and other nonqualified plans that discriminate do not receive favorable treatment.

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[147] *Macdonald v. Cleveland Income Tax Bd. of Review*, 151 Ohio St.3d 114 (2017).

[148] 26 U.S.C. 401(a).

[149] See, e.g., 29 U.S.C. 1002 and 1051(2).

[150] 26 U.S.C. 3121(a)(5).

Sales and use taxes

Use tax collection

The bill modifies the set of activities sufficient to create a presumption that an out-of-state seller has substantial nexus with Ohio, thus requiring the seller to collect and remit use tax. The bill also requires persons that own, operate, or control a physical or electronic marketplace through which retail sales are facilitated on behalf of other sellers (i.e., "marketplace facilitators") to register as a seller with the Tax Commissioner and collect and remit the use tax due on all transactions facilitated through that marketplace. (For example, a company operates an Internet-accessible platform permitting third-party sellers to use the platform to offer products for sale; the company is therefore a marketplace facilitator.)

Continuing law imposes use tax on tangible personal property and certain taxable services purchased outside of, but used, consumed, or stored in Ohio. Use taxes are levied at the same rate as state and local sales taxes, and all revenue from the tax is credited to the General Revenue Fund.

Substantial nexus

(R.C. 5741.01(I); Sections 757.80 and 812.20)

Background

The authority of states to require out-of-state sellers to collect and remit taxes is limited by the Commerce Clause of the U.S. Constitution. The U.S. Supreme Court held in *Complete Auto Transit v. Brady* that taxation of interstate commerce is permissible only if (1) the seller has a substantial nexus with the taxing state, (2) the tax is fairly apportioned, (3) the tax does not discriminate against interstate commerce, and (4) the tax is related to the services the state provides.[151]

The first component of the *Complete Auto Transit* test, requiring a substantial nexus with the taxing state, is the subject of frequent litigation. In the abstract, "substantial nexus" is a connection or link between a seller and the taxing state that is sufficient to justify requiring the seller to collect and remit use tax to that state. Until recently, the controlling precedent on the subject was *Quill Corp. v. North Dakota*. In that case, the U.S. Supreme Court reaffirmed a standard that requires a physical presence by the seller in the taxing state to establish substantial nexus.[152] Most states, including Ohio, tailored their sales and use tax collection requirements for out-of-state sellers in conformance with the *Quill* standard.

The U.S. Supreme Court overturned the *Quill* standard in a 2018 case, *South Dakota v. Wayfair, Inc.* In that case, the Court determined that substantial nexus is not established by physical presence, but instead when the seller avails itself of the privilege of carrying on business in the taxing state. In its decision, the Court declined to strike down South Dakota's

[151] 430 U.S. 274, 279 (1977).

[152] 504 U.S. 298 (1992).

substantial nexus standard which requires out-of-state sellers that engage in a high volume of sales into the state to collect and remit the state's sales tax irrespective of whether the sellers have a physical presence in the state.[153]

Ohio's standard

Ohio law requires out-of-state sellers to collect and remit use tax on sales into the state to the maximum extent permissible under the Commerce Clause of the U.S. Constitution. An Ohio-based consumer is required to report and remit directly to the state any use tax not collected and remitted by a seller.[154]

Continuing law prescribes several examples of activities that, if conducted by an out-of-state seller, create a presumption that the seller has substantial nexus with Ohio. For example, an out-of-state seller is presumed to have substantial nexus with Ohio if the seller uses an Ohio warehouse or regularly uses agents in Ohio to conduct business. In general, these presumptions may be overcome if the seller demonstrates that those activities are not significantly associated with the seller's ability to establish or maintain the seller's Ohio market.

The bill modifies the activities sufficient to establish a presumption of substantial nexus with Ohio so that they are more closely aligned with the South Dakota nexus standard that withstood the scrutiny of the U.S. Supreme Court in the *Wayfair* case. The bill adds a presumption that a seller has substantial nexus with Ohio if the seller (1) has gross receipts in excess of $100,000 from sales into Ohio, or (2) engages in 200 or more separate sales transactions into Ohio, during the current or preceding calendar year. As a conforming change, the bill eliminates an existing, but narrower, presumption of substantial nexus for a seller that has gross receipts in excess of $500,000 from sales into Ohio and that (1) uses computer software stored or distributed in Ohio to make Ohio sales, or (2) provides, or enters into an agreement with a third party to provide, content distribution networks in Ohio to accelerate or enhance the delivery of the seller's website to Ohio consumers. This existing presumption is subsumed by the bill's new presumption of substantial nexus for sellers with more than $100,000 in gross receipts from sales into Ohio.

The bill also eliminates an existing presumption of substantial nexus for a seller that has a "click-through" agreement with an Ohio resident that referred more than $10,000 in sales to the seller in the preceding 12 months. A click-through agreement is an agreement where the Ohio resident receives a commission or other form of compensation for referring potential customers to the seller (e.g., by including a link on a website, in-person communication, or telemarketing).

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[153] ____ U.S. ____, 138 S.Ct. 2080.

[154] R.C. 5741.12(B), not in the bill.

Marketplace facilitators

(R.C. 5741.01, 5741.04, 5741.05, 5741.07, 5741.071, 5741.11, 5741.13, and 5741.17; Sections 757.80 and 812.20)

The bill requires persons that own, operate, or control a physical or electronic marketplace through which retail sales are facilitated on behalf of other sellers ("marketplace facilitators") to collect and remit use tax on all transactions facilitated through that marketplace. A marketplace facilitator's use tax collection and remission duties begin the first day of the first month that begins at least 30 days after the marketplace facilitator first has substantial nexus with Ohio. For the most part, marketplace facilitators have the same rights and obligations as other sellers under the administrative provisions of the use tax, such as the requirements to register with the Tax Commissioner and file returns.

After a marketplace facilitator's use tax collection and remission duties begin, the marketplace facilitator is treated as the seller for all sales it facilitates regardless of whether the "marketplace seller" for whom the sale is facilitated has substantial nexus with Ohio and irrespective of the amount of the price paid by the consumer that is retained by the marketplace facilitator. Marketplace sellers that are otherwise required to collect and remit use tax in Ohio retain that duty for all sales other than those for which a marketplace facilitator is treated as the seller.

Substantial nexus

The general standard for determining whether a marketplace facilitator has substantial nexus with Ohio is the same as for other sellers (i.e., to the fullest extent allowable under the Commerce Clause of the U.S. Constitution). However, the bill prescribes only two examples of activities that, if done in the current or preceding calendar year, are sufficient to establish a presumption of substantial nexus for a marketplace facilitator: (1) obtaining gross receipts in excess of $100,000 from sales made or facilitated into Ohio, or (2) making or facilitating 200 or more separate sales into Ohio. These presumptions are identical to the presumptions added by the bill for other sellers except that, for marketplace facilitators, direct sales and sales facilitated on behalf of marketplace sellers are treated cumulatively. As with other sellers, the presumption of substantial nexus may be overcome if the marketplace facilitator demonstrates that the activities are not significantly associated with the marketplace facilitator's ability to establish or maintain the Ohio market.

Meaning of "facilitated"

The bill establishes criteria for determining whether a sale is "facilitated" by a marketplace facilitator, thereby activating the marketplace facilitator's use tax collection and remission duties. In general terms, the duties apply when a marketplace facilitator (1) supports or enables a marketplace seller in establishing a connection with a consumer through the provision of advertising, communication, infrastructure, software research and development, fulfillment or storage services, price-setting, customer service, or brand identification, and (2) collects payment from the consumer, provides payment processing services, or provides virtual currency used by the consumer in the sale.

Sales of hotel lodging are expressly excluded from the types of transactions that activate a marketplace facilitator's use tax collection and remission duties. Therefore, as under current law, any use tax due on sales of hotel lodging must either be remitted by the seller or by the consumer.

Advertising exception

The bill expressly exempts from "marketplace facilitator" any advertisers that do not collect payment from the consumer, provide payment processing services, or provide virtual currency used by the consumer in the sale and, consequently, exempts such advertisers from having to collect and remit use tax on behalf of marketplace sellers. (Under the bill's definition of "marketplace facilitator" the provision of advertising services is not, in itself, sufficient to constitute facilitating a sale on behalf of a marketplace seller so the express exemption is superfluous.)

Waiver

The bill establishes a process by which certain marketplace sellers may request a waiver from the requirement that a marketplace facilitator collect and remit use tax on the seller's sales. The Commissioner is required to grant the waiver if the marketplace facilitator consents and the seller: (1) has annual gross receipts within the U.S. of at least $1 billion (including the gross receipts of affiliates), (2) is publicly traded or has an affiliate that is publicly traded on a major stock exchange, (3) is current on all taxes, fees, and charges administered by the Department of Taxation (excluding charges that are the subject of a bona fide dispute), (4) has not canceled a waiver or had a waiver revoked by the Commissioner related to the same marketplace facilitator in the preceding 12 months, and (5) has not repeatedly failed to file Ohio sales tax returns.

The bill requires the Commissioner to notify both the seller and the marketplace facilitator of whether the request is granted or denied and also requires the seller to keep the marketplace facilitator apprised of the status of the request. If the request is not granted or denied within 30 days of the date it was filed, it is deemed granted.

A seller may cancel the waiver at any time by sending notice to the marketplace facilitator and the Commissioner. The Commissioner may revoke a waiver only if the seller no longer meets the criteria described above.

Destination-based sourcing

The bill requires marketplace facilitators to use destination-based sourcing to determine the amount of use tax to collect and remit for each facilitated sale. Continuing law prescribes rules for assigning where a sale is deemed to have occurred. Determining the appropriate taxing jurisdiction (i.e., state and county or transit authority) under these rules is instrumental in ensuring that the tax is collected at the appropriate rate and that the proper taxing authority receives the revenue.

Applying the destination-based method means that a sale will generally be deemed to have occurred where the goods or services are received by the consumer. Under destination-based sourcing, the following rules are applied, in order, to determine the location of the sale:

- The location where the consumer receives the tangible personal property or service;
- The address of the consumer according to the marketplace facilitator's business records;
- An address obtained from the consumer during the consummation of the sale (e.g., a billing address associated with the consumer's credit card);
- The address from which the tangible personal property was shipped or the service was provided.

Liability relief

Generally, a seller is personally liable for any use tax the seller is required, but fails, to collect and remit. The bill relieves a marketplace facilitator from personal liability if the marketplace facilitator was unable to obtain accurate information regarding the terms of the sale from an unaffiliated marketplace seller despite reasonable efforts. This liability relief applies only to a marketplace facilitator's failure to collect the tax. Once the tax is collected, the marketplace facilitator is fully liable for any amount that is not remitted as required by law.

If the marketplace facilitator is relieved of personal liability, the marketplace seller and the purchaser remain liable for the unpaid use tax.

Audits

The bill prohibits the Tax Commissioner from auditing any person other than the marketplace facilitator respecting sales for which the marketplace facilitator is required to collect and remit use tax. Under current law, the Commissioner may audit either the seller or the consumer if the Commissioner has information that indicates that the amount of use tax paid is less than what is due. The bill specifies that marketplace sellers and consumers remain personally liable for unpaid use tax if the marketplace facilitator is relieved of liability for a particular transaction.

Class action lawsuits

The bill prohibits any person from filing a class action lawsuit related to an overpayment of use tax against a marketplace facilitator on behalf of consumers. Under continuing law, consumers may seek a refund of overpaid use tax from the Tax Commissioner.[155]

Repeal of sales tax exemption

(R.C. 122.175, 5739.01, 5739.02(B)(38); Section 757.140)

The bill repeals a sales tax exemption for sales of vehicles, parts, and repair services to qualified motor racing teams. To qualify for the exemption, the racing team had to employ at least 25 full-time employees and conduct its business with the purpose of competing in at least ten professional racing events per year. The repeal takes effect October 1, 2019.

[155] R.C. 5741.10, not in the bill.

Sales tax exemption for food manufacturing equipment

(R.C. 5739.011)

The bill expands a sales tax exemption for equipment and supplies used to clean other equipment that is used to produce or process food for people. The existing exemption applies only if the food being produced or processed is a dairy product.

Taxation of technology platform operators

(R.C. 5739.01(C); Section 757.301)

Current law requires a vendor – i.e., a person that makes retail sales of goods or services – to collect sales tax.[156] The bill specifies that an operator of a technology platform that "connects" a consumer with another person who is providing a taxable service is a vendor. For this purpose, such services include a transportation network company providing transportation network services, e.g., Uber or Lyft, or peer-to-peer car sharing programs (which the bill would regulate, as described elsewhere in this analysis). The operator of a technology platform is a vendor regardless of whether the person providing the taxable service is an agent of the operator. As a result, the bill requires an operator of such a technology platform that facilitates a taxable service to collect sales tax from the consumer, rather than the person providing the taxable service.

The bill states that the provision applies retrospectively to all cases pending on, or transactions before, on, or after the provision's effective date, and further states that it "clarifies the status of vendors and does not change the existing application of" the sales tax law.[157]

Local sales and use tax rate increments

(R.C. 5739.021, 5739.023, and 5739.026; Section 757.331)

The bill allows counties and transit authorities to levy their local sales and use taxes in rate increments of 0.05% beginning October 1, 2019. Currently, a county or transit authority may levy or increase a rate only in increments of 0.1% or 0.25%.[158]

Continuing law authorizes counties and transit authorities to levy local sales and use taxes that "piggyback" on the state sales and use tax. All of Ohio's counties, plus eight transit authorities, levy sales and use taxes. Counties and transit authorities each may levy a tax of up to 1.5%.

