



# Ohio Legislative Service Commission

## Bill Analysis

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### H.B. 239

131st General Assembly  
(As Introduced)

Rep. Sears

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### Bill SUMMARY

- Authorizes four conveyances of state-owned real estate to various persons, by various methods, including by direct sale, sealed bid auction, or public auction.
- Authorizes OBM to transfer moneys in the Adult and Juvenile Correctional Facilities Bond Retirement Fund to any fund created in the state treasury that is administered by the Department of Rehabilitation and Correction or the Department of Youth Services.
- Establishes the Community Programs Fund and specifies the purposes for which moneys in the fund may be used by the Department of Rehabilitation and Correction.

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### CONTENT AND OPERATION

#### Real estate conveyances

The bill authorizes the following four public land conveyances:

Grantee	Property reference	Location of property	Consideration
<b>The City of Toledo or to a grantee to be determined, and to the grantee's heirs and assigns or successors and assigns</b> ( <i>Section 3</i> ).	Vistula Division	Lucas County, City of Toledo	A price acceptable to the Director of Administrative Services.

Grantee	Property reference	Location of property	Consideration
<b>Quest Recovery and Prevention Services, its successors and assigns</b> ( <i>Section 4</i> )	Part of lot 560 of the City of Massillon	Stark County, City of Massillon	\$150,000, under a real estate purchase agreement as prepared by the Department of Administrative Services, to be deposited into the state treasury to the credit of the Department of Mental Health and Addiction Services Trust Fund.
<b>A purchaser, its heirs, successors, and assigns</b> ( <i>Section 5</i> )	North Central Correctional Institution and the North Central Correctional Institution Camp	Marion County, City of Marion	The Director of Administrative Services to conduct a sale by sealed bid auction or public auction, to be sold to the highest bidder at a price acceptable to the Director.
<b>A purchaser, its heirs, successors and assigns</b> ( <i>Section 6</i> )	Halfway house facility Turtle Creek Center	Warren County, City of Lebanon	The Director of Administrative Services to conduct a sale by sealed bid auction or public auction, to be sold to the highest bidder at a price acceptable to the Directors of Administrative Services and Rehabilitation and Correction.

The legal descriptions of the parcels of land are in the bill.<sup>1</sup> The legal descriptions may be adjusted to accommodate any corrections necessary to facilitate recordation of the deeds.

To convey a parcel of land under the bill, the Auditor of State, with the assistance of the Attorney General, prepares each deed. Deeds are 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 in the Office of the Auditor of State for recording, and delivered to the grantee, who must present the deed for recording at the office of the county recorder.

### **Cost of the conveyances**

For most of the conveyances, the grantee pays all costs associated with the purchase and conveyance, including recording costs and fees. For many of the conveyances, the grantee also must pay other costs, for example, real estate taxes and

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<sup>1</sup> Sections 3 through 5.

assessments, the costs of surveys, title reports and opinions, property descriptions, appraisals, environmental studies, or remediation.

### **Expiration date for the conveyances**

The authorization for all the land conveyances in the bill expires three years after the effective date of the bill.

### **Property in the city of Toledo, Vistula Division (Section 3 of the bill)**

Under the bill, the conveyance must include improvements and chattels situated on the real property, and is subject to all leases, easements, covenants, conditions, and restrictions of record; all legal highways and public rights-of-way; zoning, building, and other laws, ordinances, restrictions, and regulations; and real estate taxes and assessments not yet due and payable. The real property must be conveyed in "as-is, where-is, with all faults" condition.

Under the bill, the deed may contain restrictions, exceptions, reservations, reversionary interests, and other terms and conditions the Director of Administrative Services determines to be in the best interest of the state. Also, subsequent to the conveyance, any restrictions, exceptions, reservations, reversionary interests, or other terms and conditions contained in the deed may be released by the state or the Department of Administrative Services without the necessity of further legislation.

The bill requires that if the real property is conveyed to the City of Toledo, the deed to the real estate must include a deed restriction stating that subsequent to the transfer of the deed to the grantee, in the event the grantee determines the real estate interest no longer is needed for the grantee's use and purpose, the grantee must notify the grantor and offer to return title of the real estate to the grantor conditioned upon written agreement from the grantor to accept the title. Should the grantor decline to accept this reversion of title interest not later than 90 days after receipt of the notice, the grantee is authorized to proceed with any subsequent transfer, conveyance, or disposal of the real estate the grantee determines to be in its best interest.

The bill requires the Director of Administrative Services to offer the real estate to the City of Toledo, or to a grantee to be determined, through a real estate purchase agreement prepared by the Department of Administrative Services. Consideration for the conveyance of the real estate is to be at a price acceptable to the Director.

