Bill Analysis

Richard Bloedel and other LSC Staff

Legislative Service Commission

Am. Sub. H.B. 94

124th General Assembly
(As Passed by the House)
(excluding appropriations, fund transfers, and similar provisions)

Reps. Carey, Calvert, Core, Peterson, Husted, Grendell, Faber, Evans, Metzger, Buehrer, Hoops, Widowfield, Hughes, Clancy, Gilb, Raga, Webster, Womer Benjamin, DeWine, Collier, Setzer, Niehaus, Reidelbach, Flowers, Cates, Fessler, Schmidt, Hagan

TABLE OF CONTENTS

The analysis is arranged by subject matter, in the following order: (1) Education, (2) General, (3) Health and Human Services, (4) Agriculture, Energy, Environment, and Natural Resources, (5) Courts and Corrections, and (6) Taxation. Within each subject category, items generally are presented in the order in which they appear in the Revised Code.

LOTTERY

TECHNOLOGY AND BUILDINGS

COMMUNITY SCHOOLS

OTHER PRIMARY-SECONDARY EDUCATION PROVISIONS

HIGHER EDUCATION

GENERAL

HEALTH AND HUMAN SERVICES

AGRICULTURE, ENERGY, ENVIRONMENT, AND NATURAL RESOURCES

COURTS AND CORRECTIONS

TAXATION

BILL SUMMARY

EDUCATION

PRIMARY-SECONDARY EDUCATION FUNDING

- Changes the methodology for determining the base cost of an adequate education for FY 2002 through FY 2007, resulting in increased per pupil amounts. The per pupil formula amounts for FY 2002 and FY 2003 are $4,814 and $4,949, respectively.

- Reduces the number of high school academic units required for graduation from 21 to 20 and specifies that the increased base-cost formula amounts include amounts for the costs associated with the 20-unit minimum.

- Requires the Speaker of the House and the President of the Senate to appoint a committee in July 2006 to reexamine the methodology for calculating the cost of an adequate education.

- Repeals the temporary cap on school district state aid increases.

- Reduces the variance in the cost-of-doing-business factor to 7.5%.

- Eliminates the "income factor" adjustment from the base-cost formula and instead incorporates a consideration of school district income as part of a new parity aid program.

- Changes the computation of public utility property tax replacement payments to reflect all state education aid payments.

- Beginning in FY 2003, places an "excess cost" limitation of 3 mills on the local share of calculated special education, vocational education, and transportation funding and requires the state to pay the amount by which a district's calculated local share exceeds 3 mills.

- Phases in a new special education funding system comprising six weights for six categories of students.

- Requires each city, local, and exempted village school district to annually spend, on purposes that the Department of Education approves as special education and related services, at least the amount of state and local funds calculated by the base-cost and special education formulas applied to its special education students.

- Extends the state "catastrophic costs" subsidy to cover most special education students and increases the state's share of the subsidy.

- Makes permanent the policy of using the special education weights to calculate payments to county MR/DD boards for providing special education to school-aged children.

- Beginning in FY 2003, enhances the state's percentage of the transportation funding calculation for lower-wealth school districts.

- Adds transportation funding to the charge-off supplement ("gap aid") calculation.

- Adjusts the vocational education weights to reflect the bill's changes in the application of the cost-of-doing-business factor.

- Permits the apportionment of vocational education weights for workforce development programs that include instructional time beyond normal periods of instruction.

- Phases in a "parity aid" subsidy as a new supplemental tier of state funding to lower- and medium-wealth school districts.

- Requires school districts that are not "effective" and that receive parity aid to include budgets for the expenditure of parity aid in their continuous improvement plans and limits the purposes for which parity aid may be used by such districts.

- Extends the phase-out for equity aid.

- Repeals the "power equalization" subsidy.

- Allows new students to enter the Cleveland Pilot Project Scholarship Program in kindergarten through eighth grade, rather than kindergarten through third grade only.

- Specifies that an educational service center governing board may acquire property to provide for office and classroom space.

- Permits a board of county commissioners to issue securities to acquire property for an educational service center as long as the service center agrees to pay the annual debt charges on those securities.

- Phases out by 2007 a board of county commissioners' responsibility to provide office space for the educational service center located within its territory.

- Extends to July 1, 2003, the time period during which any educational service center formed by the merger of two or more educational service centers may opt to design its governing board with a unique make-up.

- Permits ESCs that would otherwise be required to merge in order to meet a prescribed ADM count not to merge if such merging would cause the territory of the new ESC to consist of more than 800 square miles.

LOTTERY

- Allows the Director of Budget and Management to transfer any amount of excess funds from the State Lottery Fund to the State Lottery Profits Education Fund.

TECHNOLOGY AND BUILDINGS

- Eliminates the requirement that school districts either levy a half-mill, 23-year tax to pay for maintenance of classroom facilities constructed with state assistance or earmark other district resources for that purpose.

- Permits a school district to exceed the 9% debt limitation if additional debt is necessary to raise the district's share of a building project under the state's School Facilities Assistance Program.

- Permits the School Facilities Commission to provide additional assistance for certain school districts already served under the Classroom Facilities Assistance Program in order to correct oversights or

deficiencies in the initial assessment or plan of the districts' projects under the program.

- Requires the School Facilities Commission to calculate or recalculate a school district's portion of its districtwide project under the Expedited Local Partnership Program in the event of a decrease in a district's tax valuation due to decreased electric company property assessments under electric deregulation.

- Specifies that the Ohio School Facilities Commission must appoint an executive director who then must appoint other employees to carry out the duties of the Commission.

- Makes changes in the organization of data acquisition sites under the Ohio Education Computer Network.

- Specifies that the Superintendent of Public Instruction is the chairperson of the Ohio SchoolNet Commission.

- Establishes the Ohio Schools Technology Implementation Task Force to make recommendations for technology funding for schools and for the operational costs of the Ohio SchoolNet Commission.

COMMUNITY SCHOOLS

- Adds vocational education weights to the formula for funding community schools.

- Permits a school district board and a community school governing authority to enter into an agreement under which the community school will accept responsibility to transport the school's students.

- Provides for a payment of $450 per pupil to be made to any community school governing authority that accepts responsibility to transport the school's students in FY 2002, which is to be deducted from the district's transportation payment. The payment amount is indexed to the Consumer Price Index for urban transportation in future years.

- Permits a sponsor to immediately suspend the operation of a community school for health and safety violations and to suspend a community school for other reasons after providing a notice of intent to suspend and

providing the school's governing authority an opportunity to propose a remedy.

- Reduces the time frame under which a sponsor may terminate or not renew a community school contract to 90 days (from 180 days under current law) and permits such a contract to be terminated prior to the end of a school year.

- Creates a program to provide loan guarantees to community schools for the acquisition of classroom facilities.

- Provides that when a school district board decides to sell real property it owns it must first offer that property to the governing authority of a start-up community school within its territory.

OTHER PRIMARY-SECONDARY EDUCATION PROVISIONS

- Makes changes in the requirements for state-funded academic intervention services.

- Requires, beginning in FY 2003, at least 20% of a district's per pupil DPIA safety and remediation funds to be used to provide statutorily required intervention services.

- Increases the minimum base salary paid to beginning teachers with a bachelor's degree from $17,000 to $20,000 and proportionally increases the minimum salaries for teachers with different levels of education and experience.

- Changes the term "vocational education" to "career-technical education."

- Requires the Department of Education to consider relocating staff responsible for gifted education within the Department.

- Directs the Legislative Office of Education Oversight (LOEO) to issue a report by November 30, 2002, that summarizes LOEO's review of school districts' plans for the identification of gifted students and recommends methods of funding gifted education.

- Adds a coordinator of gifted education to the members of a school district's pupil personnel services committee.

- Specifies that a homeless child under the care of a homeless shelter is entitled to attend school free in either the school the child attended before becoming homeless or the district school that serves the area in which the shelter is located.

- Permits payments to be made to school districts from the Auxiliary Services Mobile Unit Replacement and Repair Fund to be used to offer "incentives for early retirement and severance" to the district personnel that provide auxiliary services to students at chartered nonpublic schools.

HIGHER EDUCATION

- Eliminates all tuition and fee caps for state universities beginning in FY 2002.

- Increases the Ohio Instructional Grants for private, public, and proprietary institutions in both FY 2002 and FY 2003.

- Increases the award amount of the Ohio Academic Scholarship from $2,000 to $2,100 in FY 2002 and to $2,205 in FY 2003.

- Expands eligibility for Environmental Education Fund scholarships to students who attend private colleges and universities.

- Switches authority to fix compensation for all employees and staff from the Board of Regents to the Chancellor and no longer requires Board approval of the Chancellor's appointment of employees and staff.

- Requires appropriations for transfers to the Ohio Public Facilities Commission be made directly to the Board of Regents and not to state supported institutions of higher education and allows vice-chancellors to certify to the Director of Budget and Management the payments contracted to be made to the Public Facilities Commission.

- Permits the formation of a quorum and the taking of votes at Board of Regents meetings conducted by interactive video teleconference, so long as provisions are made for public attendance at any location involved in the teleconference.

- Provides that the percentage of the compensation of a participant in an institution of higher education's alternative retirement program (ARP) that must be paid to the state retirement system to which the participant

would otherwise belong cannot exceed the percentage of compensation paid to the retirement system by employers of participants in the retirement system's own ARP.