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[156] R.C. 5739.01(C) and R.C. 5739.03(A), not in the bill.

[157] The question of whether Uber is a vendor required to collect sales tax currently is pending in the Board of Tax Appeals. *Uber Technologies, Inc. v. Testa.*

[158] The 0.1% increment was authorized recently, in H.B. 69 of the 132nd General Assembly. Before July 1, 2018, rates could only be levied in increments of 0.25%.

County sales tax: detention facility

(R.C. 5739.021 and 5739.023; Section 757.331)

The bill authorizes a county, except for one that has adopted a charter (currently only Cuyahoga and Summit counties) to levy up to a ½% sales and use tax exclusively to construct, acquire, equip, or repair detention facilities (referred to in this analysis as "detention facility purposes"). Current law authorizes a county to levy a sales and use tax of up to 1% for general operations, or for supporting criminal and administrative justice services (including, among others, detention facility purposes) or funding a regional transportation improvement project. Under continuing law, a county may levy an additional tax of up to ½% for any of one dozen special purposes. In essence, the bill increases the maximum rate a county may levy overall from 1½% to 2%, but it requires the extra ½% be both dedicated exclusively for detention center purposes and approved by county voters before taking effect.

However, this ½% maximum detention facility tax rate is reduced commensurately in a county with a transit authority that levies a sales or use tax, to the extent the transit authority's tax exceeds 1%. Under continuing law, a transit authority may levy up to a 1½% sales and use tax rate. So, for instance, if the transit authority levies a 1¼% tax, the county would only be able to levy a detention facility tax of ¼%. Similarly, if the transit authority's rate equals 1½%, the county would not be allowed to levy an additional detention facility tax.

Conversely, if a county does levy an additional sales and use tax for detention facility purposes, the maximum rate of tax that the overlapping transit authority may levy is reduced commensurately. Thus, for instance, if the transit authority levies a 1¼% tax and the county levies a detention facility tax of ¼% – the maximum rate the county may impose under these circumstances – the transit authority would not be able to increase its tax an additional ¼% to reach the otherwise-allowable 1½% maximum transit authority rate. In this instance, the county detention facility effectively subsumes the additional rate the transit authority would otherwise have been able to levy.

These commensurate rate-reduction mechanisms ensure that the detention facility tax rate will not exceed the maximum sales and use tax rate that could have been levied in the county had the transit authority levied the full rate of tax to which it was otherwise entitled.

The provision begins to apply October 1, 2019.

Lodging tax

For county agricultural societies

(R.C. 5739.09(L))

Continuing law 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 tax is proposed by resolution of the board of county commissioners and is subject to voter approval. The county is

not required to return any portion of the additional tax revenue to townships or municipal corporations.

Under current law, the term of the additional lodging tax may not exceed five years. The bill allows the board of county commissioners to extend the term of the tax for an additional period not exceeding 15 years. The extension could be approved by resolution of the board and would not be subject to voter approval, but it would be subject to referendum.

For new convention facilities authorities (CFAs)

(R.C. 351.021(C)(3); Section 757.311)

The bill authorizes an additional lodging tax of up to 3% for any convention facilities authority created between July and December of 2019. Continuing law authorizes a board of county commissioners to create CFAs with the authority to administer convention, entertainment, or sports facilities located within their respective territories. The bill subjects resolutions creating a CFA between July and December 2019 to a referendum if a petition signed by 10% of the votes cast for Governor in the most recent gubernatorial election is filed within 90 days after the resolution is adopted.

Certain CFAs are permitted under continuing law to levy a lodging tax of up to 4%. The authority to levy such a tax has been extended several times on a limited basis to CFAs in qualifying counties over relatively short periods of time. Similarly, the bill requires the additional lodging tax to be adopted, if at all, by December 30, 2020. The tax is proposed by resolution of the CFA and must be approved by the board of county commissioners before it is levied. Like most other CFA lodging taxes, the revenue must be used to pay the costs of constructing, operating, and maintaining a convention, entertainment, or sports facility, including associated debt, the convention facilities authority's operating costs, and costs to administer the tax.

The additional lodging tax is not subject to voter approval or referendum. However, if a referendum is held on the board of county commissioners' resolution creating the CFA, the tax does not take effect unless the board's resolution is approved at the election. The CFA may adopt a resolution proposing the lodging tax at any time after its creation (and before December 30, 2020) but the tax cannot take effect until the 90-day referendum period on the board of county commissioners' resolution has expired.

For county fairground purposes

(R.C. 351.021(F))

The bill increases from 15% to 25% the amount of lodging tax revenue received by a convention facilities authority located in a county with a 2010 population between 80,000 and 90,000 (i.e., Muskingum County) that may be allocated by the CFA to tourism-related sites or facilities and programs, the improvement and maintenance of county fairgrounds, and any other purpose connected with the use of a county fairground. The bill also specifies that unspent lodging tax revenue that was previously allocated to such purposes may be used in subsequent years without counting towards the 25% cap.

Generally, CFAs that levy a lodging tax are required to use the revenue to pay the costs of constructing, operating, and maintaining a convention, entertainment, or sports facility including associated debt, the convention facilities authority's operating costs, and costs to administer the tax. However, in 2013, H.B. 59 allowed the Muskingum County CFA to allocate a portion of its lodging tax revenue to tourism-related sites or facilities and programs and county fairgrounds.

Property taxes

State community college permanent improvements levy

(R.C. 3358.11, 3333.59, 3358.02, and 3358.06)

The bill authorizes the board of trustees of a state community college district to propose a property tax levy for permanent improvements, or a combination bond issuance and tax levy for permanent improvements. In either case, the issue is subject to voter approval. In the case of a tax levy without bond issuance, the tax may be levied for any specified number of years, or for a continuing period of time, and may be renewed or replaced before its expiration.

Under continuing law, a state community college district is a political subdivision created by the Ohio Board of Regents upon receiving a proposal from a technical college district or a state university or upon a proposal by boards of county commissioners or initiative petition. The purpose of the district is to establish, own, and operate a state community college. It is governed by a board of trustees consisting of nine members appointed by the Governor. The territory of the district is composed of the territory of a county, or of two or more contiguous counties. The district must have a population of at least 150,000.[159]

The tax levy and bond issuance authorized by the bill are nearly identical to the tax levy and bond issuance authorized under continuing law for community college districts, except that the existing community college district levy may also be used for operating expenses. Community college districts and state community college districts perform similar functions but there are some administrative differences between the two, such as how they are formed and how trustees are appointed.

Tax levy for safety and security of private schools

(R.C. 5705.21(F))

Continuing law allows the board of education of a school district to propose a property tax levy in excess of the ten-mill limitation exclusively for school safety and security purposes. Such purposes include funding permanent improvements to provide or enhance security, employing or contracting with safety personnel, providing mental health services and counseling, or providing training in safety and security practices and responses. The tax may be levied for a term of up to five years.

[159] R.C. 3358.01, not in the bill.

The bill allows the board of education of a school district to share the proceeds of a school safety and security levy with private schools that hold a valid charter issued by the state board of education ("chartered nonpublic schools"). The resolution and ballot language proposing the levy must specify the portion of the proceeds that will be allocated to chartered nonpublic schools. If approved by the voters of the school district, the chartered nonpublic school portion of the proceeds would be divided proportionally among all such schools located within the territory of the school district based on the number of resident students enrolled in each chartered nonpublic school.

The bill specifies that a "resident student" is a student who is entitled to attend school in the district levying the tax. Every chartered nonpublic school that is located within the territory of the school district and that enrolls one or more resident students would receive its statutorily prescribed portion of the levy proceeds. The bill requires the school district to pay each chartered nonpublic school its portion of the proceeds at least twice each year, after the February and August tax settlements. All such revenue received by chartered nonpublic schools must be used for school safety and security purposes.

Fraternal and veterans' organization exemptions

(R.C. 5709.17; Section 757.90)

The bill modifies existing tax exemptions for property held or occupied by a fraternal or veterans' organization. Under continuing law, property that generates more than $36,000 in rental income in a year does not qualify for either exemption. For purposes of determining this rental-income threshold for fraternal organizations, the bill excludes rent received from other fraternal organizations. Similarly, for purposes of qualifying for the veterans' organization exemption, the bill excludes rent received from other veterans' organizations in determining whether or not the rental income produced by the property exceeds that limit.

These modifications apply beginning in tax year 2019.

Community school property tax applications

(R.C. 5713.08 and 5715.27)

The bill excuses community schools from filing annual tax exemption applications with and obtaining the approval of the Tax Commissioner as a condition of obtaining a property tax exemption.

Under continuing law, property used for an educational purpose, including such community school property qualifies for a property tax exemption.[160] Current law, with only a few exceptions, requires property owners to apply annually to either the Tax Commissioner or

[160] R.C. 5709.07(A).

the county auditor to obtain an exemption for the tax year.[161] The Commissioner or county auditor evaluates and decides whether to approve the exemption.

The bill changes the exemption process for community schools. Instead of obtaining the Tax Commissioner's approval every year, community schools applying for an "educational purpose" exemption will only need to obtain the Commissioner's approval in the first tax year for which the exemption is sought. Then, the property will continue to be exempt for all future tax years, provided the community school submits an annual statement to the Commissioner attesting that its property continues to qualify for the educational purpose exemption. But the Commissioner may order the exemption removed if the Commissioner discovers, in any tax year, that the community school's property does not actually qualify for that exemption.

Public school districts and other noncommunity schools seeking the educational purpose exemption would still be required to file for and obtain annual approval from the Commissioner.

County DD board funding

The bill limits the amount that can be held in the reserve balance account (i.e., rainy day fund) of a county board of developmental disabilities (county DD board) and imposes new restrictions on a county budget commission's authority to reduce the amount of taxes that a county levies on a county DD board's behalf.

Under continuing law, each year the county budget commission reviews the budget and projected tax revenue of each taxing district in the county. The commission may reduce a subdivision's tax levy if it determines that the revenue from that tax, as currently levied, would exceed the actual needs of the subdivision as set forth in the subdivision's own budget. [162]

Continuing law also requires each county to establish a board of developmental disabilities and to levy taxes on its behalf. Under current law, if the amount that would be raised from such a tax, in combination with the county DD board's existing funds, would exceed the board's actual needs for a tax year, the county budget commission may reduce the rate of that tax accordingly.

Rainy day funds

(R.C. 5705.222)

Under the bill, the balance of a county DD board's rainy day fund would not be permitted to exceed 40% of the board's expenditures for all services during the preceding year. Current law specifies no limit.

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[161] The current exemption application, prescribed by the Department of Taxation, is DTE 23, which may be accessed online at https://www.tax.ohio.gov/portals/0/forms/real_property/DTE_DTE23.pdf.

[162] R.C. 5705.32, not in the bill.

The bill also provides that, when determining whether or not to reduce the amount of taxes a county levies on behalf of the county DD board, the county budget commission cannot take into account any rainy day fund balance that is under that limit. Similarly, the bill specifies that any balance in a board's capital improvements account that is within existing law's statutory limit likewise cannot be considered. (Under continuing law, the balance of a county DD board's capital improvements account is limited to 25% of the replacement value of the board's capital facilities and equipment.)

General funds

(R.C. 5705.322)

In addition, the bill requires that, before reducing a county's taxing authority as a result of the balance of a county DD board's general fund, the county budget commission must (1) take into account the county DD board's five-year projection of revenues and expenditures and (2) hold a separate, public hearing on the proposed reduction. If the commission holds such a hearing, the proposed reduction must be the sole topic of the hearing, the commission must publish notice of the hearing, and the commission must allow county representatives an opportunity to appear and explain the county DD board's financial needs.

Tax bill and website contents

(R.C. 323.131)

The bill requires county auditors and treasurers to include on tax bills a list of the various taxing units to which the taxes charged are to be allocated and the respective amounts allocated to each unit. In the case of counties, this list would include the various county purposes to which such taxes are to be allocated, and the respective amounts (e.g., developmental disabilities, detention facilities, senior services, public safety communications).

The bill also requires each county auditor and treasurer to post on their respective websites, or on the county's website, the percentage of property taxes charged by each taxing unit and, where counties are concerned, the percentage of taxes charged by the county for each of the county purposes for which taxes are charged.

Property tax exemption for renewable energy facilities

(R.C. 5727.75; Section 757.200)

The bill extends, by two years, the deadline to apply for existing law's property tax exemption for qualified renewable energy facilities.

Under continuing law, a renewable energy facility may qualify for a real and tangible personal property (TPP) tax exemption. Currently, the owner or lessee of the facility must apply for the exemption and begin construction on the facility by January 1, 2021. The bill extends this deadline to January 1, 2023.

When a property tax exemption is approved, the owner or lessee of the facility is required to make "payments-in-lieu-of-taxes" (PILOTs) to the local governments in which the facility is located. The bill makes a technical correction to out-of-date language regarding the calculation of PILOTs that must be paid with respect to solar energy facilities. The correction

causes each year's PILOTS to be calculated on the basis of generating capacity rating as of the last day of the preceding year instead as of December 31, 2016.

Exemption for convention centers and arenas

(R.C. 5709.084; Section 757.90)

The bill authorizes a real property tax exemption for a convention center or arena that is owned by a convention facilities authority (CFA) of a county with a population between 750,000 and 1 million and is leased to a private enterprise. According to the 2010 U.S. census, Hamilton County is the only county in Ohio that has a population within that range. The exemption applies to tax year 2019 and every tax year thereafter.