The bill requires that, if the City of Toledo, or the grantee to be determined, does not complete the purchase of the real estate within the time period provided in the real estate purchase agreement, the Director of Administrative Services may offer to sell the real estate to an alternate grantee, through a real estate purchase agreement prepared



by the Department of Administrative Services. Consideration for the conveyance of the real estate to an alternate grantee is to be at a price acceptable to the Director.

The bill requires the grantee to pay all costs associated with the purchase, closing, and conveyance, including surveys, title evidence, title insurance, transfer costs and fees, recording costs and fees, taxes, and any other fees, assessments, and costs that may be imposed.

The bill requires that the net proceeds of the sale be deposited into the state treasury to the credit of the General Revenue Fund.

#### **Property in the city of Massillon (Section 4 of the bill)**

Under the bill, this conveyance must include improvements and chattels situated on the real estate, and is subject to all easements, covenants, conditions, and restrictions of record; all legal highways and public rights-of-way; zoning, building, and other laws, ordinances, restrictions, and regulations; and real estate taxes and assessments not yet due and payable. The real estate must be conveyed in an "as-is, where-is, with all faults" condition.

Also, the deed must contain a use restriction limiting use of the real estate for behavioral health or addiction services purposes only, and prohibiting the use of the real estate as a locked incarcerate facility, and the deed may contain additional restrictions, exceptions, reservations, reversionary interests, and other terms and conditions the Director of Administrative Services determines to be in the best interest of the state.

Subsequent to the conveyance, any restrictions, exceptions, reservations, reversionary interests, or other terms and conditions contained in the deed may be released by the state or the Department of Mental Health and Addiction Services.

The bill specifies that if Quest Recovery and Prevention Services, Inc., does not complete the purchase of the real estate and close within the time period provided in the real estate purchase agreement, the Director of Administrative Services may use any reasonable method of sale considered acceptable by the Department of Mental Health and Addiction Services to locate an alternate grantee willing to purchase the real estate. In that event, the Department of Mental Health and Addiction Services must pay all advertising costs, additional fees, and other costs incident to the sale of the real estate.

Under the bill, the grantee must pay all costs associated with the purchase, closing, and conveyance of the subject real property, including the appraisal, surveys, title evidence, title insurance, transfer costs and fees, recording costs and fees, taxes, and any other fees, assessments, and costs that may be imposed.



Prior to the closing and sale of the subject real estate, the grantee's use and possession of the subject real estate is to be governed by an existing interim lease between the Department of Administrative Services and the grantee.

### **North Central Correctional Institution and Camp properties (Section 5 of the bill)**

Under the bill, the conveyance of the facility includes any improvements and chattels situated thereon. The conveyance is subject to all easements, covenants, conditions, and restrictions of record; all legal highways and public rights-of-way; zoning, building, and other laws, ordinances, restrictions, and regulations; and real estate taxes and assessments not yet due and payable. Also, the deed may contain restrictions, exceptions, reservations, reversionary interests, and other terms and conditions the Director of Administrative Services determines to be in the best interest of the state, including restrictions prohibiting the purchaser from occupying, using, or developing, or from selling, the real estate, or the facility thereon, except in conformance with the restrictions, or if the use, development, or sale will interfere with the quiet enjoyment of the neighboring state-owned land.

The bill specifies that, subsequent to the conveyance, any restriction, exception, reservation, reversionary interest, or other term and condition contained in the deed may be released by the state without the necessity of further legislation.

The bill requires that the Director of Administrative Services conduct a sale of the real estate by sealed bid auction or public auction, and the real estate must be sold to the highest bidder at a price acceptable to the Directors of Administrative Services and Rehabilitation and Correction. Furthermore, the Director of Administrative Services must advertise the sealed bid auction or public auction by publication in a newspaper of general circulation in Marion County, once a week for three consecutive weeks before the date on which the sealed bids are to be opened or the auction takes place. Also, the Director must notify the successful bidder in writing, and may reject any or all bids.

The bill requires that the purchaser pay a deposit of ten per cent of the purchase price to the Director of Administrative Services not later than five business days after receiving a notice that the purchaser's bid has been accepted, and must enter into a real estate purchase agreement in the form prescribed by the Department of Administrative Services. The purchaser must pay the balance of the purchase price at closing, which must occur not later than 60 days after execution of the purchase agreement. Payment must be made by certified check made payable to the Treasurer of State. A purchaser who does not satisfy the conditions of the sale must forfeit as liquidated damages the ten per cent deposit paid to the state. If a purchaser fails to complete the purchase, the



Director may accept the next highest bid, subject to the foregoing conditions. If the Director rejects all bids, the Director may repeat the sealed bid auction or public auction.