CONTENT AND OPERATION

EDUCATION

PRIMARY-SECONDARY EDUCATION FUNDING

Background on current state education financing litigation

In *DeRolph I*, in 1997, the Supreme Court of Ohio ordered the General Assembly to create a new school funding system.[1] In that decision, the Court held that the state's then-current school funding system did not provide a "thorough and efficient system of common schools" as required under Article VI, Section 2 of the Ohio Constitution. Responding to that order, in 1997 and 1998, the 122nd General Assembly enacted several bills dealing with the financing and performance management of public schools.[2]

On May 11, 2000, the Court held the new system unconstitutional on essentially the same grounds.[3] In *DeRolph II*, the Court praised the effort made by the legislature but said that more had to be done in order to comply with its order. The General Assembly now has until June 15, 2001, to come up with a new system.[4]

---

[1] *DeRolph v. State (1997), 78 Ohio St.3d 193.*

[2] *Among these bills were: Am. Sub. H.B. 215, which was the general operating budget for the 1997-1999 biennium; Am. Sub. S.B. 102, which substantially amended the Classroom Facilities Assistance Program and created the Ohio School Facilities Commission; Am. Sub. S.B. 55, which added new academic accountability requirements; Sub. H.B. 412, which changed school district fiscal accountability requirements; and Am. Sub. H.B. 650 and Am. Sub. H.B. 770, which together created a new school funding system. In addition, in 1999, the 123rd General Assembly passed Am. Sub. H.B. 282, which enacted the state's first separate education budget and made some changes to the previous legislation.*

[3] *DeRolph v. State (2000), 89 Ohio St.3d 1.*

[4] *In 2000, the 123rd General Assembly enacted two other bills also directed at some of the concerns expressed by the Court in its DeRolph II order. Am. Sub. S.B. 272 made substantial changes in the school facilities assistance programs. Am. Sub. S.B. 345*

Introduction--key concepts of the current school funding system

State per pupil payments to school districts for operating expenses have always varied according to (1) the wealth of the district and (2) the special circumstances experienced by some districts. Under both the school funding system in place prior to *DeRolph I* and the one in place since then, state operating funding for school districts is divided primarily into two types: base-cost funding and categorical funding.

Base-cost funding

Base-cost funding can be viewed as the minimum amount of money required per pupil for those expenses experienced by all school districts on a somewhat even basis. The primary costs would be for such things as teachers of curriculum courses; textbooks; janitorial and clerical services; administrative functions; and student support employees such as school librarians and guidance counselors.

Equalization. Both before and after the *DeRolph* case, state funds have been used to "equalize" school district revenues. Equalization means using state money to ensure that all districts, regardless of their property wealth, have an equal amount of combined state and local revenues to spend for something. In an equalized system, poor districts receive more state money than wealthy districts in order to guarantee the established minimum amount for all districts.

State and local shares. The current funding system essentially equalizes 23 mills of property tax for base-cost funding. It does this by providing sufficient state money to each school district to ensure that, if all districts in the state levied exactly 23 effective mills, they all would have the same per pupil amount of base-cost money to spend (adjusted partially to reflect the cost-of-doing-business in the district's county).[5] To accomplish this equalization, the base-cost formula uses five variables to compute the amount of state funding each district receives for its base cost:

(1) The stipulated amount of funding that is guaranteed per pupil in combined state and local funds (formally called the "**formula amount**").

(2) An adjustment to the formula amount known as the "**cost-of-doing-business factor**." This variable is a cost factor intended to reflect differences in

---

amended the school district solvency assistance program and modified requirements of some school district mandates.

[5] *One mill produces $1 of tax revenue for every $1,000 of taxable property valuation.*

the cost of doing business across Ohio's 88 counties. Each county is assigned a factor by statute. The formula amount is multiplied by the cost-of-doing-business factor for the appropriate county to obtain the specific guaranteed per pupil formula amount for each school district. In the current fiscal year, FY 2001, the factors range from 1.00 (Gallia County) to 1.138 (Hamilton County).[6]

(3) A number called the '**formula ADM**," which roughly reflects the full-time-equivalent number of district students.

(4) The **total taxable dollar value of real and personal property** subject to taxation in the district, adjusted in some cases to reflect lower levels of income wealth and to phase-in increases in valuation resulting from a county auditor's triennial reappraisal or update.

(5) The **local tax rate**, expressed in number of mills, assumed to produce the local share of the guaranteed per pupil funding. The tax rate assumed is 23 mills, although the law only requires districts to actually levy 20 mills to participate in the school funding system.

Each district's state base-cost funding is computed first by calculating the amount of combined state and local funds guaranteed to the district. This is done by adjusting the formula amount for the appropriate cost-of-doing-business factor and multiplying the adjusted amount by the district's formula ADM. Next, the assumed "local share" (commonly called the "charge-off") is calculated by multiplying the district's adjusted total taxable value by the 23 mills attributed as the local tax rate. This local share is then subtracted from the guaranteed amount to produce the district's state base-cost funding.

Base-cost funding formula. Expressed as a formula, base-cost funding is calculated as follows:

[the formula amount X cost-of-doing-business factor X (the district's formula ADM)] – (.023 X the district's adjusted total taxable value)[7]

Sample FY 2001 calculation. If Hypothetical Local School District were located in a county with a cost-of-doing-business factor of 1.025 (meaning its cost of doing business is assumed to be 2.5% higher than in the lowest cost county), its

---

[6] *An increase in the variance in the cost-of-doing-business factors from 11% to 18% is being phased in under current law.*

[7] *R.C. 3317.022(A). In lieu of formula ADM, the Department of Education must use the district's "three-year average" formula ADM if it is greater than the current-year formula ADM.*

formula ADM were 1,000 students, and it had an adjusted valuation of $40 million, its FY 2001 state base-cost funding amount would be $3,481,000, calculated as follows:

$4,294	FY 2001 formula amount
x 1.025	District's cost-of-doing-business factor
$4,401	District's adjusted formula amount
x 1,000	District's formula ADM (approximate enrollment)
$4,401,000	District's base-cost amount
- $920,000	District's charge-off (assumed local share based on 23 mills charged against the district's $40 million in adjusted property valuation)
$3,481,000	**District's state payment toward base-cost amount**
79%	District's state share percentage (per cent of total base cost paid by state)

How the current base-cost amount was established. The primary difference between the old funding system and the current system in calculating base-cost funding is that the state and local amount guaranteed per pupil (known as the formula amount) under the old system was stated in statute without any specific method of selecting the amount. Under the current system, the General Assembly adopted for the first time an explicit methodology for determining the base cost of an adequate education. From that methodology is derived the formula amount. The methodology relies on the premise that, all other things being equal, most school districts should be able to achieve satisfactory performance if they have available to them the average amount of funds spent by those districts that have met the standard for satisfactory performance.[8] The standard for that performance adopted by the General Assembly in 1998 was an "effective" rating in FY 1996 measured against the state performance standards.[9] In essence, the

---

[8] *The fact that "all other things are not equal" is the rationale behind the "categorical" funding provided for school districts with greater needs for transportation funding, DPIA, special education services, and similar requirements that vary from district to district.*

[9] *R.C. 3302.02 and 3302.03, neither section in the bill. See also Ohio Admin. Code 3301-50-01. In order for a school district to achieve an "effective" rating, it must meet at least 94% of the state performance standards. To do so, a prescribed percentage of the district's students must achieve a passing score on certain of the state proficiency tests and the district must achieve a prescribed attendance rate and graduation rate.*

General Assembly developed an "expenditure model" by examining the average per pupil expenditures of effective school districts. From the initial group of effective districts, it eliminated "outriders" (the top and bottom 5% in property wealth and the top and bottom 10% according to personal income) and arrived at 103 districts to include in the model. The base cost derived from averaging that group's FY 1996 expenditures, adjusted for inflation, was $4,063 per pupil for FY 1999. The General Assembly phased in full funding of the base cost.

Equity aid phase-out

The old funding system paid a second tier of state aid to school districts whose property wealth fell beneath an established threshold. This "equity aid" was paid beginning in FY 1993 as an add-on to the state base cost (then called "basic aid") funding. The current system has been phasing out equity aid by reducing the number of districts receiving the subsidy and decreasing the number of extra mills equalized under it for each fiscal year through FY 2002. Beginning in FY 2003, no more equity aid is scheduled to be paid.

Six-year funding plan

The current system specifies base-cost funding parameters for six fiscal years, from FY 1999 through FY 2004. These parameters are illustrated in the following table.

Base-Cost Funding Plan Under Current Law

Fiscal Year	Base Cost Amount	Actual Formula Amount	% of Base Cost in Formula Amount	Variance in Cost-of-Doing-Business Factors	Number of School Districts Eligible for Equity Aid	Additional Mills Equalized by Equity Aid
FY 1998	-----	$3,663	-----	9.6%	292	13
FY 1999	$4,063	$3,851	94.8%	11.0%	228	12
FY 2000	$4,177	$4,052	97.0%	12.4%	197	11
FY 2001	$4,294	$4,294	100%	13.8%	162	10
FY 2002	$4,414	$4,414	100%	15.2%	117	9
FY 2003	$4,538	$4,538	100%	16.6%	0	0
FY 2004	$4,665	$4,665	100%	18.0%	0	0

Categorical funding

Categorical, or "add-on," funding is a type of funding the state provides school districts in addition to base-cost funding. It can be viewed as money a school district requires because of the special circumstances of some of its students or the special circumstances of the district itself (such as its location in a high-cost area of the state). Some categorical funding, namely the cost-of-doing-business factor and some adjustments to local property value, is actually built into the base-cost formula. But most categorical funding is paid separately from the base cost, including:

(1) Special education additional weighted funding, which pays districts a portion of the additional costs associated with educating children with disabilities;

(2) Vocational education additional weighted funding, which pays districts a portion of the additional costs associated with educating students in job-training, workforce development, and other vocational programs;

(3) Gifted education unit funding, which provides funds to districts for special programs for gifted children;

(4) Disadvantaged Pupil Impact Aid, or "DPIA," which provides additional state money to districts where the proportion of low-income students receiving public assistance through the Ohio Works First program is a certain percentage of the statewide proportion; and

(5) Transportation funding, which reimburses districts a portion of their costs of transporting children to and from public and private schools.