Continuing law exempts property owned by a CFA from taxation unless the property is leased to, or used exclusively by, a private enterprise.[163] There are several exceptions to this rule for certain arenas and convention centers such as Nationwide Arena in Franklin County.

Commercial activity tax

CAT administrative expense earmark

(R.C. 5751.02; Section 812.20)

The bill reduces the percentage of commercial activity tax (CAT) revenue to be credited to the Revenue Enhancement Fund from prior law's 0.75% to 0.65%, beginning July 1, 2019. The fund is used to defray the Department of Taxation's expenses in administering the CAT and "implementing tax reform measures." H.B. 49 of the 132nd General Assembly previously reduced the earmark from 0.85% to 0.75% beginning July 1, 2017.

Temporary historic rehabilitation CAT credit

(Section 757.40)

The bill extends, to July 1, 2021, the temporary authorization for owners of a historic rehabilitation tax credit certificate to claim the credit against the commercial activity tax (CAT) if the owner cannot claim the credit against another tax and the certificate becomes effective after 2013 but before June 30, 2021 ("qualifying certificate owner"). Additionally, the bill 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 that is a nonprofit organization, to claim a tax "credit" as if the business or organization were a CAT taxpayer.

Uncodified law enacted in 2014 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. Two subsequent acts extended the authorization for tax periods ending between July 1, 2015, and June 30, 2019. Except for these prior temporary provisions, a certificate holder

[163] R.C. 351.12, not in the bill.

may claim the credit against the personal income tax, financial institutions tax, or foreign or domestic insurance company premiums tax.

Other tax provisions

Vapor products tax

(R.C. 5743.01, 5743.025, 5743.14, 5743.20, 5743.41, 5743.44, 5743.51, 5743.52, 5743.53, 5743.54, 5743.55, 5743.59, 5743.60, 5743.61, 5743.62, 5743.63, 5743.64, 5743.66, and 5751.01; Sections 757.260 and 757.270)

The bill levies an excise tax on the distribution, sale, or use of nicotine vapor products, effective October 1, 2019. Similar to the existing tax on tobacco products other than cigarettes (OTP), the vapor products tax would be levied on distributors and all revenue from the tax is credited to the GRF. However, unlike the OTP tax, which is based on the wholesale price of the OTP product, the vapor products tax will be based on the volume of nicotine-containing liquid or other substance consumed in an electronic smoking product.

A corresponding "use" tax would also be imposed on persons using, storing, or consuming vapor products for which a vapor distributor has not paid the tax. (That is, the use tax applies, for example, to vapor products purchased outside Ohio and brought into Ohio, or otherwise acquired from someone other than a vapor distributor or retail dealer, in a manner analogous to the cigarette and OTP use taxes levied under continuing law.)

Tax base and rate

The bill defines a vapor product as any liquid solution or other substance that (1) contains nicotine, (2) is consumed by use of an electronic smoking product, and (3) is not regulated as a drug or device by the U.S. Food and Drug Administration (FDA). An electronic smoking product is a noncombustible product, except for a cigarette or an OTP, that (1) is designed to use vapor products, (2) employs some mechanical, electronic, or chemical means to produce vapor from such products, and (3) is not regulated as a drug or device by the FDA. An example includes an electronic cigarette or "vape pen."

The tax is imposed on the volume of vapor products at the first point the products are received in Ohio by a vapor distributor or seller. The rate equals 1¢ per 0.1 milliliters (mL) of liquid vapor product or 1¢ per 0.1 grams of nonliquid vapor product. A vapor product is taxed only once, and, even if a tax-paid product is later reprocessed, diluted, or otherwise altered, the altered product is not subject to the tax.

Taxpayer

The tax is payable by vapor distributors and sellers of vapor products. A "seller" is any person located outside the state who is engaged in the business of selling vapor products to Ohio consumers. A distributor includes any person that:

1. Sells vapor products to retail dealers;

2. Is a retail dealer that receives vapor products upon which the tax has not been paid by another person;

3. Is a wholesaler that receives vapor products from a manufacturer or upon which the tax has not been paid by another person;

4. Is a "secondary manufacturer," i.e., a person that repackages, reconstitutes, dilutes, or reprocesses vapor products for resale to consumers.

The use tax is payable by any person who uses, stores, or consumes vapor products for which the tax has not already been paid.

Tax returns and payments

Vapor distributors must file returns and pay the tax due on a monthly basis, by the 23rd day of each month, unless the Commissioner allows a longer reporting interval. Returns must be filed electronically. Vapor distributors must also maintain the invoice from each vapor product transaction. For each vapor product transaction, the invoice must indicate the vapor distributor's account number, whether or not the tax has been paid, and the weight or volume of each vapor product, rounded to the nearest 0.1 mL or gram, as applicable.

Licensing requirements

The bill requires vapor distributors to obtain an annual license to operate in the state. A licensed vapor distributor may sell vapor products only to retail dealers, other licensed vapor distributors, or, if the vapor distributor is also a retail dealer, to consumers.

The licensing process for vapor distributors is identical to the process for wholesale dealers of OTP. Indeed, the bill requires only a single license for distributing OTP and vapor products, so an OTP distributor that already holds a license before the vapor tax takes effect on October 1, 2019, may distribute vapor products after that date without obtaining an additional license.

Vapor distributors must apply to the Tax Commissioner for the license, which is valid for one year beginning on the first day of February. The annual application fee is $125 per business location for a license solely to distribute vapor products or $1,000 per business location for a combined OTP and vapor products license. (Under continuing law, a licensing fee to distribute OTP is $1,000.) If a license is issued after February 1, the application fee is reduced proportionately for the remainder of the year. As the vapor tax begins to apply October 1, 2019, the bill requires a vapor distributor that does not hold an OTP license before that date to apply for a license by September 30, 2019. This initial license will remain in effect until February 1, 2021. Revenue from the license fee is deposited in the Cigarette Tax Enforcement Fund, which funds the Department of Taxation's expenses in enforcing cigarette, OTP, and vapor product tax law.

As with existing OTP licenses, the Commissioner may refuse to issue or reissue a vapor distributor license if the applicant has any outstanding tax liability or has failed to file any prior vapor products tax return. The Commissioner may also suspend a license if a taxpayer fails to file a return or pay the tax. In addition, the Commissioner may cancel a license at the request of the licensee.

Administration and enforcement

The bill incorporates vapor products into many of the existing provisions for the administration and enforcement of the state cigarette and OTP taxes. These provisions include:

- Tax refunds and the application of a taxpayer's refund to offset a debt the taxpayer owes to the state.
- Records retention, fraud prevention, and inspections.
- Seizure and forfeiture of products when the Commissioner has reason to believe that a person is avoiding paying the tax.
- Registration and reporting of vapor product importers and manufacturers, which the bill requires beginning in July 2020.
- Civil and criminal penalties.
- Prohibition against municipal corporations imposing a similar tax.[164]

The bill also explicitly requires secondary manufacturers to comply with federal packaging laws when reconstituting, diluting, or reprocessing vapor products.

CAT exclusion

The bill authorizes a vapor distributor to exclude from its gross receipts subject to the CAT an amount equal to the vapor products excise tax remitted to the state. A similar CAT exclusion already exists for distributors of cigarettes and tobacco products subject to state excise taxes. Under continuing law, the CAT is a business privilege tax levied on the basis of a business's taxable gross receipts.

Return due dates

(R.C. 5743.62, 5743.63, and 5743.66)

The bill adjusts the due date for several types of monthly OTP returns to the 23rd day of the following month, instead of the last day of the month. Under current law, returns of OTP distributors are due on the 23rd day of the next month, but OTP seller and use tax returns and importer and manufacturer reports are not due until the last day of the next month. The bill also sets the monthly return due date for the new vapor products tax as the 23rd day of the following month.

Tourism development districts

Under continuing law, a township or municipal corporation located in a county with a population between 375,000 and 400,000 that levied a county sales tax rate of 0.50% or less in September 2015 (currently only Stark County) may designate a special district within which the municipal corporation or township may levy certain taxes or fees or receive certain revenue to

[164] R.C. 715.013, not in the bill.

fund tourism promotion and development in that district. Such a district is referred to as a "tourism development district" or a TDD. The bill makes two modifications to the TDD law that enhance the authority of a TDD to raise revenue.

Gross receipts tax

(R.C. 5739.101)

The bill extends until December 31, 2020, the authority of townships and municipal corporations to levy a new gross receipts tax within the territory of a TDD. Currently, such a tax is allowed only if it was adopted before January 1, 2019. Canton is the only subdivision that adopted a TDD gross receipts tax before that date.[165]

Under continuing law, a TDD gross receipts tax is levied on businesses' gross receipts derived from making sales in the TDD (excluding food sales) at a rate not exceeding 2%. The tax is administered and collected by the Tax Commissioner in the same manner as the gross receipts tax that is permitted in certain "resort areas" such as Kelleys Island and Put-in-Bay.

Development charge

(R.C. 505.56, 505.58, 715.014, and 715.015)

The bill authorizes a township or municipal corporation to enter into agreements with owners of property located within the TDD to impose a development charge on the property equal to a percentage (up to 2%) of gross receipts derived from sales made at the property (excluding food sales). The development charge is subject to approval of the board of county commissioners. It is collected and enforced in the same manner, and has the same lien status, as real property taxes regardless of changes in ownership of the property.

A township or municipal corporation that levies a gross receipts tax within the TDD is prohibited from entering into or enforcing a development charge agreement within the same district.

Local Government Fund

(R.C. 5747.50; Sections 387.10, 387.20, 757.230, and 812.20)

LGF temporary increase

The bill temporarily increases the amount to be credited to the Local Government Fund (LGF) each month. Currently, the LGF receives 1.66% of the total state tax revenue credited to the General Revenue Fund. The bill increases that percentage to 1.68% for each month in FYs 2020 and 2021.

Most of the funds credited to the LGF are distributed to county undivided local government funds (county LGFs), from which the funds are allocated amongst subdivisions within the county using either a statutory or alternative, county-specific formula. One million

[165] Ohio Department of Taxation, Resort Tax, available at: https://www.tax.ohio.gov/resorttax.aspx (last visited June 10, 2019).

dollars of the LGF is set aside each month to make payments to villages with a population of less than 1,000 and to townships, and the remainder (around 5% of total LGF funds) has been used to make direct payments to municipal corporations.

Direct distributions to municipalities

In the FY 2018-2019 biennium, the direct LGF payments to municipalities were diverted to fund addiction services.[166] However, in FY 2020, these payments are scheduled to resume.

The bill modifies the formula for distributing these payments among municipalities. Currently, only municipalities that levied an income tax in 2006 receive a distribution; each municipality's distribution is based on that municipality's share of the payments in 2006 (with that share being based on the municipality's relative income tax collections).

Under the bill, every municipality in the state with a population of 1,000 or more would receive a distribution. (Villages with a population of less than 1,000 would continue to receive a portion of the $1 million set-aside.) Each such municipality's share will be based on population, with the caveat that cities with a population of more than 50,000 will be capped at that amount. So, when each municipality's share is calculated, cities with a population of more than 50,000 will be considered to have a population of 50,000. The share paid to a municipality with a population of less than 50,000 will be based upon that municipality's actual population.

Disclosing personal income to verify scholarship eligibility

(R.C. 5703.21(C)(19))

The bill allows the Department of Taxation to disclose to the Department of Education family incomes of students applying for and receiving scholarships under the Educational Choice Scholarship Pilot Program for the purpose of verifying income eligibility for the program. The disclosure by Department of Taxation to the Department of Education must be made orally and is restricted to information only to verify family incomes of the student recipients. Under the scholarship pilot program, eligibility is based in part on family income (R.C. 3310.02 and 3310.03).

Current law permits disclosure of certain information in the possession of the Department of Taxation to other state agencies and offices under specified circumstances to aid in the implementation of Ohio law.

Job Retention Tax Credit

(R.C.121.171)

The bill modifies the employment and investment requirements that businesses must meet to receive a Job Retention Tax Credit (JRTC).

Continuing law authorizes the JRTC for businesses that agree to make a minimum capital investment in Ohio and to retain a specified number of employees in connection with that

[166] Section 757.20 of Am. Sub. H.B. 49 of the 132nd General Assembly.

capital project. The business must be engaged in either manufacturing or corporate administrative functions. To receive the tax credit, the business applies to the Tax Credit Authority, which reviews the application and offers a tax credit agreement. The credit will equal an agreed-upon percentage of the business' payroll, and can be allowed for up to 15 years.

To receive the credit, currently, a business must employ at least 500 employees or have an annual payroll in Ohio of at least $35 million. In addition, for manufacturing projects, the business must make a capital investment in Ohio of at least $50 million over three years. For corporate administrative projects, the investment must equal at least $20 million.

The bill makes several changes to these requirements. First, the bill provides that, if a corporate administrative project is located in a foreign trade zone, the business does not have to meet the 500 employee or $35 million in payroll requirement. The project must still involve an investment of at least $20 million over three years.

For manufacturing projects, the bill entirely removes the requirement that a business have at least 500 employees or $35 million in payroll. In addition, the bill modifies the $50 million capital investment requirement, such that a manufacturer's investment may equal either (a) $50 million or (b) 5% of the net book value of the tangible personal property located at the project site on the last day of the three-year investment period.