Under the bill, the sale of the facility, real estate, its improvements and chattels, must be "as-is, where-is, with all faults" in its present condition. The conveyance of the real estate, including the purchase agreement, is subject to an existing operation and management contract for the facility, dated August 31, 2011, with the Management and Training Corporation and the Department of Administrative Services, on behalf of the Department of Rehabilitation and Correction.

The bill specifies that if the Directors of Administrative Services and Rehabilitation and Correction convey the real estate to a grantee, the real estate purchase agreement must include at least the following terms and conditions:

(1) An agreement for the sale to the purchaser of the state's right, title, and interest in the facility;

(2) Notwithstanding any provision of the Revised Code, authorization for the transfer to the purchaser of any supplies, equipment, furnishings, fixtures, or other assets of the state located at the facility considered necessary by the Directors of Rehabilitation and Correction and Administrative Services for the continued operation and management of the facility. Any such supplies, equipment, furnishings, fixtures, or other assets must not be considered supplies, excess supplies, or surplus supplies;

(3) A binding commitment that irrevocably grants to the state a right, upon the occurrence of any triggering event to repurchase the facility. The triggering events and the procedures for a repurchase under the irrevocable grant are as follows:

(a) Before the purchaser, or the purchaser's successor in title, may resell or otherwise transfer the facility that is to be transferred under the purchase agreement, the purchaser or its successor or assign first must offer to the state the opportunity to repurchase the facility for a price not greater than the purchase price paid by the purchaser to the state for the facility, less depreciation from the time of the conveyance of the facility, to the purchaser or its successor or assign, plus the depreciated value of any capital improvements to the facility, that were made to it and funded by anyone other than the state subsequent to the conveyance to the purchaser. The repurchase opportunity must be offered to the state not less than 120 days before the purchaser or its successor or assign intends to resell or otherwise transfer the facility. After being offered the repurchase opportunity, the state has the right to repurchase the facility that is to be resold or otherwise transferred for the price described in this subdivision.



(b) Upon the purchaser's, or the purchaser's successor's or assign's, default of any financial agreement for the purchase of the facility, or upon the purchaser's, or the purchaser's successor's or assign's, financial insolvency or inability to meet its contractual obligations, the state must have the right to repurchase the facility for a price not greater than the purchase price paid by the purchaser to the state for the facility, less depreciation from the time of the conveyance of the facility to the purchaser or its successor, plus the depreciated value of any capital improvements to the facility that were made to it and funded by anyone other than the state subsequent to the conveyance to the contractor.

(4) A requirement that the purchase agreement is subject to the existing operation and management contract, between the Management and Training Corporation and the Department of Administrative Services. If that contract is terminated, then the operation and management responsibilities may be transferred to the Department of Rehabilitation and Correction or by competitive solicitation to another contractor under similar terms and conditions that applied to that contract. The Department of Rehabilitation and Correction or new contractor, whichever is applicable, is authorized to enter into an agreement with the Management and Training Corporation to purchase their equipment, supplies, furnishings, and consumables.

(5) The Department of Rehabilitation and Correction must pay advertising costs incident to the sale of the real estate.

The bill also requires that the real estate be sold as an entire tract and not in parcels, and that the purchaser must pay all costs associated with the closing and the facility conveyance, including at least title evidence, title insurance, transfer costs and fees, recording costs and fees, taxes, and any other fees, assessments, and costs that may be imposed.

The bill specifies that proceeds of the conveyance of the facility and real estate must be deposited into the state treasury to the credit of the Adult and Juvenile Correctional Facilities Bond Retirement Fund, and be used to redeem or defease bonds, and any remaining moneys after such redemption or defeasance must be transferred to the General Revenue Fund.

### **Halfway house facility, Turtle Creek Center property (Section 6 of the bill)**

Under the bill, the conveyance of the facility must include any improvements and chattels situated thereon. The conveyance is subject to all easements, covenants, conditions, and restrictions of record; all legal highways and public rights-of-way; zoning, building, and other laws, ordinances, restrictions, and regulations; and real estate taxes and assessments not yet due and payable.



The bill specifies that the deed may contain restrictions, exceptions, reservations, reversionary interests, and other terms and conditions the Director of Administrative Services determines to be in the best interest of the state, including restrictions prohibiting the purchaser from occupying, using, or developing, or from selling, the real estate, or the facility thereon, except in conformance with the restrictions, or if the use, development, or sale will interfere with the quiet enjoyment of the neighboring state-owned land.

The bill specifies that, subsequent to the conveyance, any restriction, exception, reservation, reversionary interest, or other term and condition contained in the deed may be released by the state without the necessity of further legislation.

The bill requires that the Director of Rehabilitation and Correction convey the real estate upon terms that it determines, subject to approval by the Governor.