Special education and vocational education weights. The current school funding system pays a per pupil amount for special education and vocational education students on top of the amount generated by the base-cost formula for those students. It does this using an add-on formula assigning weights to those students. Weights are an expression of additional costs attributable to the special circumstances of the students in the weight class, and are expressed as a percentage of the formula amount. For example, a weight of 0.25 indicates that an additional 25% of the formula amount (or, about $1,074 more dollars for FY 2001) is necessary to provide additional services to a student in that category.

The current weights for special education and vocational education are:

SPECIAL EDUCATION	VOCATIONAL EDUCATION
(a) **0.22** for students identified as specific learning disabled, other health	(a) **0.60** for students enrolled in job-training and workforce development

handicapped, or developmentally handicapped;

(b) **3.01** for students identified as hearing handicapped, orthopedically handicapped, vision impaired, multihandicapped, and severe behavior handicapped; and

(c) **3.01** for students identified as autistic, having traumatic brain injuries, or as both hearing and vision disabled.

programs approved by the Department of Education; and

(b) **0.30** for students enrolled in other types of vocational education classes.

Each school district is paid its state share percentage of the additional weighted amount calculated for special education and vocational education (see "***State and local shares of special and vocational education costs***," below). In addition, school districts may receive an additional "catastrophic cost" subsidy for an individual special education student in the third special education weight category if the district's costs to serve the student exceed $25,000.

The state also pays a subsidy for speech services and for "associated vocational education services" using separate formulas.

State and local shares of special and vocational education costs. The current funding system equalizes special education and vocational education costs by requiring a state and local share for the additional costs. This is determined for each district from the percentage of the base-cost amount supplied by each. For instance, if the state pays 55% of a district's base-cost amount and the district supplies the other 45%, the state and local shares of the additional special education and vocational funding likewise are 55% and 45%, respectively.

Gifted education funding. The state uses "unit funding" to pay school districts to serve students identified as gifted. A "unit" is a group of students receiving the same education program. In FY 2001, districts and educational service centers received for each approved unit the sum of:

(1) The annual salary the gifted teacher would receive if he or she were paid under the state's minimum teacher salary schedule for a teacher with his or her training and experience;

(2) An amount (for fringe benefits) equal to 15% of the salary allowance;

(3) A basic unit allowance of $2,678; and

(4) A supplemental unit allowance, the amount of which partially depended on the district's state share percentage of base-cost funding. In FY 2001, for each gifted unit, a district received a supplemental unit allowance of $2,625.50 plus the district's state share percentage of $5,550 per unit.

Disadvantaged Pupil Impact Aid (DPIA). An additional, nonequalized state subsidy is paid to school districts with threshold percentages of resident children from families receiving public assistance (Ohio Works First). The amount paid for DPIA depends largely on the district's DPIA index, which is its percentage of Ohio Works First children compared to the statewide percentage of Ohio Works First children. Three separate calculations determine the total amount of a district's DPIA funds:

(1) Any district with a DPIA index greater than or equal to 0.35 (meaning its proportion of children receiving public assistance is at least 35% of the statewide proportion) receives money for safety and remediation. Districts with DPIA indices between 0.35 and 1.00 receive $230 per pupil in a public assistance family. The per pupil amount increases proportionately for districts whose indices are greater than 1.00 as the DPIA index increases.

(2) Districts with a DPIA index greater than 0.60 receive an additional payment for increasing the amount of instructional attention per pupil in grades K to 3, the amount of which payment also increases with the DPIA index. This payment is called the "third grade guarantee," but is also known as the "class-size reduction" payment.

(3) Districts that have either a DPIA index equal to or greater than 1.00 (having at least the statewide average percentage of public assistance children) or a three-year average formula ADM exceeding 17,500, and that offer all-day kindergarten receive state funding for the additional half day.

However, all districts (regardless of their DPIA indices) are eligible for at least the amount of DPIA funding they received during FY 1998, the last year of the old school funding system.

Transportation. In FY 1998, under the old school funding system, state payments to school districts for transportation averaged 38% of their total transportation costs. The current system established a new transportation funding formula and commenced a phase-in that, by FY 2003, will result in the state paying districts 60% of the amount calculated by the new formula. These payments are not equalized for district wealth. Every district receives that same percentage of the amount calculated for it under the formula.

The formula itself is based on the statistical method of multivariate regression analysis.[10] Under this formula, each district's payment for transportation of students on school buses is based on (1) the number of daily bus miles traveled per day per student in the previous fiscal year and (2) the percentage of its student body that it transported on school buses in the previous fiscal year (whether the buses were owned by the district board or a contractor).[11] The Department of Education is to update the values for the formula and calculate the payments each year based on analysis of transportation data from the previous fiscal year. The Department must apply a 2.8% inflation factor to the previous year's cost data.

In addition, the current system pays a separate "rough road subsidy" targeted at relatively sparsely populated districts where there are relatively high proportions of rough road surfaces.

Subsidies addressing reliance on property taxes

Charge-off supplement ("gap aid revenue"). Certain school districts are not able to achieve 23 effective mills to cover their assumed local share of the base cost. In other cases, districts' effective tax rates will not cover their assumed local shares of special education and vocational education costs. In such cases, current law provides a subsidy to make up the gap between the districts' effective tax rates and their assumed local shares for base-cost funding, special education, and vocational education.

"Power equalization" subsidy. Current law provides another subsidy to school districts that have effective tax rates for operations above the formula charge-off (23 mills) but have below-average property valuations per pupil. The subsidy (referred to as "power equalization") supplements the amount that such a school district is able to raise from two mills of local property tax, so that the amount it raises locally, combined with the subsidy, equals the amount that a district having the statewide average property valuation per pupil will raise by levying two mills. If a school district qualifies for the subsidy and has an effective

---

[10] Regression analysis is a statistical tool that can explain how much of the variance in one variable (in this case, transportation costs from district to district) can be explained by variance in other variables (here, number of bus miles per student per day and the percentage of students transported on buses).

[11] The statute presents the following model of the formula based on an analysis of FY 1998 transportation data: 51.79027 + (139.62626 x daily bus miles per student) + (116.25573 x transported student percentage). Payments for FY 2000 and FY 2001 were to be calculated with a similar formula updated to reflect analysis of FY 1999 and FY 2000 data, respectively. (R.C. 3317.022(D)(2).)

operating tax rate of less than 25 mills, the subsidy supplements the amount that the district is able to raise from whatever millage the district has in excess of 23 mills, rather than a full two mills.

State funding guarantee

The current funding system guarantees every school district with a formula ADM over 150 that it will receive a minimum amount of state aid based on its state funds for FY 1998. The state funds guaranteed include the sum of base-cost funding, special education funding, vocational education funding, gifted education funding, DPIA funds, equity aid, state subsidies for teachers with high training and experience, and state "extended service" subsidies for teachers working in summer school.

Temporary state funding cap

Most school districts, though, have experienced increases in their state funding from FY 1998. As part of the phase-in to the current system, the law temporarily limits school districts' increases in state funding, including transportation subsidies, through FY 2002. In FY 2001 and FY 2002, the law limits school districts' state aid increases to 12% over their previous year's aggregate state payment or 10% over their previous year's *per pupil* amount of state funds, whichever is greater. This "cap" no longer applies after June 30, 2002.

Highlights of the bill's funding plan

Fiscal Year	State Aid Cap	Base Cost Amount	Variance in Cost-of-Doing-Business Factors	Limit on Local Share of Categorical Funding‡	Districts Eligible for Parity Aid	Parity Aid Payment %	Districts Eligible for Equity Aid	Equity Aid Payment %
FY 2001†	*Yes*	*$4,294*	*13.8%*	-----	-----	----	*117*	*100%*
FY 2002	No	$4,814	7.5%	None	489	20%	117	100%
FY 2003	No	$4,949	7.5%	3 mills	489	40%	117	75%
FY 2004	No	$5,088	7.5%	3 mills	489	60%	117	50%
FY 2005	No	$5,230	7.5%	3 mills	489	80%	117	25%
FY 2006	No	$5,376	7.5%	3 mills	489	100%	0	0
FY 2007	No	$5,527	7.5%	3 mills	489	100%	0	0

†Current law.

‡Combination of special education, vocational education, and transportation formula calculations.

The bill eliminates the state aid cap

(Sections 159 and 160)

The bill repeals the temporary cap on school district aid. Under current law, the cap would have expired after FY 2002, and for that year it would have limited a school district's increase in state aid to the greater of 12% overall or 10% per pupil.

The bill recalculates the base-cost amount, yielding higher per pupil amounts for FY 2002 through FY 2007

(R.C. 3317.012(A)(1) and (B))

The bill declares that the General Assembly has analyzed school district expenditures for FY 1999 and has determined that the per pupil base cost of an adequate education for FY 2002 is $4,814. That amount is increased by an inflation factor of 2.8% for each of the following five fiscal years, through FY 2007. The bill does not phase these amounts in, but implements the full amounts immediately.