Tobacco products tax nexus

The bill changes the phrasing of three nexus-related references in current law involving sellers of tobacco products from "nexus in this state" to "substantial nexus with this state" in order to obtain consistency with R.C. 5741.01. The current tobacco products language expressly references the definition of "nexus" in R.C. 5741.01, so the distinction between the two standards was likely unintentional. However, logic suggests that demonstrating a seller has "nexus" in Ohio is a lower bar to clear than demonstrating that the seller has "substantial nexus" with the state. So the change is substantive rather than technical.

DEPARTMENT OF TRANSPORTATION

ODOT business plan

- Removes the requirement that the Director of Transportation adopt a rule every two years that establishes both:

  --A business plan outlining the Department of Transportation's (ODOT's) mission, business objectives, and strategies; and

  --A procedure for certain professional employees' performance accountability.

Maritime Assistance Program

- Creates the Ohio Maritime Assistance Program, to be administered by ODOT.
- Permits certain port authorities to apply for grants to improve marine cargo terminals and other maritime structures located on the shores of Lake Erie, a Lake Erie tributary, or the Ohio River.
- Requires a grant recipient to provide dollar-for-dollar matching funds for the state funding received.

Memorial bridge – change of location

- Changes the location of the "Lance Corporal Michael Stangelo, USMC, Memorial Bridge."

International symbol of access

- Removes a provision of law that requires a person – who is erecting or replacing a sign containing the international symbol of access (for example, for an accessible parking spot) – to use a logo that depicts a dynamic character leaning forward with a sense of movement.

ODOT business plan

(R.C. 5501.20)

The bill removes the requirement that the Director of Transportation adopt a rule every two years that establishes both:

- A business plan outlining ODOT's mission, business objectives, and strategies; and
- A procedure for certain professional employee's performance accountability.

Current law requires the Director to adopt the business plan by July 1 of every odd-numbered year. That business plan is used in evaluating both a newly hired professional employee's performance during that employee's initial four-month review and all professional employees' performance during their yearly written performance reviews. Professional employees currently are expected to work to fulfill the mission, business objectives, and

strategies stated in the plan and can be suspended, demoted, or removed for performance that hinders or restricts fulfillment of the plan.

While the bill removes the requirement that the Director adopt a business plan and the employee performance expectations related to the plan, it retains current provisions for the yearly performance review. Professional employees are considered employees in the classified civil service and so are held to those standards for good behavior and efficient service. Failure to keep up with those standards will still result in a possible six-month period to improve performance, or a suspension, demotion, or removal.

Maritime Assistance Program

(R.C. 5501.91; Section 411.20)

The bill creates the Ohio Maritime Assistance Program, to be administered by ODOT. Under the program, specified port authorities may apply to ODOT for a grant to improve an existing marine cargo terminal. The existing terminal must be located on the shores of Lake Erie or the Ohio River or on a Lake Erie tributary and must either be owned by the port authority or must be within a federally qualified opportunity zone and have a stevedoring operation.

Along with the grant application, a port authority must submit a written business justification for the investment, specifically indicating the operational and market need for the project. ODOT must evaluate all applications according to the following criteria:

- The degree to which the project will increase the efficiency or capacity of maritime cargo terminal operations;
- Whether the project will result in handling new types of cargo or an increase in cargo volume;
- Whether the project will meet an identified supply chain need or benefit the Ohio firms that export goods to foreign markets or that import goods to Ohio for manufacturing or value-added distribution; and
- Any other criteria the Director determines appropriate.

The second and third criteria are particularly important, since no grants may be given to an applicant that does not meet them.

A port authority that receives a grant must use it only for the following purposes:

- Land acquisition and site development for the marine cargo terminal and associated uses (including demolition and environmental remediation);
- Construction of structures and improvements directly related to maritime commerce and harbor infrastructure (e.g., wharves, quay walls, bulkheads, jetties, revetments, breakwaters, shipping channels, dredge disposal facilities, and projects for the beneficial use of dredge material);

- Construction, repair, and improvements of the terminal and associated uses (e.g., warehouses, transit sheds, railroad tracks, roadways, gates and gatehouses, fencing, bridges, offices, and shipyards);
- Acquisition of cargo handling equipment (including mobile shore cranes, stationary cranes, tow motors, fork lifts, yard tractors, craneways, conveyer and bulk material handling equipment, and all types of ship loading and unloading equipment);
- Planning and design services and other services associated with construction.

Finally, a port authority must pay a dollar-for-dollar matching amount for the grant money. The bill appropriates $11 million in FY 2020 and $12 million in FY 2021 for the program, through the Ohio Maritime Assistance Fund, created by the bill.

The Director must adopt rules governing the program, the grant application, the evaluation and award processes, and how the grant money may be spent by a port authority recipient.

Memorial bridge – change of location

(R.C. 5534.152)

The bill changes the location of the "Lance Corporal Michael Stangelo, USMC, Memorial Bridge." The designation was originally established on State Route 93 on the bridge spanning the Tuscarawas River, located in Canal Fulton, Ohio. However, that specific bridge was already named. The bill designates, instead, the State Route 93 bridge that crosses over State Route 21, located in Lawrence Township. Lance Corporal Michael Stangelo was a veteran of the U.S. Marine Corps who died on June 15, 2016, after losing his battle with Post-Traumatic Stress Disorder.

International symbol of access

(R.C. 9.54)

Am. Sub. H.B. 62 of the 133rd General Assembly (the transportation budget) includes a provision that requires a person – who is erecting or replacing a sign that contains the international symbol of access (for example, for an accessible parking spot) – to use a logo that depicts a dynamic character leaning forward with a sense of movement. The bill removes this provision, and reverts back to prior law, which requires the signs to use the international symbol of access and forms of the word "accessible."

TREASURER OF STATE

- Expands the current Pay for Success Contracting Program and requires the Treasurer of State to administer it.
- Allows the Treasurer to enter into pay for success contracts with service intermediaries for delivery of specified services that benefit the state, a political subdivision, or a group of political subdivisions, such as programs addressing education, public health, criminal justice, or natural resource management.
- Requires the Treasurer, in the case of a contract for services that benefit the state, to enter into the contract jointly with the Director of Administrative Services.
- Permits the Treasurer to enter into a pay for success contract upon receiving an appropriation for that purpose or at the request of another state agency, political subdivision, or group of them.
- Specifies required terms for a pay for success contract, including a requirement that the service intermediary be paid only if the performance targets are met.
- Allows the Treasurer to adopt administrative rules to administer the program.
- Establishes funds in the state treasury to hold the moneys the Treasurer will use to make payments to service intermediaries.
- Continues the current Pay for Success Contracting Program administered by the Director of Administrative Services, allowing the Director and the Department of Health to continue to administer certain pilot projects intended to reduce infant mortality.

Pay for Success Contracting Program

(R.C. 113.60, 113.61, and 113.62; Sections 601.30 and 601.31)

Generally

The bill expands the current Pay for Success Contracting Program, described below under "**Continuation of current program**," and requires the Treasurer of State to administer it. Under the bill, the Treasurer may enter into pay for success contracts with service intermediaries for delivery of specified services that benefit the state, a political subdivision, or a group of political subdivisions, such as programs addressing education, public health, criminal justice, or natural resource management. In the case of a contract for services that benefit the state, the Treasurer must enter into the contract jointly with the Director of Administrative Services.

Under the contract, the service intermediary receives payment for providing the services only if the intermediary meets certain performance targets specified in the contract. If the program operated by the service intermediary is unsuccessful, the government is not required to pay the service intermediary.

The Treasurer may enter into a pay for success contract upon receiving an appropriation from the General Assembly for that purpose. Additionally, the Treasurer and, as applicable, the Director of Administrative Services, may enter into a pay for success contract on behalf of another state agency, a political subdivision, or a group of state agencies or political subdivisions at their request. In that case, the requesting entity must deposit the cost of the contract with the Treasurer, and the Treasurer is responsible for making payments to the service intermediary. A political subdivision must not use state funds to pay the cost of a contract.

The bill also allows the Treasurer to apply for federal grants on behalf of a requesting state agency, political subdivision, or group to pay all or part of the cost of a contract. The Treasurer is prohibited from applying for federal grants without first entering into an agreement with the state agency, political subdivision, or group for the Treasurer to do so.

Service intermediaries and service providers

Any person or entity may be a service intermediary. The service intermediary may act as the service provider that delivers services under the contract or may contract with a separate service provider. Under the current program, only a nonprofit organization or a wholly owned subsidiary of a nonprofit organization may enter into a pay for success contract.

Contract terms

The bill requires a pay for success contract to include provisions that:

- Require the Treasurer, in consultation with the requesting state agency or agencies and the Director of Administrative Services, or in consultation with the requesting political subdivision or group of political subdivisions, to specify performance targets to be met by the service provider;
- Requires those performance targets to include greater than average improvement compared to other geographical areas if appropriate data exist to make that comparison (see "**Measurement of improvement**," below);
- Appoint an independent evaluator – who must be a person or government entity, other than an agency, subdivision, or group that requested the contract – to evaluate whether the service provider has met each performance target. The evaluator must be independent from the intermediary and the provider and must not have common owners or administrators, managers, or employees with the intermediary or provider.
- Specify the process or methodology the independent evaluator must use to evaluate whether the service provider has met each performance target;
- Require the Treasurer to pay the intermediary in installments at times determined by the Treasurer that are specified in the contract and are consistent with state law;
- Require the installment payments to the service intermediary to be based on whether the service provider has met each performance target, as determined by the independent evaluator;

- Specify the maximum amount a service intermediary may earn for meeting the performance targets;
- Require a state agency, political subdivision, or group that requested the contract to determine, in accordance with applicable laws, to which data in the possession of the state agency, political subdivision, or group, the intermediary will have access for the purpose of fulfilling the contract, along with any limitations on the use of the data. The state agency, political subdivision, or group must retain control over the data and provide the data directly to the service intermediary under the contract. If any dispute arises concerning the data, the state agency, political subdivision, or group must work directly with the service intermediary to resolve the dispute.

These contract requirements are similar to the requirements for the current program, except that the bill adds provisions regarding measurement of improvement and requires the state agency, political subdivision, or group that requested the contract to provide the service intermediary with access to relevant data, instead of requiring the Treasurer to ensure that access. And, the bill clarifies that a state agency, political subdivision, or group that requested the contract may not serve as the independent evaluator and that a service intermediary must meet a performance target instead of only making progress toward it.

Program administration

The bill requires the Treasurer to administer the Pay for Success Contracting Program and to develop procedures for awarding contracts. The Treasurer may take any other action necessary to administer the program.

The Treasurer may adopt rules in accordance with the Administrative Procedure Act to administer the program. The rules may include the procedure for a state agency, political subdivision, or group of them to request the Treasurer and, as applicable, the Director of Administrative Services to enter into a contract and to deposit the cost of the contract with the Treasurer. The rules also may address the types of services that are appropriate for a service provider to provide under a pay for success contract.

Measurement of improvement

At least 75% of the contracts under the program must specify performance targets that, based on available regional or national data, the improvement in the status of Ohio or the relevant area, with respect to the issue the contract addresses, exceeds the average improvement in other geographical areas. The Treasurer must adopt by rule a process to ensure that any regional or national data used to determine whether a service provider has met its performance targets are scientifically valid.

For example, if a pay for success contract intended to reduce Ohio's three-year recidivism rate among offenders released from prison, the contract's performance targets must include requirements, based on scientifically valid data about other states' recidivism rates during the contract period, because those data are available. If Ohio began with a three-year recidivism rate of 30%, and at the end of the contract term, Ohio's rate was 20% (a 10% reduction), the service intermediary would have met the performance target if the average of

other states' three-year recidivism rates went down by less than 10% during that period, suggesting that Ohio's program was more effective than the average effort in other states.

Funds

The bill establishes three separate funds in the state treasury to hold the moneys the Treasurer will use to make payments to service intermediaries: the State Pay for Success Contract Fund, the Federal Pay for Success Contract Fund, and the Local Government Pay for Success Contract Fund.

The state fund consists of any money transferred to the Treasurer by state agencies for pay for success contracts and any money appropriated to the fund by the General Assembly. The federal fund consists of any money the Treasurer receives from federal agencies pursuant to grant agreements for the purpose of entering into pay for success contracts. And, the local government fund consists of any money paid to the Treasurer by political subdivisions for pay for success contracts.

The Treasurer must use the money in the appropriate fund to make payments to service intermediaries under a pay for success contract. Any investment earnings on the funds are credited to them, and the Treasurer may use those investment earnings to pay the costs of administering the Pay for Success Contracting Program.

When the term of a pay for success contract expires, the Treasurer must transfer any remaining unencumbered funds received from a state agency, political subdivision, or group of them to the appropriate agency, political subdivision, or group. The Treasurer must dispose of any excess federal grant funds in accordance with the grant agreement.

Continuation of current program – infant mortality initiatives

The bill also continues the current Pay for Success Contracting Program administered by the Director of Administrative Services for a limited purpose. Currently, the Director administers a narrower version of the program, under which the Director may enter into contracts with social service intermediaries to achieve certain social goals. A social service intermediary must be either a nonprofit organization that is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code, or a wholly owned subsidiary of a nonprofit organization, that delivers or contracts for the delivery of social services, raises capital to finance the delivery of social services, and provides ongoing project management and investor relations for those activities.

The required terms of a pay for success contract with the DAS Director are similar to those under the bill. However, current law does not establish particular funds from which the DAS Director must make contract payments and does not require the Director to adopt administrative rules.