Under the bill, the Director of Administrative Services must conduct a sale of the real estate by sealed bid auction or public auction, and the real estate must be sold to the highest bidder at a price acceptable to the Directors of Administrative Services and Rehabilitation and Correction. The Director of Administrative Services must advertise the sealed bid auction or public auction by publication in a newspaper of general circulation in Warren County, once a week for three consecutive weeks before the date on which the sealed bids are to be opened or the auction takes place. The Director must notify the successful bidder in writing and may reject any or all bids.

The bill requires the purchaser pay a deposit of ten per cent of the purchase price to the Director of Administrative Services not later than five business days after receiving notice that the purchaser's bid has been accepted, and must enter into a real estate purchase agreement in the form prescribed by the Department of Administrative Services. The purchaser must pay the balance of the purchase price at closing, which must occur not later than sixty days after execution of the purchase agreement. Payment must be made by certified check made payable to the Treasurer of State. A purchaser who does not complete the conditions of the sale as prescribed in this division must forfeit as liquidated damages the ten per cent deposit paid to the state. If a purchaser fails to complete the purchase, the Director may accept the next highest bid, subject to the foregoing conditions. If the Director rejects all bids, the Director may repeat the sealed bid auction or public auction.

The bill requires that the conveyance of the facility, real estate, its improvements and chattels be "as-is, where-is, with all faults" in its present condition.





Also, the bill requires that, if the Directors of Administrative Services and Rehabilitation and Correction convey the real estate to a purchaser, the real estate purchase agreement must include at least the following terms and conditions:

(1) An agreement for the sale to the purchaser of the state's right, title, and interest in the halfway house facility;

(2) A provision, notwithstanding the Revised Code, authorizing the transfer to the purchaser of any supplies, equipment, furnishings, fixtures, or other assets of the state located at the halfway house facility, considered necessary by the Directors of Rehabilitation and Correction and Administrative Services for the continued operation and management of the halfway house facility. Any such supplies, equipment, furnishings, fixtures, or other assets must not be considered supplies, excess supplies, or surplus supplies;

(3) A requirement that if the current operation and management contract between the Department of Rehabilitation and Correction and Talbert House, Inc., is terminated, then the purchaser of the halfway house facility may enter into an agreement with the Talbert House, Inc., to purchase their equipment, supplies, furnishings, and consumables.

The bill requires the Department of Rehabilitation and Correction to pay advertising costs incident to the sale of the real estate.

The bill requires that the real estate be sold as an entire tract and not in parcels.

The bill requires that the purchaser pay all costs associated with the closing and the facility conveyance, including at least surveys, title evidence, title insurance, transfer costs and fees, recording costs and fees, taxes, and any other fees, assessments, and costs that may be imposed.

The bill requires that the proceeds of the conveyance of the real estate be deposited into the state treasury to the credit of the Adult and Juvenile Correctional Facilities Bond Retirement Fund.

## **Other provisions**

### **Adult and Juvenile Correctional Facilities Bond Retirement Fund**

The bill authorizes the Director of Budget and Management to direct that moneys in the Adult and Juvenile Correctional Facilities Bond Retirement Fund be transferred to any fund created in the state treasury that is administered by the Department of



Rehabilitation and Correction or the Department of Youth Services.<sup>2</sup> Under continuing law, the Director may make such transfers to the General Revenue Fund, the Adult Correctional Building Fund, or the Juvenile Correctional Building Fund. The bill also repeals a provision in current law, which requires the Adult and Juvenile Correctional Facilities Bond Retirement Fund to be abolished after any such transfer. That fund consists of proceeds derived from the sale of state adult or juvenile correctional facilities, and retained investment income from moneys in the fund.

### **Community programs fund**

The bill establishes the community programs fund in the state treasury and requires the Department of Rehabilitation and Correction to use the moneys in that fund to do all of the following:<sup>3</sup>

(1) Fund the halfway house, re-entry center, and community residential center program;<sup>4</sup>

(2) Fund the transitional control program;<sup>5</sup>

(3) Provide assistance to approved community-based correctional facilities and programs and district community-based correctional facilities and programs;<sup>6</sup>

(4) Support the subsidy programs for felony offenders and misdemeanor offenders;<sup>7</sup> and

(5) Provide probation improvement grants and probation inventive grants.<sup>8</sup>

Under the bill, investment income with respect to moneys in the fund must be deposited into the fund.

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<sup>2</sup> R.C. 5120.092.

<sup>3</sup> R.C. 5120.80.

<sup>4</sup> R.C. 2967.14, not in the bill.

<sup>5</sup> R.C. 2967.26, not in the bill.

<sup>6</sup> R.C. 5120.112, not in the bill.

<sup>7</sup> R.C. 5149.31, not in the bill.

<sup>8</sup> R.C. 5149.311, not in the bill.

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## HISTORY

ACTION

DATE

Introduced

06-01-15

H0239-I-131.docx/emr