Base Cost Formula Amounts – FY 2001 through FY 2007

Fiscal Year	Current Law	The Bill
FY 2001	$4,294	-----
FY 2002	$4,414	$4,814
FY 2003	$4,538	$4,949
FY 2004	$4,665	$5,088
FY 2005	Not Specified	$5,230
FY 2006	Not Specified	$5,376
FY 2007	Not Specified	$5,527

How the base-cost amounts were calculated

(R.C. 3317.012(A)(2) and (B))

The bill explains that the proposed base-cost amounts were derived as follows:

(1) Analyzing the expenditures of school districts that met certain criteria in FY 1999, taking an unweighted average of their base costs per pupil, and adjusting the result for inflation. (Although the criteria for selecting model districts are different from those used in the current system, this approach is similar to the current system's premise that, all things being equal, most school districts should be able to perform satisfactorily if they have available the average amount of funds spent by the model districts.)

(2) Adding to that result an additional amount per pupil to account for the added costs to school districts of increasing the number of high school academic units required for graduation beginning September 15, 2001, as a result of legislation enacted in 1997 following *DeRolph I*.

Selection of model school districts. The following table compares the criteria used to select the model school districts under the current system versus the bill's proposal, as those criteria are explained in current law and the bill:

CRITERIA	CURRENT LAW	THE BILL
Academic performance	District met at least **17 of 18** state performance standards in **FY 1996**.	District met at least **20 of 27** state performance standards in **FY 1999**.
Income wealth screen	The district was not among the top or bottom **10%** of all school districts in income wealth in **FY 1996**.	The district was not among the top or bottom **5%** of all school districts in income wealth in **FY 1999**.
Property wealth screen	The district was not among the top or bottom **5%** of all school districts in property valuation per pupil in **FY 1996**.	The district was not among the top or bottom **5%** of all school districts in property valuation per pupil in **FY 1999**.

Selection of expenditure data to analyze. Some model school districts had their actual FY 1999 expenditures analyzed under the bill's methodology, but others simply had their expenditures from FY 1996 inflated to FY 1999. The bill explains that which year's expenditures were incorporated into the model depended on whether the district was included in the FY 1996 model upon which the General Assembly calculated base-cost amounts for FY 1998 through FY 2001. The more recent FY 1999 expenditures were analyzed if a school district included in the bill's model was *not* also included in the General Assembly's earlier FY 1996 model. If, however, a school district included in the bill's model *was* also included in the earlier model, its FY 1996 expenditures were simply

inflated to FY 1999 amounts using an annual 2.8% inflation rate. The bill explains that this differentiation is intended to "control" for the potential that, in the case of districts included in both FY 1996 and FY 1999 models of successful school districts, "increased state funding [since FY 1996] may have driven the districts' [FY 1999] expenditures beyond the expenditures actually needed to maintain their . . . status as model school districts."

The bill's changes regarding minimum academic units for graduation

(R.C. 3313.603 and 3317.012(A)(2))

In 1997, following the *DeRolph I* decision, the General Assembly raised from 18 to 21 the minimum number of high school units required for graduation. The new minimum would apply to students graduating after September 14, 2001.

The bill reduces the required minimum from 21 to 20 units by eliminating one elective.[12] Moreover, it specifies that the FY 2002 base cost of $4,814 per pupil includes $12 per pupil as the amount determined by the General Assembly to compensate school districts for the cost of implementing the 20-unit requirement, which is still higher than the former minimum of 18 units. (That is, the actual base cost was calculated as $4,802, with the additional $12 bringing the total to $4,814.) The bill states the General Assembly's finding that in FY 1999, the model school districts on average required a minimum of 19.8 units to graduate and $12 per pupil represents the cost in FY 2002 of funding the additional two-tenths of one unit.

New committee to reexamine the cost of an adequate education

(R.C. 3317.012(C))

Current law requires the Speaker of the House of Representatives and the President of the Senate each to appoint three members to a committee to reexamine the cost of an adequate education. The law required appointments to be made in July 2000 and again in July every six years thereafter. The committee is required to issue its report within six months of its appointment. Such a committee was organized in July 2000 and issued its report in December 2000.

The bill requires the Speaker and the Senate President to appoint a new committee to reexamine the cost of an adequate education in July 2005 and every six years thereafter. It further requires that the committee issue its report within *one year* of its appointment.

---

[12] The bill retains the requirement of current law that at least one elective unit, or two half-units, be selected from among business/technology, fine arts, or foreign language.

The bill returns the cost-of-doing-business factor variance to 7.5%

(R.C. 3317.02(N))

The bill terminates the phase-in to the 18% variance between the highest and lowest cost-of-doing-business factor counties. It reduces the maximum variance to 7.5% between the base county (Gallia County) and the highest-cost county (Hamilton County). Under current law, the variance is scheduled to increase to 15.2% in FY 2002, 16.6% in FY 2003, and 18% thereafter.

In addition, the bill adjusts the factors for the individual counties to reflect the Department of Education's latest examination of the relative costs among the counties.

The bill eliminates the "income factor" adjustment to property valuation for base-cost calculations

(R.C. 3317.02(T) to (W), 3317.022(A), 3317.0216(A)(2), 3317.16(A)(4) and (B), 5727.84(A)(6), and 5727.85(A)(1))

Under current law, school districts that have median resident incomes below the statewide median income have their property wealth adjusted downward, which in turn increases the state share and reduces the local share of their calculated base-cost, special education, and vocational education funding. Districts with median incomes above the statewide median receive no adjustment.

The bill eliminates this "income factor" adjustment to school district property wealth for base-cost funding, and instead includes consideration of a school district's income wealth as part of the proposed new "parity aid" program (see "***Parity aid***," below).

Property tax replacement payments

(R.C. 5727.84)

Property tax replacement payments are made to school districts to compensate them for the local revenue loss resulting from the recently enacted reductions in the rate at which some electric and natural gas company property is assessed for taxation. But the reductions in the assessment rate also cause state education aid to increase, since, for most school districts, there is an inverse relationship between the education aid they receive and the assessed value of property in the district. Accordingly, property tax replacement payments are adjusted to account for this aid increase by offsetting the aid against the local tax revenue loss imputed to the district. Currently, the offset is computed only on the

basis of the current state basic aid formula and the state special education aid formula.

The bill changes the computation of this offset so that it reflects the state education aid payments resulting from the new funding methodology established by the bill.

The bill places a 3-mill limit on local share of special education, vocational education, and transportation funding beginning in FY 2003

(R.C. 3317.022(C) and (F) and 3317.0216(A)(3))

The bill limits the amount of local resources (that is, the total "local share") that must be spent on special education and related services, student transportation, and vocational education services, beginning in FY 2003. Starting that year, the annual amount of any school district's total local share for these three categories combined may not exceed the product of three mills times the district's "recognized valuation."[13] (The three mills worth of resources devoted to these categories is above the 23 mills of local revenue assumed to be applied toward base-cost funding.)

After the state and local share percentages have been calculated for a district's expenditures in these categories, any amount of attributed local share that exceeds the three-mill cap (which the bill labels "excess costs") must be paid by the state.

The bill phases in a new special education system of six weights

(Substantive change: R.C. 3317.013)

(Conforming changes: R.C. 3314.08, 3317.01, 3317.02, 3317.022(C)(1), 3317.023, 3317.0212, 3317.03, 3317.16, and 3317.20)

The bill replaces the current system of two special education weights for three special education categories with a system comprising six special education weights for six categories, as follows:

[13] *"Recognized valuation" is a constructed valuation that phases-in the assessed valuation increases resulting from a triennial reappraisal or update by a county auditor.*

Disability	Current Weight	Bill's Weight
Speech and language only	None	0.2892
Specific learning disabled	0.22	0.4240
Developmentally handicapped	0.22	0.4240
Severe behavior handicapped	3.01	0.4240
Hearing handicapped	3.01	1.6736
Vision impaired	3.01	1.6736
Orthopedically handicapped	3.01	3.0022
Other health handicapped	0.22	3.0022
Multihandicapped	3.01	3.7507
Both visually and hearing disabled	3.01	3.7507
Autism	3.01	4.7693
Traumatic brain injury	3.01	4.7693

Phase-in

(R.C. 3317.013)

The six new weights are to be incorporated into the special education formulas at 80.5% of their value in FY 2002, 85% in FY 2003, and 100% thereafter.

The bill "earmarks" funds generated by special education students

(R.C. 3317.022(B)(3), (C)(2), and (C)(5) and 3317.16(G))

The bill requires that each city, local, and exempted village school district annually spend, on purposes that the Department of Education approves as special education and related services expenses, at least the amount of state and local funds calculated through the base-cost and special education formulas for its special education students. The purposes approved by the Department must include, but cannot be limited to, "identification of handicapped children, compliance with state rules governing the education of handicapped children and

prescribing the continuum of program options for handicapped children, and the portion of the district's overall administrative and overhead costs that are attributable to the district's special education student population."

The Department must require annual reporting by the districts to allow for monitoring compliance with this requirement. The Department, in turn, must annually report to the Governor and the General Assembly on school district special education spending.

These new requirements replace existing law which requires that school districts annually spend on special education *related services* the lesser of (1) the amount they spent in the previous fiscal year or (2) one-eighth of their calculated state and local shares of special education weighted funding. The bill eliminates the existing requirement.[14]

The bill continues the speech services subsidy at FY 2001 level

(R.C. 3317.022(C)(4) and 3317.16(D)(2))

In addition to its new, separate weight for special education students whose only identified disability is a speech-language handicap, the bill retains the existing speech services subsidy. This subsidy pays a percentage of one speech services "personnel allowance" for every 2,000 students in a school district's formula ADM. The bill continues the $30,000 personnel allowance established for FY 2001 and applies it to FY 2002 and FY 2003. In addition, it specifies that the students for whom this subsidy is paid include students who do not have an individualized education program (IEP) established for them and therefore are not considered special education students to whom a weight would apply.