The bill transfers general authority to administer the Pay for Success Contracting Program from the DAS Director to the Treasurer of State, but allows the Director to continue to contract with social service intermediaries, in consultation with the Department of Health, to administer one or two pilot projects established in H.B. 49 of the 132nd General Assembly (the FY 2018-FY 2019 operating budget act). The pilot projects are intended to reduce the incidence

of infant mortality, low-birthweight births, premature births, and stillbirths in the communities identified as having the highest infant mortality rates and to promote equity in birth outcomes among infants of different races. Under the bill, the current version of the law continues to apply to those pilot project contracts, instead of the bill's new version.[167]

Background on social impact bonds

Pay for success contracts allow the state to use a financing model known as social impact bonds to fund government programs. Under this model, a private entity contracts to operate a program on behalf of the government, and the government pays the private entity only if the program achieves the desired results. In order to obtain up-front funding to operate the program, the private entity may seek investors, who provide that funding in exchange for the right to a share of the money the private entity will receive from the government if the program is successful. As a result, under this model, the private entity or its investors, instead of the government, bear the financial risk that a program will be unsuccessful.[168]

[167] See R.C. 3701.142, not in the bill.

[168] National Conference of State Legislatures, *Social Impact Bonds,* available at ncsl.org/research/labor-and-employment/social-impact-bonds.aspx.

TURNPIKE AND INFRASTRUCTURE COMMISSION

Audits and reports

- Replaces the requirement that the Auditor of State make an unannounced annual audit of the Ohio Turnpike and Infrastructure Commission's accounts and transactions with a requirement that the Auditor of State make an audit of the Commission at least every other year.
- Requires the Commission to annually submit a comprehensive annual financial report, including audited financial statements for the preceding calendar year, to the Governor, General Assembly, and Director of Budget and Management.

Competitive bidding and advertising

- Authorizes the Commission to enter into contracts for goods and services via a competitive proposal process, when the Commission determines that competitive bidding is not practical or advantageous to the Commission.
- Authorizes the Commission to use a value-based selection process for projects that involve both design and construction elements in a single contract.
- Authorizes the Commission to enter into contracts for certain temporary or emergency purchases and services without public advertising.
- Authorizes the Commission to use a shorter form of public notice, available to state agencies and political subdivisions under current law, and removes the restriction that all notices occur in a Franklin County newspaper.
- Raises the threshold for when a bond is required for goods and service contracts from $150,000 to $500,000.

Audits and reports

(R.C. 5537.17)

The bill replaces the requirement that the Auditor of State make an unannounced annual audit of the Ohio Turnpike and Infrastructure Commission's accounts and transactions with a requirement that the Auditor of State make an audit of the Commission at least every other year. Additionally, the Commission is still subject to an audit of its books and accounts by certified public accountants (CPAs), as under current law, however, the bill specifies that such CPAs must be approved by the Auditor of State.

Furthermore, under the bill, the Commission must annually submit a comprehensive annual financial report, including audited financial statements for the preceding calendar year, to the Governor, General Assembly, and Director of Budget and Management. Under current law, the Commission must make an annual report of its activities, including a complete

operating and financial statement, to the Governor and General Assembly. This report is eliminated in favor of the comprehensive financial report.

Competitive bidding and advertising

(R.C. 5537.07 and 5537.13)

Competitive bidding

The bill authorizes the Commission, when entering into contracts for goods and services, to forgo the competitive bidding process and to use a competitive proposal process instead, when the Commission determines that competitive bidding is not practical or advantageous to the Commission. In doing so, the Commission is authorized to conduct discussions with anyone that submits a competitive proposal to ensure that the person submitting the proposal understands and is responsive to the project's requirements. The Commission is then allowed to award the contract to the person that submits the best proposal, as determined by the Commission. The Commission must consider multiple factors, including price and the evaluation criteria set forth in the request for competitive proposals. The bill does not affect the current law requirement that the Commission use competitive bidding for construction contracts.

Under current law, generally the Commission is required to use competitive bidding and to enter into a contract with the "lowest responsive and responsible bidder." The Commission is exempt from this requirement when the contract is with a governmental agency, is based on a contract originally entered into by another state agency or political subdivision, the contract is for the acquisition of real property or compensation for professional or other personal services, or the contract is for less than $50,000.

Design/build – construction contracts

The bill also authorizes the Commission to use a value-based selection process for projects that involve both design and construction elements in a single contract. Current law permits the Commission to expedite special turnpike projects by combining the design and construction elements of any public improvement project into a single contract. However, the Commission needs to award the final project to the lowest responsive and responsible bidder. The bill allows the Commission to award the final project to the contractor it considers to be the best value.

Public advertising

The bill makes changes to the Commission's public advertising requirements, specifically by authorizing the Commission to use a shorter form of public notice for advertising for contracts. The shortened form of public notice requires the advertisement to exist in its entirety for the first notice, but permits the second or subsequent notices to be abbreviated provided certain requirements are met. The bill also removes the requirement that all public advertising occur in a newspaper of general circulation in Franklin County.

Additionally, the bill permits the Commission to enter into contracts for the purchase of equipment, materials, and services without public advertising for all of the following:

- Construction of a temporary bridge;

- Making temporary emergency repairs to a highway or bridge after a storm, flood, landslide, or other natural disaster; and
- While responding to circumstances created by an extraordinary emergency, as determined by the Commission.

Bonds for goods and service contracts

Finally, the bill increases the threshold for when a bond is required for goods and service contracts entered into by the Commission from $150,000 to $500,000.

DEPARTMENT OF VETERANS SERVICES

Transcranial magnetic stimulation pilot program

- Requires the Directors of Veterans Services and Mental Health and Addiction Services to establish a pilot program to make transcranial magnetic stimulation available for veterans with substance use disorders or mental illness, and to operate the program for three years.
- Requires the Directors to contract with AMVETS for services related to the program and exempts the contract from competitive bidding law.
- Requires one or both of the Directors to adopt rules under the Administrative Procedure Act to administer the pilot program, including a rule requiring that the quarterly report provided by AMVETS include clinical programs and outcomes, and a thorough accounting of the use and expenditure of all funds received from the state.
- Establishes the Transcranial Magnetic Stimulation Fund in the state treasury to consist of moneys appropriated to it by the General Assembly.

Transcranial magnetic stimulation pilot program

(R.C. 5902.09)

The bill requires the Directors of Veterans Services and Mental Health and Addiction Services to establish a pilot program to make transcranial magnetic stimulation available for veterans with substance use disorders or mental illness, and to operate the program for three years. Under the bill, the program must be operated in conjunction with the American Veterans of World War II (AMVETS), Department of Ohio.

The Directors, by mutual agreement, must contract with AMVETS for services related to the pilot program. The contract must include provisions requiring AMVETS to create, implement, operate, and evaluate outcomes of the pilot program, to choose a location for the pilot program, to expend payments received from the state as needed for purposes of the program, and to report quarterly regarding the pilot program to the President of the Senate and to the standing committee of the Senate that generally considers legislation regarding veterans affairs. The bill specifies that the contract entered into with AMVETS is not subject to competitive bidding requirements.

The bill establishes the Transcranial Magnetic Stimulation Fund in the state treasury. Any money appropriated by the General Assembly for the pilot program must be deposited into the fund. The Directors may authorize disbursements from the fund to AMVETS for services rendered under the contract.

Under the bill, one or both of the Directors must adopt rules under the Administrative Procedure Act as necessary to administer the program, including a rule requiring that clinical protocols and outcomes are collected and reported quarterly in a report provided by AMVETS.

The report also must include a thorough accounting of the use and expenditure of all funds received from the state by AMVETS under the program.

DEPARTMENT OF YOUTH SERVICES

- Consolidates and renames the Federal Juvenile Justice Programs Funds into a single Juvenile Justice and Delinquency Prevention Fund administered by the Department of Youth Services (DYS).
- Eliminates the requirements that a separate federal juvenile justice program fund be established each federal fiscal year and the crediting of investment earnings on the fund's cash balance be for the appropriate federal fiscal year.
- Requires DYS to maintain a financial activity report of each individual grant in the fund.
- Removes the provision that rules, orders, and determinations of the Office of Criminal Justice Services regarding administration of federal juvenile justice grants in effect on that provision's effective date continue in effect as those of DYS.

Juvenile Justice and Delinquency Prevention Fund

(R.C. 5139.87)

The bill provides that the Department of Youth Services (DYS) serves as the state agent for the administration of federal, instead of *all* federal, juvenile justice grants to the state, and eliminates the requirement that a separate federal juvenile justice programs fund be established each federal fiscal year. It consolidates the Federal Juvenile Justice Programs *funds* into a single Juvenile Justice and Delinquency Prevention Fund (the fund). All federal grants and moneys received for federal juvenile programs must be deposited into the fund and receipts deposited in the fund must be used for federal juvenile programs. The bill provides that all investment earnings on the cash balance in the fund must be credited to the fund and eliminates the provision that they be credited for the appropriate federal fiscal year.

The bill requires DYS to maintain a financial activity report of each individual grant within the fund, including expenses and revenue credited to those individual grants.

The bill eliminates the provision that all rules, orders, and determinations of the Office of Criminal Justice Services regarding the administration of federal juvenile justice grants in effect on September 26, 2003, must continue in effect as rules, orders, or determinations of DYS.

TEMPORARY OCCUPATIONAL LICENSE FOR MILITARY MEMBER OR SPOUSE

- Requires state occupational licensing agencies, under certain circumstances, to issue temporary licenses or certificates to members of the military and spouses who are licensed in another jurisdiction and have moved or will move to Ohio for duty.
- Specifies that temporary licenses or certificates under the bill are to be issued to an individual for a duration of not more than six years.
- Allows a state licensing agency to deny or revoke a temporary license or certificate issued under the bill under certain circumstances.
- Requires the DAS Director to prepare a report for each fiscal year on the number and type of temporary licenses or certificates issued during the fiscal year under the bill.
- Excludes the State Medical Board from the temporary license requirements and requires the State Medical Board, under certain circumstances, to issue expedited licenses by endorsement to members of the military and spouses who are licensed in another jurisdiction and have moved or will move to Ohio for duty.
- Requires the State Medical Board to waive the current law application fee for certain members of the military and spouses who apply for an expedited license to practice medicine and surgery or osteopathic medicine and surgery by endorsement.

Temporary occupational license for military member or spouse

(R.C. 4743.04 and 4743.041, primary; R.C. 4730.121, 4731.153, 4731.299, 4731.57, 4734.281, 4734.285, 4734.49, 4759.02, 4759.064, 4759.10, 4760.041, 4761.03, 4761.052, 4762.03, 4762.041, 4774.041, 4778.051, 4778.07, 4778.08, 4778.081, and 5903.04)

Generally, the bill mandates, under certain circumstances, that a state occupational licensing agency, excluding the State Medical Board, issue temporary licenses or certificates to certain members of the military or a member of the military's spouse. Each licensing agency required to issue the temporary licenses or certificates must adopt rules under the Administrative Procedure Act[169] as necessary to implement the bill's provisions regarding temporary licenses and certificates.

Under existing law, a state or political subdivision licensing agency may, but is not required to, adopt rules and issue a temporary license to a person whose spouse is on active military duty. The bill retains current law with respect to a political subdivision's discretionary authority. However, the bill expands a state licensing agency's authority to include the member of the military in addition to the spouse.

[169] R.C. Chapter 119.

Qualifications

The bill requires each state licensing agency that issues a license or certificate to practice a trade or profession, excluding the State Medical Board, to issue a temporary license or certificate for not more than six years to an individual who meets the following qualifications:

1. The individual holds a valid license or certificate to practice the trade or profession issued by any other state or jurisdiction;

2. The license or certificate is current, and the individual is in good standing (see "**Definitions**," below) in the other state or jurisdiction;

3. The individual presents adequate proof to the state licensing agency of any of the following circumstances:

a. The individual or the individual's spouse is a member of the uniformed services (see "**Definitions**" below) and is on active military duty in Ohio.

b. The individual or the individual's spouse is a military technician dual status as defined under federal law[170] and was transferred to duty in Ohio.

c. A circumstance described in (a) or (b) immediately above will occur within three months after the application date.

4. The individual presents adequate proof to the state licensing agency that the individual moved or will move to Ohio from the state or jurisdiction in which the individual holds a current license or certificate.

5. The individual complies with continuing law requirements[171] to obtain a criminal records check through the Bureau of Criminal Identification and Investigation.

Scope of practice

Under the bill, an individual with a temporary license or certificate may practice the trade or profession in Ohio only within the scope and practice that is permitted under Ohio law and that does not exceed the individual's training.

Circumstances to deny or revoke a temporary license

The bill allows a state licensing agency to deny or revoke a temporary license or certificate issued under the bill in accordance with the Administrative Procedure Act if any of the following circumstances occur:

1. The individual has a criminal record according to a criminal records check.

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[170] 10 United States Code (U.S.C.) 10216.

[171] R.C. 4776.01 to 4776.04, not amended for purposes of this provision.

2. The individual is unable to practice the trade or profession according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including physical deterioration that adversely affects cognitive, motor, or perceptive skills.

3. The individual is unable to practice the trade or profession according to acceptable and prevailing standards of care because of the habitual or excessive use or abuse of alcohol or other substances that impair the ability to practice.

4. An adverse action has been taken against the individual by a health care institution.

5. The individual's license or certificate issued by another state or jurisdiction expires, is revoked, or is not in good standing, or the individual, with respect to that license or certificate, is placed on disciplinary probation.

6. With respect to an individual who was eligible for a temporary license as the spouse of a member of the uniformed services or of a military technician dual status, six months have elapsed since the divorce, dissolution, or annulment of the marriage.

7. The individual is dishonorably discharged from the military.

8. The individual is required to register under Ohio's Sex Offender Registration Law[172] or a substantially similar law of another state, the United States, or another country.

9. The individual is required to register as an arson offender under Ohio law[173] or a substantially similar law of another state, the United States, or another country.

10. The individual has been convicted of, pleaded guilty to, or had a judicial finding of guilt for any criminal violation of Ohio law mandating that the individual is ineligible for licensure or certification in the trade or profession.

11. The individual issued a temporary license or certificate under the bill fails to obtain a full license or certificate within six years after the temporary license or certificate was issued.

Fee

A state licensing agency must waive all fees associated with the issuance of a temporary license or certificate under the bill.

Expedited process

Under the bill, each state licensing agency must establish a process to provide any special accommodations that may be appropriate for applicants for a temporary license or certificate. Under existing law, licensing agencies must have a process to obtain documentation to determine if an applicant is a service member or veteran, or the spouse or surviving spouse of a service member or veteran, a process to record, track, and monitor applications for those

[172] R.C. Chapter 2950.

[173] R.C. 2909.15, not in the bill.

individuals, and a process to prioritize and expedite certification or licensure for those individuals.

Reporting

The bill requires the DAS Director, on the conclusion of the state fiscal year, to prepare a report on the number and type of temporary licenses or certificates that were issued during the fiscal year. The DAS Director must provide the report to the Director of Veterans Services not later than 30 days after the end of the fiscal year. The Director of Veterans Services must compile the reports and make them available to the public.

State Medical Board expedited licenses by endorsement

The bill requires the State Medical Board to issue expedited licenses by endorsement, without examination, to applicants who are members of the military and spouses under certain circumstances for the following licenses:

- A license to practice as a physician assistant;
- A license to practice a limited branch of medicine;
- A license to practice podiatric medicine and surgery;
- A license to practice dietetics;
- A license to practice as an anesthesiologist assistant;
- A license to practice respiratory care;
- A license to practice as an oriental medicine practitioner or acupuncturist;
- A license to practice as a radiologist assistant;
- A license to practice as a genetic counselor;
- A genetic counselor supervised practice license.

For those licenses, the bill requires the State Medical Board to issue, without examination, an expedited license by endorsement to an applicant who meets all of the following requirements:

1. The applicant files a written application to the Board on a form prescribed by the Board and includes all of the information the Board considers necessary to process it.

2. The applicant provides evidence satisfactory to the Board that the applicant meets all of the following requirements:

a. The applicant holds a valid license or certificate to practice the applicable occupation issued by any other state or jurisdiction.

b. The license or certificate is current, and the applicant is in good standing in the state or jurisdiction of licensure or certification.

c. One of the following circumstances applies to the applicant or the applicant's spouse.

i. The individual or the individual's spouse is a member of the uniformed services and is on active military duty in Ohio.

ii. The individual or the individual's spouse is a military technician dual status as defined under federal law and was transferred to duty in Ohio.

iii. A circumstance described in (i) or (ii) above will occur within three months after the application date.

d. The applicant moved or will move to Ohio from the state or jurisdiction in which the individual holds a current license or certificate.

e. The individual meets the requirements to receive a license required of applicants who apply for the license under current law, including criminal records checks.

The Board is required to waive all fees associated with the application for and issuance of an expedited license by endorsement under the bill.

Expedited licenses to practice medicine and surgery or osteopathic medicine and surgery

Continuing law prescribes a process for an applicant to receive an expedited license to practice medicine and surgery or osteopathic medicine and surgery by endorsement without examination from the State Medical Board. The bill requires the Board to waive the application fee (currently, $1,000) for that expedited license if the applicant presents adequate proof to the Board of both of the following:

1. One of the following circumstances applies to the applicant or the applicant's spouse:

a. The individual or the individual's spouse is a member of the uniformed services and is on active military duty in Ohio.

b. The individual or the individual's spouse is a military technician dual status as defined under federal law and was transferred to duty in Ohio.

c. A circumstance described in (a) or (b) above will occur within three months after the date of application.

2. The applicant moved or will move to Ohio from the state or jurisdiction in which the individual holds a current license or certificate.

Definitions

For purposes of the bill's provisions regarding temporary licenses and certificates:

"Uniformed services" means the Army, Navy, Air Force, Marine Corps, Coast Guard, commissioned corps of the National Oceanic and Atmospheric Administration; and commissioned corps of the Public Health Service.

An individual or an individual's license or certificate issued by another state or jurisdiction is in "good standing" if all of the following apply:

1. The individual is in compliance with all applicable federal, state, and local regulations.

2. The individual is not the subject of an investigation or disciplinary action by any federal, state, or local government agency.

3. The individual has not been denied a license or certificate, or had a license or certificate limited, suspended, or revoked by any public agency or licensing agency.

LOCAL GOVERNMENT

Tax increment financing

- Authorizes a local government, under certain circumstances, to extend the term of a tax increment financing exemption for up to 30 additional years.

County family and children first councils

- Requires each county family and children first council to include a representative of the Department of Youth Services (DYS) or its designee, instead of a representative of the regional office of DYS.

Board of elections compensation

- Increases the minimum compensation of a member of a board of elections by 1.75% annually through 2028.

Municipal garbage fees

- Authorizes all municipalities providing for garbage collection to have unpaid garbage fees of $250 or more charged as a lien against real property.

Municipal corporation as portion of fire district

- Allows a township fire district or a joint fire district to include a portion of a municipal corporation.

Filing electronically notarized documents

- Replaces existing law's requirement that printed copies of electronically executed and notarized documents be accepted on the same terms as documents submitted electronically with a requirement that they be accepted so long as they are properly authenticated.
- Requires county officials who electronically accept documents for recording to also accept digital copies of electronically executed and notarized documents on the same terms.

Township employee use of compensatory time off

- Allows a township employee to take, in lieu of overtime pay, compensatory time off at a rate of 1 ½ times the number of overtime hours worked at a time mutually convenient to the employee and the employee's supervisor within 180 days after working overtime.
- Allows a township appointing authority, by rule or resolution, to adopt an alternative policy governing the calculation and payment of overtime.

Hospitals forming, acquiring, or being involved with a nonprofit

- Allows a board of county hospital trustees of a county hospital or a joint township district hospital board to form or acquire control of a domestic nonprofit corporation or a domestic nonprofit limited liability company.
- Allows a board to be a partner, member, owner, associate, or participant in a nonprofit enterprise or nonprofit venture.
- Requires a board forming, acquiring, or participating in a nonprofit entity to do so in furtherance of certain specified reasons.

Industrial development bonds

- Allows townships to issue industrial development bonds.
- Eliminates the requirement that a county or municipal corporation designate a community improvement corporation as its industrial development agency before the county or municipal corporation may issue industrial development bonds.

Criminal records check for municipal tax employees

- Requires criminal records check for employees of municipal corporations and regional councils of government with access to federal tax information.

Increase county recorder and Housing Trust Fund fees

- Increases to $16 the base fee and the Housing Trust Fund fee ($32 total) collected by the county recorder for recording and indexing the first two pages of an instrument when using photocopying or any similar process.
- Retains the base fee of $4 and the Housing Trust Fund fee of $4 for each subsequent page ($8 total per subsequent page) of the recorded instrument.
- Removes the $50 million cap on the amount of Housing Trust Fund fees that the Treasurer of State deposits into the Low- and Moderate-Income Housing Trust Fund.
- Eliminates the Housing Trust Reserve Fund where Housing Trust Fund fees in excess of $50 million each year are deposited.

County Recorder's Technology Fund

- Extends the time period during which a county recorder may annually request that an additional amount be credited to the County Recorder's Technology Fund.
- Extends the time period for which a current funding proposal is effective, notwithstanding the number of years of funding specified in the originally approved proposal.
- Requires a board of county commissioners to approve such extensions to be deposited in the County Recorder's Technology Fund if the total of such amounts does not exceed $8.

Park district to work jointly with contracting subdivisions

- Adds a park district created under R.C. Chapter 1545 of the Revised Code to the definition of "contracting subdivision" to allow for parks created under that chapter to work jointly with other contracting subdivisions for certain purposes.

Regional water and sewer districts

- Allows a regional water and sewer district to make loans and grants to and enter into cooperative agreements with any person (a natural person, firm, partnership, association, or corporation other than a political subdivision) rather than only to political subdivisions as in current law.
- Expands a district's authority to offer discounted rentals or charges established by a regional water and sewer district to any person who is of low or moderate income or qualifies for the homestead exemption, instead of only to those who are 65 or older and meet that criteria.

Using concealed handgun license fees for shooting range

- Allows a sheriff, with approval of the board of county commissioners, to use the county's portion of revenue from concealed handgun license fees for any costs incurred in constructing, maintaining, or renovating a shooting range to be used by the sheriff or the sheriff's employees.

Tax increment financing exemption extensions

(R.C. 5709.51, 5709.40, 5709.41, 5709.73, and 5709.78; Section 757.20)

Under current law, a county, township, or municipal corporation may adopt a resolution exempting certain property in a township from property taxation through a method known as tax increment financing (TIF). There are currently two types of TIF resolutions that a local government may adopt – either exempting individual parcels or groups of parcels, or exempting a collection of parcels in an "incentive district" (these are often referred to as a "project TIF" or an "incentive district TIF," respectively).

All or a portion of the increased value of real property subject to a TIF is exempt from property tax for up to ten years or, with the approval of the school district, up to 30 years. School districts may condition their approval on receiving payments from the property owner compensating the district for forgone property taxes. In lieu of property taxes, the owner of TIF property is generally required to make service payments to the local government that designated the TIF, which generally uses those service payments to pay for infrastructure improvements related to the development of the TIF property.

The bill authorizes a county, township, or municipal corporation to extend the term of a project TIF exemption for up to 30 additional years, if certain conditions apply. Specifically, (1) service payments generated by the project TIF must have exceeded $1.5 million in the year before the extension is adopted, and (2) the ordinance or resolution extending the term must

provide for compensation to the affected school district for the amount of forgone taxes. In addition, for extensions approved after 2020, service payments must not have exceeded $1.5 million in any year before the year preceding the extension. (When coupled with (1), above, this means that, for extensions approved after 2020, the TIF service payments must have increased to $1.5 million in the year before the extension is approved from some lesser amount paid in each preceding year.) The bill authorizes an extension only for project TIF exemptions in effect for tax year 2019 or later.

Within 15 days after approving an extension, the county, township, or municipal corporation must send a copy of the local extension legislation to the Director of Development Services. (Under continuing law, local governments are required to certify new TIF legislation to the Director within the same amount of time.)

County family and children first councils

(R.C. 121.37)

Current law requires each board of county commissioners to establish a county family and children first council. Regarding council membership, the bill requires there be a representative of the Department of Youth Services (DYS) or an individual designated by DYS. This replaces a representative of the regional office of DYS, as required under current law.

Board of elections compensation

(R.C. 3501.12)

The bill increases the minimum compensation of a member of a board of elections by 1.75% annually through 2028. Under continuing law, a board member's annual compensation must be the greater of the following:

1. The sum of the following:

- $102.41 for each full 1,000 of the first 100,000 in county population;
- $48.79 for each full 1,000 of the second 100,000 in county population;
- $26.50 for each full 1,000 of the third 100,000 in county population;
- $8.13 for each full 1,000 above 300,000 in county population.

2. $6,000.

Existing law requires the dollar amounts listed under (1) above to be increased by 1.75% annually from 2019 through 2028. But the law does not likewise provide for the $6,000 minimum, which applies in counties with smaller populations, to be adjusted. The bill requires the $6,000 minimum to be adjusted in the same way as the other figures, meaning that board members who qualify only for the minimum compensation also will receive the 1.75% annual increase.

Municipal garbage fees

(R.C. 701.10)

The bill authorizes the legislative authority of any municipality that has established a rate or charge for garbage collection to certify to the county auditor unpaid amounts owed when the unpaid amount is at least $250. The amount certified becomes a lien against the real property to which services are provided, is placed on the tax list to be collected as other taxes, and paid into the general fund of the municipality. Currently, this authority exists only for municipalities located in a charter county.

Municipal corporation as portion of fire district

(R.C. 505.37 and 505.371)

The bill allows a township fire district or a joint fire district to include all *or a portion* of a municipal corporation while current law only allows *the entire* municipal corporation. Under continuing law, a municipal corporation that is within or adjoins a township may join the township's fire district, or a municipal corporation may join together with one or more townships and other municipal corporations to create a joint fire district. Current law only allows both types of districts to include the entire municipal corporation. The bill expands this to allow a district to include a portion of a municipal corporation.

Filing electronically notarized documents

(R.C. 147.591)

Under existing law, county auditors, engineers, and recorders that accept documents through an electronic recording method must also, and on the same terms, accept printed copies of documents that were electronically executed. The bill replaces that requirement with a requirement that the county officials accept printed copies of electronically executed documents so long as they are properly authenticated. It also adds a new requirement that digital copies of electronically executed documents be accepted on the same terms as any other document that is electronically accepted for recording.

Township employee use of compensatory time off

(R.C. 4111.03)

The bill allows a township employee to take, in lieu of overtime pay, compensatory time off at a rate of 1½ times the number of overtime hours worked. The employee and the employee's supervisor must agree on a mutually convenient time for the employee to use earned compensatory time that is within 180 days after the employee worked the overtime. The bill also allows a township appointing authority to adopt a rule or resolution creating an alternative policy governing overtime pay. County employees are currently permitted to take compensatory time on the same terms that apply to township employees under the bill. Additionally, a county appointing authority currently has the same authority to adopt an alternative overtime policy.