The bill commissions a special education funding study

(Section 171)

The bill requires the Department of Education to conduct the following analyses and report its findings and recommendations to the General Assembly by June 30, 2002:

[14] *The existing minimum spending requirement for related services applies both to regular school districts and to joint vocational school districts. The bill eliminates the existing requirement for both types of districts, but only applies the new requirement to regular (i.e., city, local, and exempted village) districts.*

(1) A cost-based analysis of state and federal laws that mandate special education services in addition to the mandates of the State Board of Education's special education rules, commonly known as the "Blue Book";

(2) An analysis of the manner in which federal special education funds may be spent, including an examination of whether and how federal funds may be used to fund the increased costs of state and federal special education mandates; and

(3) An analysis of the costs to school districts of complying with the mandate to provide the least restrictive environment to special education students through mainstreaming.

The bill increases the state payment under the "catastrophic costs" subsidy and extends it to cover most special education students

(R.C. 3314.08(E), 3317.022(C)(4), and 3317.16(E))

Current law

Under the current system of special education weights, Category 3 special education students include students with autism, students with both visual and hearing handicaps, and students with traumatic brain injuries. The special education weight assigned to these students is 3.01, the same as that assigned to special education students under Category 2. But under the current funding system, school districts may apply to the state for additional state aid if their costs in serving any Category 3 student exceed $25,000 in one year. The state currently must pay the district's state share percentage of the costs above the $25,000 threshold.[15]

The bill

The bill expands this subsidy to cover all special education students, *except* those whose only identified disability is a speech and language handicap. It makes this change for all school districts, including joint vocational school districts, and for community schools, which also are eligible for the subsidy under current law.

Moreover, the bill increases the percentage of costs above the $25,000 threshold that the state will reimburse school districts, including joint vocational

---

[15] *The costs for which districts may receive reimbursement include only the costs of educational expenses and related services provided to the student in accordance with the student's individualized education program (IEP). Legal fees and court costs relating to the student cannot be reimbursed.*

school districts. (Community schools, which have no taxing authority, already are eligible for 100% reimbursement under current law.) Instead of paying the district's state share percentage, the bill requires the state to pay the sum of:

(1) 100% of half the costs above $25,000; plus

(2) The district's state share percentage of the other half of the costs above $25,000.

For example, if a school district spent $30,000 to serve a special education student, the district would be eligible for reimbursement of a portion of the $5,000 by which its costs for that student exceeded $25,000. If the district's state share percentage were 55%, under current law it would be reimbursed $2,750 (55% x $5,000). Under the bill, it would receive $3,875 ($2,500 + (55% x $2,500)).

The bill makes permanent the policy to use weights instead of units to pay county MR/DD boards for special education

(R.C. 3317.03(B)(14), 3317.052, 3317.20, 3323.09, 5126.05, and 5126.12)

During FY 1999, FY 2000, and FY 2001, county boards of mental retardation and developmental disabilities ("county MR/DD boards") received payment for providing special education to school-age children under a funding system that is similar to the system of weights used to pay school districts. Authorization for this arrangement is due to expire at the end of FY 2001, after which current law requires that the state resume paying MR/DD boards using "unit funding," which calculates payments based on groups of students using set amounts for the salary and benefits of the students' teacher and for other supplies.

The bill prevents the reversion back to unit funding, making the weighted system permanent for paying county MR/DD boards for serving school-age children.[16] For each school-aged child provided special education and related services, the Department of Education must continue to pay a county MR/DD board the base-cost formula amount, adjusted by the cost-of-doing-business factor of the child's school district, plus the state share in the child's school district of the additional, weighted special education payment. This provides the boards with the state and local share of the base cost of educating the student, plus the state portion of the calculated additional special education cost.

As under current law, each county MR/DD board is guaranteed to receive each year at least the same amount per pupil that it received per pupil in FY 1998

[16] *State payments for all special education to preschool children, whether provided by a school or county MR/DD board, is calculated using unit funding.*

under state unit funding. If the per pupil amount calculated using the weights is less than the FY 1998 per pupil amount, the Department must pay the board the difference.

Also as under current law, payments to county MR/DD boards are not deducted from a school district's state aid, unless the district places with a board more school-aged children than it had placed in FY 1998. If that is the case, the Department must deduct from the district's aid the amount paid the MR/DD board for each school-aged child exceeding the number placed that year.

But unlike current law, the bill does not place a cap on total state payments to county MR/DD boards. The cap amounts were $40 million in FY 1999, $44 million in FY 2000, and $48.4 million in FY 2001, and appeared to be based on the amount of state unit funding provided to MR/DD boards in FY 1998. If total state payments calculated in a fiscal year exceeded the cap in any of those years, the Department had to proportionately reduce the amount paid to each board that year.[17]

The bill enhances the state share of transportation payments for some districts beginning in FY 2003

(R.C. 3317.022(B)(1) and (D)(2))

Beginning in FY 2003, the bill increases the state's share of transportation funding calculated with the state formula to the *greater of* (1) 60% or (2) the same percentage that the state pays of the district's calculated base-cost, special education, and vocational education funding. (Current law requires the state to pay all districts 60% of their calculated transportation amounts in FY 2003.) This change will result in a higher state payment percentage for districts whose base-cost state share percentages are greater than 60%. These would be districts with lower property wealth.

For FY 2002, the bill retains the current law requiring the state to pay all districts 57.5% of their transportation formula calculation.

The bill adds transportation to the charge-off supplement ("gap aid")

(R.C. 3317.0216)

The bill adds transportation funding to the charge-off supplement ("gap aid") paid to districts whose locally levied revenues are insufficient to cover their calculated local shares of base-cost, special education, and vocational education

[17] *Section 35 of Am. Sub. H.B. 770 of the 122nd General Assembly*.

funding. That is, if a district's locally levied tax revenue is insufficient to cover what is attributed as its local share of transportation funding, the state will make up the difference as it currently does with base-cost, special education, and vocational education funding.

The bill adjusts the vocational education weights to reflect other changes

(R.C. 3317.014)

The bill adjusts the weights used to calculate vocational education funding to reflect the bill's changes in the base-cost formula amounts due to its revised application of the cost-of-doing-business factor. The bill states that "[t]he adjustment maintains the same weighted costs as would exist if no change were made to the application of the cost-of-doing-business factor." The adjusted weights are:

Vocational Education Category	Current Weight	Bill's Weight
Job-training and workforce development	0.60	0.57
Other vocational education programs	0.30	0.28

Apportionment of vocational education weights for programs with extended instructional time

The bill permits the Department of Education to adopt rules for workforce development programs in areas such as agriculture that include extended instructional time, including summers, as a key component. For that type of program, the multiple of 0.57 would be apportioned so that the multiple for the normal school year is less than the multiple for the additional instructional time. A school district could, however, receive the full amount of the weight for the program if it completed the extra hours of instruction outside the regular times.

The bill phases in a new supplemental tier of state funding called "parity aid"

The bill phases-in a new "parity aid" subsidy to provide additional state funding, beyond base-cost and categorical funding, to low- and medium-wealth school districts. The new parity aid will replace the current equity aid and power equalization subsidies. Equity aid is phased out as parity aid phases in. Power equalization is terminated immediately, beginning in FY 2002.

The Bill's Phase-In of Supplemental Tiers of State Funding

Fiscal Year	Number of School Districts Eligible for Parity Aid	Parity Aid Payment % (Phase In)	Number of School Districts Eligible for Equity Aid	Equity Aid Payment % (Phase Out)	Power Equalization Payment %
FY 2001	-----	----	117	100%	75%
FY 2002	489	20%	117	100%	0
FY 2003	489	40%	117	75%	0
FY 2004	489	60%	117	50%	0
FY 2005	489	80%	117	25%	0
FY 2006	489	100%	0	0	0
FY 2007	489	100%	0	0	0

Parity aid

(R.C. 3317.012(C), 3317.021(A)(5) and 3317.0217)

The new parity aid funding program pays additional state funds to 489 (about 80%) school districts based on combined income and property wealth per pupil. The program essentially pays state funds to make up the difference between what 9.5 mills would raise against the district's income-adjusted property valuation versus what 9.5 mills would raise in the district where the income-adjusted property valuation ranks as the 490th lowest. The amount of parity aid, therefore, varies based on how far below the 490th district a district's income-adjusted valuation falls, with the 123 districts having the highest income-adjusted valuations being ineligible for aid. Districts need not actually levy any of the 9.5 mills to receive their state payment.

9.5 mills represent average discretionary millage of high-wealth districts

(R.C. 3317.0217(D)(2))

The 9.5 mills on which parity aid is based represents the General Assembly's determination of the average number of "effective operating mills" (including school district income tax equivalent mills) that school districts in the 70th to 90th percentiles of property valuations levied in FY 2001 *beyond* the millage needed to finance their calculated local shares of base-cost, special education, vocational education, and transportation funding.

The bill requires the General Assembly every six years to redetermine the average number of these additional mills that are collected by districts in the 70th to 90th percentiles of property valuation. The committee that is to be appointed every six years to re-examine the base cost of an adequate education also must re-examine this millage and make recommendations to the General Assembly.

Calculation of income-adjusted property valuation

(R.C. 3317.021(A)(5) and (E) and 3317.0217(A); Section 44.15)

Income-adjusted property valuation for parity aid is calculated as:

(1) One-third of a district's average income-wealth per pupil; plus

(2) Two-thirds of its "recognized" property valuation per pupil.

Unlike the income adjustments for base-cost calculations under current law (which the bill eliminates), all districts, whether high-income or low-income, have their property valuation adjusted upward or downward to reflect income for parity aid calculations. Income wealth is measured as the three-year average adjusted gross income of school district residents, based on data from income tax returns reported by the Department of Taxation.

Phase-in

(R.C. 3317.0217(D)(1))

The bill calls for parity aid to be phased-in over five years, directing that 20% of the calculated amount be paid in FY 2002, 40% in FY 2003, 60% in FY 2004, 80% in FY 2005, and 100% after FY 2005.

Inclusion of budget for expenditure of parity aid in continuous improvement plans

(R.C. 3302.041)

Background. Under continuing law, the Department of Education issues a performance rating for each school district every three years based upon the percentage of specific state performance standards met by the district. All districts except "effective" districts (this includes districts in need of continuous improvement, under an academic watch, or in a state of academic emergency) must submit a three-year continuous improvement plan (CIP) to the Department which explains why the district failed to meet the performance standards it missed and outlines the strategies and resources the district will use to correct the problem. A district's success in improving its performance is measured by a

standard unit of improvement, which indicates satisfactory progress toward a performance standard.[18]

Budget for parity aid in CIP. One source of funding that a district may use to help improve its performance, and thus its overall rating, is the parity aid contained in the bill's proposed educational funding system. Under the bill, only "effective" districts can spend their parity aid for any purposes they choose. The bill places restrictions on the use of parity aid by all other districts and requires those districts to include budgets for the expenditure of their parity aid in their CIPs. With one exception, all parity aid received by a district that is *not* "effective" must be used for one of the following purposes:

(1) Upgrading or purchasing additional classroom equipment, materials, textbooks, or technology;

(2) Lowering student/teacher ratios in additional classrooms;

(3) Providing more advanced curriculum opportunities;

(4) Providing additional electives or mandatory courses for graduation;

(5) Increasing professional development;

(6) Serving more students in all-day kindergarten;

(7) Providing preschool to more students;

(8) Providing additional programming and services for special student populations such as gifted, disadvantaged, or disabled students;

(9) Establishing new academic intervention programs or increasing the number of students served in existing ones, including programs such as tutoring or summer school.

The exception in the bill allows a district to spend all or a portion of its parity aid for a purpose not listed above if authorized by the Department upon the presentation of "clear and convincing" evidence that the diversion of funds is necessary for an emergency directly related to eliminating health and safety risks to students.

For each expenditure of parity aid in its budget, the district's CIP must describe how the expenditure will enable the district to offer new programs and

[18] *R.C. 3302.02, 3302.03(A) and (B), and 3302.04(A) and (B), none in the bill.*

opportunities or to expand the availability of current ones, rather than simply using the parity aid to supplant other revenues the district receives from the state or other sources to fund existing programs. The CIP must also explain how the expenditure enhances the district's efforts to improve its academic success and to achieve the standard unit of improvement in areas where the district has exhibited deficiencies.

Because the most recent performance ratings for school districts were announced in 1999, those districts that had to develop a CIP are currently in the middle of the three-year period covered by their plans. Consequently, if any district that is currently not deemed "effective" is projected to receive parity aid in either FY 2002 or FY 2003, that district must submit an amended CIP to the Department by September 1, 2001. The plan must be amended to include a budget for spending parity aid payments in each fiscal year that the district is expected to receive them. Under current law, the next performance ratings will be issued in 2002. Any CIP developed after that time must contain a parity aid budget with the submission of the original plan to the Department.

The bill charges the Department with monitoring school districts' expenditures of parity aid in accordance with their CIPs. The Department must determine whether each district spent its parity aid for the appropriate fiscal year in compliance with the budget contained in the district's CIP. Beginning July 1, 2002, of the districts that currently have CIPs, half would be assessed by the Department in FY 2003 and the rest would be assessed in FY 2004. Starting July 1, 2004, and for all future years, the Department must review one-third of the total number of districts with CIPs each fiscal year during the three-year period in which the CIPs are in effect to determine districts' compliance with their budget plans in the preceding fiscal year. The districts to be assessed in each year are randomly designated by the Department.

Whenever the Department finds that a district did not spend its prior year's parity aid funds in the manner specified in the district's CIP, the Department must (1) inform the State Board of Education of its findings and (2) subtract an amount equal to the misspent funds from any parity aid payments due to the district in the current fiscal year. In each subsequent year until the district is in compliance with its parity aid budget, the Department must continue to monitor the district's expenditures and make annual deductions in the same amount from the district's parity aid payments.

Finally, the bill stipulates that a school district may amend its parity aid budget at any time for good cause and with the approval of the Department. The district, however, may reallocate its parity aid only to other purposes for which parity aid may legitimately be spent.

The bill extends the phase-out of equity aid

(R.C. 3317.0213)

Current law designates FY 2002 as the last year for the phase-out of equity aid. (The phase-out began in FY 1999.) In FY 2002, 117 of the lowest-wealth school districts will have nine mills equalized up to the level of the 118th lowest-wealth district. The bill lengthens the phase-out schedule over five years to coincide with the phase-in of parity aid. It directs that 100% of the equity aid calculation be paid to the 117 districts in FY 2002, 75% in FY 2003, 50% in FY 2004, 25% in FY 2005, and zero after FY 2005.

The bill terminates the "power equalization subsidy"

(R.C. 3317.021(A)(5) and (E); repealed R.C. 3317.0215)

The bill immediately repeals the state "power equalization" subsidy paid to districts that levy up to two additional mills above the 23-mill base-cost charge-off but have below-average property valuations per pupil. Parity aid replaces power equalization.

DPIA funding for "third grade guarantee"--average teacher salary

(R.C. 3317.029(A)(7) and (E))

If a district's DPIA index is greater than 0.60 (meaning its proportion of children receiving public assistance is greater than 60% of the statewide proportion), it also may receive a payment based on the amount of money it would take to hire additional teachers to reduce class sizes in grades K to 3. The amount varies on a sliding scale, increasing as a district's DPIA index increases.

One of the components of the formula for calculating this "third grade guarantee" is the statutorily designated statewide average teacher salary. For FY 2001, this amount was established at $41,312. The bill increases it to $42,469 for FY 2002 and $43,658 for FY 2003, thereby increasing the third grade guarantee funds for all eligible districts in each year of the biennium.

Changes regarding educational service centers

Background

An educational service center (ESC) is a regional public educational entity with its own superintendent and elected governing board that provides some educational supervision, curriculum development services, and other administrative services to all local school districts within its service area. In

addition, ESCs may provide services to area city and exempted village school districts under contract with those "client" districts. Each ESC receives per pupil payments from the state and its local and client school districts for service to district students. An ESC governing board does not have taxing authority for purposes of operating the ESC.[19]

The bill maintains the per pupil payment amounts to educational service centers

(R.C. 3317.11(B) and (C))

The bill requires that the same per pupil amounts paid by the state to educational service centers in FY 2001 also be paid in FY 2002 and FY 2003. These amounts are to be paid for each pupil in the formula ADMs of the local school districts that are part of the service center and of the city and exempted village "client" school districts that sign agreements with the service center, as follows:

(1) For centers that serve fewer than three counties, $37 per pupil; and

(2) For centers that serve three or more counties, $40.52 per pupil.

Educational service center office space and equipment

(R.C. 133.07(C)(19), 3313.37(A), and 3319.19; repealed R.C. 307.031)

ESC governing boards may acquire property. Under current law, ESC governing boards are permitted to acquire property for special education programs and for driver's education courses. There is some uncertainty whether or not they can acquire property for other purposes.[20] The bill specifically permits an ESC

---

*[19] R.C. 3311.05, not in the bill. Prior to 1995, ESCs were called county school districts and ESC governing boards were called county boards of education. At one time there were 88 county school districts, but along with the name change provisions enacted in Am. Sub. H.B. 117 of the 121st General Assembly, certain former county school districts (now ESCs) were required to merge to form larger service areas. According to the Legislative Office of Education Oversight, in July of 1999 there were 61 ESCs. (See "**ESC Mergers**" below.)*

[20] For example, at least one common pleas court has held that despite the general provision permitting school districts, which may include ESCs under some circumstances, to acquire property necessary for their educational programs, the specific provision limits that authority for ESCs to special education and driver's education controls. See Paulding County Bd. of Edn. v. Paulding County Bd. of Commissioners CI-86-049 (1986).

governing board to acquire, lease, purchase, or sell real and personal property and to construct, enlarge, repair, renovate, furnish, or equip facilities, structures, or buildings for the ESC's purposes. To do so, a governing board may also enter into loan agreements, including mortgages. If a governing board does acquire its own facilities for office or classroom space, a board of county commissioners has no obligation to provide offices and associated services as otherwise provided under current law.[21] (See "***Phase out of a board of county commissioner's responsibility to provide ESC office space***," below.) The bill also permits a board of county commissioners to issue securities under provisions of the Public Securities Law to acquire real and personal property for an ESC, if the ESC governing board has contracted to pay to the county an amount equal to the annual debt charges on those securities.[22]

Phase out of a board of county commissioner's responsibility to provide ESC office space. Under current law, the board of county commissioners of the county in which an ESC is located must provide and equip office space and furnish water, light, heat, and janitorial services, for the ESC. If the service area of an ESC comprises territory in more than one county, the ESC governing board must designate one board of county commissioners to provide the office space, and the other boards of county commissioners must share in the costs.[23] (The law also provides for a state subsidy that *may* be paid to a board of county commissioners to help defray the cost of providing office space to an ESC. Apparently, since its enactment in 1990, there have been no appropriations for this subsidy and it has not been paid. The bill repeals this subsidy provision.[24])