Ohio's overtime compensation law generally requires an employer to pay overtime wages to an employee at a rate of 1½ times the employee's hourly wage rate for all hours in excess of 40 worked by the employee in one workweek, unless an exception applies.

A political subdivision is subject to the federal Fair Labor Standards Act[174] (FLSA), which also requires an employer to pay overtime if an employee works more than 40 hours in a week unless an exception applies. Under the FLSA, a political subdivision may, in lieu of paying overtime compensation, grant 1½ hours of compensatory time off for each hour of overtime worked. The compensatory time must be granted in accordance with the terms of a collective bargaining agreement or, in the case of an employee not covered by a collective bargaining agreement, an agreement between the employer and employee entered into before the employee works overtime. If the work for which compensatory time may be provided includes work in a public safety activity, an emergency response activity, or a seasonal activity, the employee may not accrue more than 480 hours of compensatory time. If the work is not related to those activities, the employee may not accrue more than 240 hours of compensatory time. Once an employee accrues 480 or 240 hours of compensatory time, as applicable, the FLSA requires the employee to be paid in accordance with the FLSA's overtime pay requirement.[175]

Hospitals forming, acquiring, or being involved with a nonprofit

(R.C. 339.10 and 513.172)

The bill allows a board of county hospital trustees of a county hospital or joint township district hospital board to form or acquire control of a domestic nonprofit corporation or a domestic nonprofit limited liability company. The bill allows a board to be a partner, member, owner, associate, or participant in a nonprofit enterprise or nonprofit venture. Additionally, the bill requires a board forming, acquiring, or participating in a nonprofit entity to do so in furtherance of any of the following:

- To support the county hospital's or joint township hospital district's mission;
- To provide for any or all health care or medical services, whether inpatient or outpatient services, diagnostic treatment, care, or rehabilitation services, wellness services, services involving the prevention, detection, and control of disease, home health services or services provided at or through various facilities, education, training, and other necessary and related services for the health professions;
- The management or operation of any hospital facility;
- The management, operation, or participation in programs, projects, activities, and services useful to, connected with, supporting, or otherwise related to the health, wellness, and medical services and wellness programs discussed above;

[174] 29 U.S.C. 201*, et seq*.

[175] 29 U.S.C. 207(o).

- Any other activities that are in furtherance of the county hospital or joint township hospital district or are necessary to perform the county hospital's or joint township hospital district's mission and functions and respond to change in the health care industry as determined by the board.[176]

Industrial development bonds

(R.C. 165.01, 165.03, and 715.82)

Continuing law allows counties and municipal corporations to issue what may be referred to as "industrial development bonds," or, bonds issued for the purpose of providing money to purchase, construct, reconstruct, enlarge, improve, furnish, or equip facilities or projects related to industry, commerce, distribution, or research. The bill expands this authority to townships. Currently, a county or municipal corporation must first designate a community improvement corporation (CIC) as its agency for industrial, commercial, distribution, and research development before the county or municipal corporation may issue bonds; the bill eliminates this requirement.

Criminal records check for municipal tax employees

(R.C. 109.572 and 718.131)

Under current law, a criminal records check is required for all state employees, prospective employees, and contractors with access to federal tax information.[177] The bill extends this requirement to all employees, prospective employees, and contractors of municipal corporations and regional councils of government with access to federal tax information. The Internal Revenue Service, through Publication 1075, requires criminal records checks pursuant to federal law requiring state and local governments to preserve the confidentiality of such information.[178]

Under the bill, each municipal tax administrator (including a regional council of governments that administers municipal income taxes, such as the Regional Income Tax Agency) must request the Superintendent of the Bureau of Criminal Identification and Investigation (BCII) to conduct a fingerprint-based criminal records check. As part of the check, BCII must obtain criminal records information from the Federal Bureau of Investigation (FBI). The tax administrator and individual must also comply with any separate request from the FBI for a national criminal records check.

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[176] See Ohio Constitution, Article VIII, Section 6, which restricts a county, city, town, or township from becoming a stockholder in any joint stock company, corporation, or association. A court could determine that this provision of the bill is in violation of the Ohio Constitution. However, courts have held that the use of public money by a private corporation, when used for a public purpose that can be offered by the county, city, town, or township, is valid. *Franklinkton Coalition v. Open Shelter, Inc.,* 13 Ohio App.3d 399 (10th Dist. 1983) and *State ex rel. Dickman v. Defenbacher*, 164 Ohio St. 142 (1955).

[177] R.C. 124.74, not in the bill.

[178] 26 U.S.C. 6103(p)(4).

Increase in county recorder and Housing Trust Fund fees

(R.C. 317.32)

The bill increases by $2 the current base fee of $14 and the current Housing Trust Fund Fee of $14 ($28 total for the first two pages under current law) that is collected by the county recorder for recording and indexing the first two pages of an instrument when using photocopying or any similar process, so the total fee for the first two pages is $32. The bill retains the additional base fee of $4 per subsequent page and the additional Housing Trust Fund fee of $4 per subsequent page ($8 total) in current law.

Low- and Moderate-Income Housing Trust Fund; Housing Trust Reserve Fund

(R.C. 174.02 and 319.63; repeals R.C. 174.09)

The bill removes the $50 million cap on the amount of Housing Trust Fund fees collected by county recorders that are deposited each year into the Low- and Moderate-Income Housing Trust Fund. Under current law, amounts exceeding $50 million are deposited into the Housing Trust Reserve Fund unless that Fund has a balance of $15 million; in the latter case, amounts exceeding $50 million go to the state GRF. Because the bill removes the $50 million cap on amounts going to the Low- and Moderate-Income Housing Trust Fund and eliminates the Housing Trust Reserve Fund, all Housing Trust Fund fees collected by county recorders will be deposited in the Low- and Moderate-Income Housing Trust Fund.

Funding for the County Recorder's Technology Fund

(R.C. 317.321)

The bill allows for a county recorder to extend current approved funding requests for the County Recorder's Technology Fund beyond that currently allowed and requires a board of county commissioners to approve these extensions, notwithstanding current statutory limitations. Under current law a county recorder's funding request to the board of county commissioners for technology fund purposes generally is limited to a five-year period of time except that H.B. 59 of the 130th General Assembly enacted language that purported to allow, temporarily, for extensions of funding beyond the five-year period and a mandatory bump of up to $3 to be directed to the County Recorder's Technology Fund from the General Fund. At the termination of those extensions, beginning January 2019, it appeared that the law would resort to discretionary county commissioner approval, rejection, or modification with a mandatory bump of up to $3, for a period of up to five years, provided the total of such allocations could not exceed $8. Essentially, H.B. 59 "grandfathered" any then-current allocation of recorder's fees to the technology fund for another five-year period (calendar years 2014-18), notwithstanding whatever the approved proposal agreement provided for the term of the funding.

The bill similarly extends any proposal that was approved by the board of county commissioners before, and is in effect on the effective date of the amendment to continue to January 1, 2025, notwithstanding the number of years of funding specified in the approved proposal. The bill also provides that a proposal submitted between October 1, 2019, and

October 1, 2023, for the mandatory bump of up to $3 be credited to the technology fund, in addition to the other funding allocation; if the total of those two amounts does not exceed $8, the board must approve the proposal. Because the H.B. 59 date of January 1, 2019, has passed, in order to get the extension of the first amount beyond that already approved, the county recorder must have an approved funding allocation in effect on the effective date of this amendment to the section and then, despite whatever the number of years are provided in the original approval, the bill would extend it for another five. If the recorder does not have such an approval in effect on the effective date of this amendment, the recorder could possibly receive the up to $3 bump if that does not cause the recorder's total allocation to the technology fund to exceed the $8 limit.

Park district to work jointly with contracting subdivisions

(R.C. 755.16)

The bill adds a park district created under Revised Code Chapter 1545 to the definition of "contracting subdivision" to allow for parks created under that chapter to work jointly with other contracting subdivisions to acquire property for, construct, operate, and maintain any parks, playgrounds, playfields, gymnasiums, public baths, swimming pools, indoor recreation centers, educational facilities, and community centers. Under continuing law, a "contracting subdivision" includes a municipal corporation, township, joint recreation district, township park district, county, school district, educational service center, or state institution of higher education.

Regional water and sewer districts

(R.C. 6119.011, 6119.06, 6119.09, and 6119.091)

Cooperative agreements and loans and grants

The bill allows a regional water and sewer district to make loans and grants to and enter into cooperative agreements with any person (a natural person, firm, partnership, association, or corporation other than a political subdivision). Current law permits a regional water and sewer district to make loans and grants to and enter into cooperative agreements only with a political subdivision. Further, the bill authorizes a district to provide loans and grants for the design of water resource projects. Under current law, a district may provide loans and grants only for the acquisition and construction of water resource projects.

Rental discounts

The bill expands the authority of a district to offer discounted rentals or charges for water resource projects, which include drinking water and sewer services. Under current law, a district is limited in its ability to offer discounts to persons who are 65 or older and who are of low or moderate income or qualify for the homestead exemption. The bill allows a district to offer discounts to a person of any age, provided the person is of low or moderate income or qualifies for the homestead exemption.

Using concealed handgun license fees for shooting range

(R.C. 311.42)

The bill allows a sheriff, with the approval of the board of county commissioners, to expend any portion of the fees the county receives in the sheriff's concealed handgun license issuance expense fund for any costs incurred in constructing, maintaining, or renovating a shooting range to be used by the sheriff or the sheriff's employees. The provision includes costs incurred for equipment associated with the shooting range.

Continuing law allows the sheriff, with the approval of the board of county commissioners, to use those funds for administrative costs incurred by the sheriff related to the issuance of concealed handgun licenses and for ammunition and firearms to be used by the sheriff and the sheriff's employees.

MISCELLANEOUS

Legal age to purchase cigarettes, other tobacco products

- Raises from 18 to 21 the legal age for a person to receive or purchase cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes.
- Specifies that the provisions regarding the sale or distribution of cigarettes, other tobacco products, alternative nicotine products, or rolling papers do not apply to a person who is 18 years of age on or before October 1, 2019.
- Prohibits a person who is 18 years of age or older but younger than 21 years of age from knowingly furnishing false information concerning that person's name, age, or other identification for the purpose of obtaining tobacco products.
- Modifies the definition of "tobacco product."
- Defines "vapor product," replaces "electronic cigarette" with "electronic smoking device," and includes both terms within the definition of "alternative nicotine products."
- Requires clear and visible posting of signage indicating the legal age for receiving or purchasing cigarettes, other tobacco products, alternative nicotine products, or papers to roll cigarettes at locations where those products are sold.
- Specifies that a child may obtain tobacco products if the child is accompanied by the child's parent, spouse, or legal guardian, each of whom must be 21 years of age or older and specifies that this provision does not apply to a child if the child's parent, spouse, or legal guardian is 18 years of age or older on or before October 1, 2019.
- Specifies that a child who knowingly furnishes false information concerning that child's name, age, or other identification for the purpose of obtaining tobacco products may be subject to performing not more than 20 hours of community service.

State agency regulatory rulemaking

- Requires agencies to submit a report to the Joint Committee on Agency Rule Review (JCARR) providing details about the agency's review of its principles of law or policy that are not stated in rule.
- Requires JCARR to make the reports available on its website.
- Removes the requirement that the review be completed at reasonable intervals.
- Not later than December 31, 2019, requires certain state agencies to produce a base inventory of rules containing regulatory restrictions.
- Until July 1, 2023, requires certain state agencies to eliminate two restrictions before enacting a new rule containing a restriction.

New community authorities

- Specifies that a facility can be located outside of a new community district.
- Allows an organizational board of commissioners to add territory to a new community district with the permission of the person who owns or controls the real estate unless the developer objects.
- Allows an owner of real estate to agree to community development charges via a declaration of covenants.

Land conveyances

- Authorizes the conveyance of various parcels of state-owned land in Portage County under the jurisdiction of Kent State University.

Veterans Memorial and Museum

- Exempts, from Open Meetings Law, all meetings of the board of directors of the nonprofit corporation that operates the Veterans Memorial and Museum.
- Establishes that records of the Board of Directors or of the nonprofit corporation are not public records under Public Records Law.

Manufacture and concealed carry of knives

- Eliminates the prohibition against manufacturing, possessing for sale, selling, or furnishing a switchblade knife or gravity knife.
- Eliminates the prohibition against carrying a concealed knife, razor, or cutting instrument as a concealed deadly weapon if the knife was not used as a weapon.

Harmonization confirmed

- Confirms the harmonization of R.C. 149.45 to clarify its relationship to R.C. 149.43.

Legal age to purchase cigarettes, other tobacco products

(R.C. 2927.02(B), (C), and (E))

Generally speaking, the bill increases from 18 to 21 the age at which a person may purchase or receive cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes (hereafter referred to as "tobacco products"). More specifically, the bill prohibits a manufacturer, producer, distributor, wholesaler, or retailer of tobacco products, an agent, employee, or representative of any of those persons, or other person from doing any of the following to a person under 21:

- Giving, selling, or otherwise distributing tobacco products;
- Giving away, selling, or distributing tobacco products in any place that does not have posted in a conspicuous place a legibly printed sign in letters at least one-half inch high

stating that giving, selling, or otherwise distributing tobacco products to a person under 21 is prohibited by law;

- Knowingly furnishing any false information regarding the name, age, or other identification of the person with purpose to obtain tobacco products for that person.

The bill also prohibits a person from selling or offering to sell tobacco products from a vending machine, unless the location is an area to which persons under 21 are not generally permitted access.