The bill provides instead for a four-year phase-out of the responsibility of any board of county commissioners to provide office space for an ESC. In fiscal

---

[21] *R.C. 3313.37(A)(1) to (2).*

[22] *R.C. 133.07(C)(19) and 3313.37(A)(3).*

[23] *R.C. 3319.19(A).*

[24] *R.C. 3319.19(C) and Repealed R.C. 307.031. The subsidy, if appropriations are made for it, is to be allocated to each board of county commissioners that provides ESC office space based on a formula. Under the formula, a board of county commissioners receives an amount up to its actual expenses and equal to the greater of: (1) $15,000, or (2) $6 X the average daily membership (ADM) of the ESC (if the ratio of ADM to full-time equivalent (FTE) licensed educators employed by the ESC is equal to or greater than 100 to 1) or $6 X the ESC's ADM plus $250 X the number of FTE licensed educators employed by the ESC (if the ratio of ADM to FTE licensed educators is less than 100 to 1).*

year 2007 and thereafter, a board of county commissioners may provide office space and other facilities for an ESC by contract, but it is not required to do so.[25]

The bill requires, in fiscal years 2003-2006, each board of county commissioners responsible for ESC office space to submit a detailed estimate of its cost to provide that space and the associated water, heat, light, and janitorial services to the ESC superintendent. The superintendent must review the estimate and may submit objections to that estimate to the board of county commissioners. If the superintendent does not reply to the estimate within 20 days of receipt of the estimate, it is considered to be a final estimate. If the superintendent does file timely objections, the board of county commissioners may revise the estimate and resubmit it to the superintendent. The superintendent then must reply within ten days of receipt of the revised estimate. If the superintendent continues to object to the estimated costs, the probate judge of the county with the greatest number of resident local school district students under supervision of the ESC will determine the final estimate.[26]

During the phase-out, the costs are to be divided between the county and the ESC. The county is responsible to pay the following:

- In fiscal year 2003, 80% of the final estimated cost;
- In fiscal year 2004, 60% of the final estimated cost;
- In fiscal year 2005, 40% of the final estimated cost;
- In fiscal year 2006, 20% of the final estimated cost.

Educational service centers themselves are responsible for the remaining portion of the costs of office space and for any unanticipated or unexpected increase beyond the final estimated costs.

In fiscal year 2007 and thereafter, no board of county commissioners is required to provide office space for an ESC or to pay any cost of providing such space.[27]

---

[25] *R.C. 3319.19(D)(2) to (3).*

[26] *R.C. 3319.19(C).*

[27] *R.C. 3319.19(C) to (D)(1).*

ESC mergers

Self-designed governing boards (R.C. 3311.057). The territory of an educational service center is the territory contained within the local school districts to which the ESC must provide services. It is from that territory that members to the ESC's governing board are elected. That electoral territory does not include the territory of the ESC's "client districts." Ordinarily, an ESC governing board must consist of five members, who are electors of the ESC's territory. The members are generally elected for four-year staggered terms beginning on the first of January after the election.

State law permits and in some cases requires the merger of ESCs that serve small student populations. The law currently provides that any ESC that is formed by merging two or more ESCs after July 1, 1995, but before July 1, 1999, may determine the number of members on the governing board of the new district and whether any of the members are elected at-large or from subdistricts (as long as the new board has an odd number of members). The bill extends (and essentially re-opens) the window of time for the creation of these custom designed governing boards for joint ESCs formed by merger. Under the bill, any ESC formed by merger between July 1, 1995 and July 1, 2003 may opt to design its governing board.

Territorial limitations on ESC mergers (R.C. 3311.058). Uncodified law enacted in 1995 requires certain ESCs that have an average daily membership (ADM) of less than 8,000 students to merge.[28] Although most of the required mergers appear to have taken place, certain joint ESCs that were formed through a required merger of two ESCs that previously each served only one local school district may under current law have to merge again by July 1, 2001, if their ADMs are still less than 8,000 students. The bill enacts permanent law that permits ESCs that would otherwise be required to merge in order to meet any prescribed ADM count not to merge if merging would cause the territory of the new ESC to consist of more than 800 square miles.

Expansion of grade levels in which new students may enter the pilot project scholarship program

(Section 44.33)

In FY 2001, the Pilot Project Scholarship and Tutorial Assistance Program (commonly called the "voucher" program) operating in Cleveland served students in grades K to 7. In FY 2002 and FY 2003, if the program is allowed to continue,

[28] *Section 45.32 of Am. Sub. H. B. 117 of the 121st General Assembly.*

new kindergarten classes would replace the ones that advances to first grade, and the program would serve students in grades K to 8.[29]

The codified law has always stipulated that new students may join the program only in grades K to 3; students in higher grades who withdraw could not be replaced. Since FY 1998, however, biennial appropriations acts have permitted new students to join the program in higher grades, as well.

For FY 2002 and FY 2003, the bill continues this trend by allowing first-time scholarships to be awarded to students in all of the covered grades. First-time scholarships may therefore be awarded to students in grades K to 8. But this will not necessarily increase the number of new program participants. That is determined by the Department of Education each year based on the amount of money appropriated for the program.

LOTTERY

Transfers from the State Lottery Fund to the Lottery Profits Education Fund

(R.C. 3770.06(B))

The State Lottery Gross Revenue Fund consists of all gross revenues received from sales of lottery tickets, fines, fees, and related proceeds. Specified moneys in the State Lottery Gross Revenue Fund must be transferred to the State Lottery Fund. Then, whenever, in the judgment of the Director of Budget and Management, the amount to the credit of the State Lottery Fund is in excess of that needed to meet the maturing obligations of the State Lottery Commission and as working capital for its further operations, the Director must transfer the excess to the Lottery Profits Education Fund. However, the Director may only transfer into the Lottery Profits Education Fund an amount that is *no less than 30% of the total revenue accruing from the sale of lottery tickets*. The bill eliminates this limitation.

---

[29] *On December 11, 2000, the U.S. Sixth Circuit Court of Appeals upheld a summary judgment from the U.S. District Court invalidating the program on federal constitutional grounds. The district court had declared that the program impermissibly results in government advancement of religion because most private schools participating in it are parochial schools. (Simmons-Harris v. Zelman, Case Number 00-3055.) The state appealed this ruling to the full membership of the Sixth Circuit Court of Appeals; however, the full panel declined to rehear the case on February 28, 2001. The case could be appealed to the U.S. Supreme Court.*

TECHNOLOGY AND BUILDINGS

Ohio Education Computer Network

(R.C. 3301.075)

Continuing law requires the State Board of Education to adopt rules for the creation of an Ohio Education Computer Network (OECN) to assist all school districts and educational service centers (ESCs) in the purchasing and leasing of data processing services and equipment.[30] With funding from the Department of Education, OECN must also operate a network of up to 27 data acquisition sites (DA sites), which will assist school districts and ESCs in gathering and reporting data electronically for their own use and for compliance with state reporting requirements. Currently there are 23 such sites. Most, but not all, school districts subscribe to the services of OECN.

Under current law, the service territory of the DA sites must be composed of combinations of school districts and ESCs from contiguous counties. The bill eliminates the contiguity requirement; thus, districts and ESCs not sharing boundaries may join a single DA site.

Prior to codification of the authorization to create OECN in 1983, districts joined DA sites under provisions of law permitting subdivisions to form regional councils for the acquisition of joint services.[31] After that date, it appears that the only way districts and ESCs could join a DA site subsidized by the Department of Education was through a provision of law permitting school districts to jointly acquire and use school facilities.[32] Under the bill, districts and ESCs may use either method to join and participate in the activities of a DA site.

Ohio SchoolNet Commission

(R.C. 3301.80(B)(1))

The Ohio SchoolNet Commission is an independent state agency charged with allocating financial assistance and providing other technical services to

---

[30] *The assistance provided by OECN is in addition to assistance provided to school districts and ESCs in their implementation of educational technology by the Ohio SchoolNet Commission. SchoolNet and OECN have collaborated on activities regarding their respective duties.*

[31] *R.C. Chapter 167., not in the bill.*

[32] *R.C. 3313.92, not in the bill.*

school districts in the implementation of education technology. The Commission is made up of seven voting members: the Superintendent of Public Instruction, Director of Budget and Management, Director of Administrative Services, Chairperson of the Public Utilities Commission, and Director of the Ohio Educational Telecommunications Network Commission, or their respective designees; and two members of the public who are appointed by the Speaker of the House of Representatives and the President of the Senate. It also consists of four nonvoting legislative members. The Commission employs an executive director who employs other individuals to carry out the duties of the Commission.

The bill specifies that the Superintendent of Public Instruction is the chairperson of the Commission.

Ohio Schools Technology Implementation Task Force

(Section 101.02)

In 1997, the General Assembly created a temporary task force to study the implementation of educational technology in the state's elementary and secondary schools. That task force issued written recommendations to the General Assembly and the Director of Budget and Management in 1999. Parts of that report recommended that the General Assembly commission an independent review of all the various ways that technology reaches the schools and commission a strategic plan for future implementation of that technology. In the budget act for the 1999-2001 biennium, the General Assembly commissioned such studies. The reports of those studies are expected to be completed in October 2001.

The bill establishes the Ohio Schools Technology Implementation Task Force to examine the reports from the independent review and strategic plan projects and, based on that examination, to make recommendations to the General Assembly and the Director of Budget and Management for a comprehensive framework for coordinating the planning and implementation of technology in Ohio schools. The task force is also required to examine and make long-term recommendations for technology funding for elementary and secondary schools as well as for the operational costs of the Ohio SchoolNet Commission.