The bill specifies that the provisions regarding the sale or distribution of cigarettes, other tobacco products, alternative nicotine products, or rolling papers do not apply to a person who is 18 years of age on or before October 1, 2019.

Furnishing false information to obtain tobacco products

(R.C. 2927.024)

The bill prohibits a person who is 18 years of age or older but younger than 21 years of age from knowingly furnishing false information concerning that person's name, age, or other identification for the purpose of obtaining tobacco products. A person who violates this prohibition is guilty of furnishing false information to obtain tobacco products, a fourth degree misdemeanor. If the offender previously has been convicted of or pleaded guilty to a violation, furnishing false information to obtain tobacco products is a third degree misdemeanor.

"Tobacco product" definition

(R.C. 2927.02(A)(7))

The bill modifies the definition of "tobacco product" by providing that it also means any product that is derived from tobacco or that contains any form of nicotine, if it is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled, or ingested by any other means and includes an electronic smoking device and "snus." "Tobacco product" also means any component or accessory used in the consumption of a tobacco product, such as filters, rolling papers, pipes, blunt or hemp wraps, and liquids used in electronic smoking devices, whether or not they contain nicotine. "Tobacco product" does not include any product that is a drug, device, or combination product, as those terms are defined or described in 21 U.S.C. 321 and 353(g).

"Vapor product" and "electronic smoking device" as "alternative nicotine product"

(R.C. 2927.02(A)(2), (5), and (8))

The bill includes "vapor product" and "electronic smoking device" within the definition of "alternative nicotine product." As a result, the prohibition described above includes vapor products and electronic smoking devices.

A "vapor product" is a product, other than a cigarette or other tobacco product that contains or is made or derived from nicotine and that is intended and marketed for human consumption, including by smoking, inhaling, snorting, or sniffing. It includes any component,

part, or additive that is intended for use in an electronic smoking device, a mechanical heating element, battery, or electronic circuit and is used to deliver the product. It also includes any product containing nicotine, regardless of concentration. It does not include any product that is a drug, device, or combination product, as those terms are defined or described under federal law.

The bill changes "electronic cigarette" to "electronic smoking device" and modifies the definition by providing that it means any device that can be used to deliver aerosolized or vaporized nicotine or any other substance to the person inhaling from the device including an electronic cigarette, electronic cigar, electronic hookah, vaping pen, or electronic pipe (removes reference to "electronic cigarillo"). "Electronic smoking device" includes any component, part, or accessory of such a device, whether or not sold separately, and includes any substance intended to be aerosolized or vaporized during the use of the device. "Electronic smoking device" does not include any product that is a drug, device, or combination product, as those terms are defined or described in 21 U.S.C. 321 and 353(g).

Vending machine notice

(R.C. 2927.02(C))

Under the bill, if a person is selling or offering to sell tobacco products by or from a vending machine, the vending machine must have a clearly visible notice that is posted in the area where the vending machine is located that states the following in letters that are legibly printed and at least one-half inch high:

"It is illegal for any person under the age of 21 to purchase tobacco or alternative nicotine products."

Child possessing, using, purchasing, receiving tobacco products

(R.C. 2151.87)

The bill modifies existing law by specifying that a child may use, consume, or possess tobacco products, purchase or attempt to purchase tobacco products, order, pay for, or share the cost of tobacco products, or accept or receive tobacco products if the child is accompanied by the child's parent, spouse, or legal guardian, each of whom must be 21 years of age or older. The bill specifies that this provision does not apply to a child if the child's parent, spouse, or legal guardian is 18 years of age or older on or before October 1, 2019. The bill removes the various penalties a child can incur for using, consuming, or possessing tobacco products, purchasing or attempting to purchase tobacco product, paying for or sharing the cost of tobacco products, or accepting or receiving tobacco products, but maintains the prohibition against knowingly furnishing false information concerning that child's name, age, or other identification for the purpose of obtaining tobacco products. A violation of that prohibition may result in the child performing not more than 20 hours of community service. The bill also removes the exception that allows a child to accept, receive, use, consume, or possess cigarettes, other tobacco products, alternative nicotine products, or rolling papers while participating in a research protocol.

Exceptions to prohibitions; forfeiture; affirmative defenses

(R.C. 2927.02(D), (E), and (G) and 2927.022)

The bill provides that the existing exceptions to the prohibitions regarding giving, selling, or otherwise distributing tobacco products apply when the person receiving the cigarettes is under 21.

Additionally, the bill provides that the existing law seizure and forfeiture provisions apply when tobacco products are given, sold, or otherwise distributed to a person under age 21 in violation of the prohibitions described above and when those products are used, possessed, purchased, or received by a person under 21 in violation of R.C. 2151.87 (prohibits a child from possessing, using, purchasing, or receiving tobacco products).

Finally, existing law provides certain affirmative defenses to a charge of giving, selling, or otherwise distributing tobacco products to any person under age 21. The bill adjusts the language describing these affirmative defenses to reflect the age increase to 21.

State agency regulatory rulemaking

Agency review of principles of law or policy

(R.C. 121.93)

In an effort to identify principles of law or policies that should be set forth as administrative rules, current law requires state agencies to review their operations at reasonable intervals but at least once during a Governor's term. The bill removes the requirement that the reviews be conducted "at reasonable intervals," so state agencies must conduct at least one review during a Governor's term under the bill. The bill also requires a state agency to send a report to the Joint Committee on Agency Rule Review (JCARR) about the agency's review with details about which principles or policies were identified. JCARR must make the reports available on its website.

Inventory of regulatory restrictions

(R.C. 121.95)

The bill requires certain state agencies to review their existing rules in order to prepare a base inventory of regulatory restrictions not later than December 31, 2019. In the base inventory, the agency must provide all of the following information concerning each regulatory restriction:

- A description of the regulatory restriction;
- The rule in which the restriction appears;
- The statute under which the restriction was adopted;
- Whether state or federal law expressly and specifically requires the agency to adopt the regulatory restriction or the agency adopted it under the agency's general authority;

- Whether removing the restriction would require a change to state or federal law, provided that removing a regulatory restriction adopted under a law granting the agency general authority is presumed not to require a change to state or federal law;
- Any other information JCARR considers necessary.

After completing the inventory, the agency must post it on its website and send a copy to JCARR, which must review the inventory and send it to the Speaker of the House and the President of the Senate.

In addition, until June 30, 2023, the bill prohibits an agency from adopting any new regulatory restriction unless it simultaneously removes two or more existing regulatory restrictions. The agency cannot merge two existing regulatory restrictions into a single restriction in order to accomplish this.

For purposes of these provisions, a "state agency" includes an administrative department created under R.C. 121.02, an administrative department head appointed under R.C. 121.03 (essentially all cabinet-level departments), a state agency organized under an administrative department or administrative department head, the Department of Education, the State Lottery Commission, the Ohio Casino Control Commission, the State Racing Commission, and the Public Utilities Commission of Ohio.

Rules adopted by an otherwise independent official or entity organized under an agency are attributed to the parent agency for the purposes of the bill. This means that a parent agency must include rules containing regulatory restrictions adopted by those otherwise independent officials or entities as part of its total number of regulatory restrictions. A "regulatory restriction" requires or prohibits an action. Rules that include the words "shall," "must," "require," "shall not," "may not," and "prohibit" are considered to contain regulatory restrictions.

However, the following types of rules or regulatory restrictions are not required to be included in an agency's inventory of regulatory restrictions:

- An internal management rule;
- An emergency rule;
- A rule that state or federal law requires the agency to adopt verbatim;
- A regulatory restriction contained in materials or documents incorporated by reference into a rule;
- Access rules for confidential personal information;
- A rule concerning instant lottery games;
- Any other rule that is not subject to review by JCARR.

New community authorities

(R.C. 349.01, 349.03, and 349.07)

Continuing law allows a developer to establish a "new community district" by petitioning a board of county commissioners or legislative authority of a municipal corporation.[179] The board or legislative authority may approve the petition if it finds that creating the district "will be conducive to the public health, safety, convenience, and welfare" and is intended to result in development of facilities for industrial, commercial, residential, cultural, educational, and recreational activities. If the petition is approved, a new community authority (NCA) is established to develop land in the district, provide services in the district, and raise revenue by levying community "charges" in the district. The bill modifies the law regarding NCAs in three ways.

First, the bill specifies that a facility can be located outside of the district. Second, the bill allows a county or municipal corporation to add territory to a district if the person who owns or controls[180] the property within the territory agrees and the developer does not object. Finally, the bill specifies that a real estate owner can agree to pay a community development charge via a declaration of covenants, a legal document that contains guidelines for a planned community. Accordingly, the bill modifies the definition of community development charge to accommodate changes agreed to via a declaration of covenants.[181]

Land conveyances

(Sections 753.10, 753.20, 753.30, 753.40, and 753.50)

The bill authorizes the conveyance of various parcels of state-owned land in Portage County under the jurisdiction of Kent State University. The grantee and consideration for each conveyance will be determined by the University's Board of Trustees. The proceeds of the conveyances must be paid to the University and used for purposes to be determined by the Board of Trustees. The Auditor of State, with help from the Attorney General, must prepare the deed, which must state the consideration and be executed by the Governor in the name of the state, countersigned by the Secretary of State, sealed with the Great Seal of the State, presented to the Auditor of State for recording, and delivered to the grantee. The grantee must present the deed for recording in the Office of the Portage County Recorder and must pay all costs of the conveyance including the county recording fee.

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[179] The developer must petition the organizational board of commissioners, which is the board of county commissioners or the legislative authority of a municipal corporation depending where the district is located. See R.C. 349.01(F).

[180] Through leases of at least 40 years, options, or contracts to purchase.

[181] The change to R.C. 349.03(A) is corrective. The language the bill removes related to an acreage requirement that H.B. 500 (132nd General Assembly) Eliminated.

Veterans Memorial and Museum

(R.C. 307.6910)

The bill exempts, from Open Meetings Law, all meetings of the Board of Directors of the nonprofit corporation that operates the Veterans Memorial and Museum in Columbus. Under current law, all meetings of the Board must be conducted in accordance with Ohio's "Sunshine Laws."

Additionally, the bill establishes that records of the Board of Directors or of the nonprofit corporation are not public records under Public Records Law. Under current law, all records of the Board are public records subject to inspection and copying, and must be maintained accordingly.[182]

Manufacture and concealed carry of knives

(R.C. 2923.12 and 2923.20)

The bill eliminates the current law prohibition against manufacturing, possessing for sale, selling, or furnishing to any person any switchblade knife or gravity knife. The bill does not affect the continuing law prohibition on the manufacture, possession for sale, sale, or furnishing of brass knuckles, cesti, billys, blackjacks, sandbags, or springblade knives to any person other than a law enforcement agency for authorized use in police work. A violation of that prohibition is considered "unlawful transactions in weapons," a second degree misdemeanor.

The bill also excludes knives, razors, and cutting instruments that were not used as weapons from the definition of "deadly weapon" for purposes of the offense of "carrying concealed weapons" and consequently excludes them from the continuing law prohibition against carrying a concealed deadly weapon.

Harmonization of R.C. 149.45 confirmed

(Section 815.30)

If a section of law is amended by two or more acts, and if the two or more acts do not reflect each other, R.C. 1.52(B) specifies that the amendments are to be harmonized into a composite text, if possible, so that effect may be given to all the amendments.[183] In late 2018, the 132nd General Assembly amended R.C. 149.45 (redaction of information) in three acts,

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[182] R.C. 307.6910, 121.22, and 149.43.

[183] R.C. 1.52(B) provides: "If amendments to the same statute are enacted at the same or different sessions of the legislature, one amendment without reference to another, the amendments are to be harmonized, if possible, so that effect may be given to each. If the amendments are substantively irreconcilable, the latest in date of enactment prevails. The fact that a later amendment restates language deleted by an earlier amendment, or fails to include language inserted by an earlier amendment, does not of itself make the amendments irreconcilable. Amendments are irreconcilable only when changes made by each cannot reasonably be put into simultaneous operation."

H.B. 341, S.B. 214, and S.B. 229. The bill presents the section without amendment to confirm that these three sets of amendments to the section have been harmonized under R.C. 1.52(B).

The H.B. 341 amendments to R.C. 149.45 were made together with, and in relation to, amendments simultaneously made to R.C. 149.43 (public records). (R.C. 149.43 appears elsewhere in the bill.) Confirming the harmonization of R.C. 149.45 in the bill helps to clarify this relationship.

NOTES

Effective dates

(Sections 812.10 to 812.23)

Article II, Section 1d of the Ohio Constitution states that "appropriations for the current expenses of state government and state institutions" and "[l]aws providing for tax levies" go into immediate effect and are not subject to the referendum. The bill includes a default provision stating that, except as otherwise specifically provided, the amendment, enactment, or repeal of a section is subject to the referendum and takes effect on the 91st day after the act is filed with the Secretary of State (barring the filing of a referendum petition). The bill also includes exceptions to the default provision, some of which provide that specified provisions are not subject to the referendum and go into immediate effect.

Expiration

(Section 809.10)

The bill includes an expiration clause stating that an item that composes the whole or part of an uncodified section contained in the bill (other than an amending, enacting, or repealing clause) has no effect after June 30, 2021, unless its context clearly indicates otherwise.

HISTORY

Action	Date
Introduced	03-25-19
Reported, H. Finance	05-09-19
Passed House (85-9)	05-09-19
Reported, S. Finance	06-20-19
Passed Senate (33-0)	06-20-19

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