The task force will consist of six legislative voting members (two majority members and one minority member from each house) and the following nine nonvoting ex officio members, or designees: the Superintendent of Public Instruction; the Director of Budget and Management; the Director of Administrative Services; the Executive Director of the Ohio SchoolNet Commission; a representative of the Ohio Education Computer Network; a representative of the Public Utilities Commission; a representative of the Ohio Educational Telecommunications Network Commission; a business representative

(appointed by the President of the Senate); and a representative of an educational service center (appointed by the Speaker of the House). Upon issuing its report the task force ceases to exist.

School facilities programs

Background

State law authorizes several programs to help school districts construct, repair, or renovate school buildings. The main program is the Classroom Facilities Assistance Program (CFAP), which is intended to eventually permit all districts to receive state moneys to address all of their facilities needs in a single project.[33] It is a graduated, cost-sharing program where a school district's priority for funding and its portion of the cost of its project is based on the relative wealth of the district. Lower-wealth districts are served first and receive a larger percentage of their total needs than wealthier districts will receive when it is their turn to be served.

There are other programs designed to meet the special needs of certain districts. The Exceptional Needs School Facilities Assistance Program provides moneys to districts in the 50 lowest-wealth percentiles to construct a new facility needed to protect the health and safety of students on the same cost-sharing basis as under CFAP.[34] Under the Accelerated Urban School Building Assistance Program, the six remaining "Big-Eight" districts that have not yet received assistance under CFAP may begin applying for assistance in July 2002.[35] This program essentially permits those districts to begin their projects earlier than they otherwise would be able to under CFAP. The districts, with Ohio School Facilities Commission (SFC) approval, also may break their projects up into segments, completing each one sequentially and applying school district resources toward each one separately. Finally, under the School Building Assistance Expedited Local Partnership Program, most districts that have not already been served under CFAP may enter into agreements with SFC permitting them to apply the expenditure of school district moneys on approved parts of the respective districts' needs prior to their eligibility under CFAP toward their respective portions of their CFAP projects when they become eligible for that program.

---

[33] *The Classroom Facilities Assistance Program is generally codified in R.C. 3318.01-3318.20, not all sections in the bill.*

[34] *R.C. 3318.37.*

[35] *R.C. 3318.38. The six districts to which this program applies are Akron, Cincinnati, Columbus, Cleveland, Dayton, and Toledo.*

Repeal of maintenance tax requirements

(R.C. 3318.04, 3318.05, 3318.052, 3318.06, 3318.08, 3318.12, 3318.36, 3318.362, 3318.37, and 3318.38 and repealed R.C. 3318.055, 3318.061, 3318.081, 3318.13, 3318.14, 3318.17, and 3318.361)

Besides the requirement that each participating district generate money to pay its share, all of the school facilities programs require that a district levy an additional 23-year half-mill tax (or earmark other existing taxes in an amount equal to that tax) to pay for maintenance of the facilities acquired under the district's project. The bill repeals the requirement that a district generate any specific moneys for the maintenance of the facilities acquired under a state-assisted project. The bill also permits any district for which the voters have already approved the maintenance tax to use the proceeds from such tax for the maintenance of *any* district classroom.

Exception to school district ceiling for School Facilities Assistance

(R.C. 133.06(I))

The bill permits a school district to exceed the 9% debt limitation if additional debt is necessary to raise the district's share of a building project under the state's School Facilities Assistance Program. The Ohio School Facilities Commission must notify the state Superintendent of Public Instruction whenever a school district exceeds the 9% limit.

Additional assistance for certain districts to correct oversights or deficiencies in the initial assessment or project plan

(R.C. 133.06(D)(7), 3318.04(B)(3), and 3318.041)

Generally, once a school district has been served under CFAP, it may not receive additional assistance under the program for 20 years after its original project was begun. Current law, not changed by the bill, provides an exception to this rule for school districts that received assistance under the program prior to May 20, 1997 (the effective date of Am. Sub. S.B. 102 of the 122nd General Assembly).[36] Under previous versions of the program, districts were not ranked by wealth, and a district may not have received assistance to address all of its needs (as under the current law). The law permits SFC to provide additional

[36] *That bill substantially revised the program and established the Ohio School Facilities Commission to administer it.*

assistance to five pre-S.B. 102 districts per year until all eligible districts have received similar service under the program.[37]

The bill provides another exception to the 20-year waiting rule. It permits a district whose project is under construction and that meets prescribed conditions related to the discovery of oversights or deficiencies in the initial assessment or plan to receive additional assistance to correct those conditions. If the SFC provides the additional assistance, the school district is to pay its portion of the additional cost. If after making a financial evaluation of the district, however, the SFC determines that the district is unable without undue hardship to pay its portion of the increase, the state and the school district must enter into an agreement whereby the state will pay the portion of the cost increase attributable to the school district and the district must thereafter reimburse the state (apparently without interest). SFC is responsible for establishing the district's schedule for reimbursing the state, which must not extend beyond five years.[38]

The district's portion of this additional cost is the same percentage of that cost as was the district's portion of the original project cost. Any debt that the district incurs to pay its portion of the additional cost is not counted in the district's net indebtedness for purposes of the Public Securities Law.[39]

Calculation and recalculation of a school district's portion under the Expedited Local Partnership Program in the event of a decrease in a district's tax valuation due to decreased electric company property assessments

(R.C. 3318.363)

Under the Expedited Local Partnership Program, current law provides that the Ohio School Facilities Commission (SFC) must determine the cost of the district's total classroom facilities needs and then calculate the school district portion of that cost using a "required level of indebtedness," based on the district's debt, or its "required percentage," based on a district's percentile rank according to *three-year average* adjusted valuation per pupil. The bill requires SFC to calculate a district's portion, or recalculate it if SFC has already calculated that portion, by determining the percentile rank in which the district would be located if such ranking was made using the adjusted valuation per pupil applicable to the *current* year in the case of districts that have experienced a 10% or greater decrease in tax valuation due to a decrease in the assessment rate of taxable

[37] *R.C. 3318.04(B).*

[38] *R.C. 3318.041.*

[39] *R.C. 133.06(D)(7) and 3318.041(C).*

property of an electric company as a result of recent changes in the tax law relating to deregulation of the electric utility industry.[40]

Ohio School Facilities Commission executive director and other employees

(R.C. 3318.31)

The Ohio School Facilities Commission operates the state's programs that provide assistance to school districts in building, repairing, and improving their school facilities. The Commission consists of three voting members who are the Director of Administrative Services, the Director of Budget and Management, and the Superintendent of Public Instruction (or their respective designees). It also consists of four nonvoting legislative members appointed by the Speaker of the House of Representatives and the President of the Senate.

Under current law, the Commission is authorized to employ and fix the compensation of any employees that will facilitate the activities and purposes of the Commission. The bill specifies that the Commission must employ and fix the compensation of an executive director who serves at the pleasure of the Commission. The bill then provides that the executive director may employ and fix the compensation of subordinate employees who serve at the pleasure of the executive director.

COMMUNITY SCHOOLS

Background

Community schools (often called "charter schools") are public, nonprofit, nonsectarian schools that operate independently of any school district under contract with a public sponsor. They are exempt from many education laws and often serve a limited number of grades or a particular purpose. Conversion community schools may be sponsored by any school district in the state. Start-up community schools, on the other hand, are new schools that may be established only in "challenged school districts," which include all "Big-Eight" districts, the 13 other large urban districts, all Lucas County districts, and any district declared to be in a state of academic emergency.[41] Such schools may be sponsored by the

---

[40] These tax changes are in R.C. 5727.111, as amended by Am. Sub. S.B. 3 of the 123rd General Assembly. That section is not in this bill.

[41] The "Big-Eight" districts are Akron, Canton, Cincinnati, Columbus, Cleveland, Dayton, Toledo, and Youngstown. The other 13 large urban districts (that together with the "Big-Eight" districts are sometimes referred to as the "Urban 21" districts) are

board of education of a school district or joint vocational school district in which the schools may be established or the State Board of Education. In Lucas County, they also may be sponsored by the Lucas County Educational Service Center and the University of Toledo Board of Trustees or its designee.

Suspension and termination of community schools that fail to comply with the contract

(R.C. 3314.07 and 3314.072)

The sponsor of a community school is responsible for monitoring the activities of the school and for ensuring that the school complies with its contract with the sponsor. Currently, a sponsor may terminate or decide not to renew a contract for statutorily specified reasons only upon providing 180 days' notice to the school's governing authority.[42] The governing authority may request an informal hearing by the sponsor regarding the termination and may appeal the decision of the sponsor to the State Board of Education (presumably unless the sponsor is the State Board). Termination of a contract may not be effective until the end of a school year.

The bill changes the law regarding the termination of a community school contract to require 90 days' notice to a school's governing authority (rather than 180 days), and it provides that contracts may be terminated prior to the end of a school year. It also clarifies that if the State Board is the sponsor of a school, its decision to terminate the contract may not be appealed again to the State Board.

The bill also authorizes a sponsor to immediately suspend the operation of a school for health and safety violations and to suspend (rather than terminate) the operation of a school for other reasons, but only after it has issued a notice of intent to suspend operation of the school. The notice must provide the school's governing authority with five days to offer a remedy. The governing authority of a school under suspension must notify the parents of any students enrolled in the school and school employees of the suspension, citing the reasons for the

---

Cleveland Heights, East Cleveland, Elyria, Euclid, Hamilton, Lima, Lorain, Mansfield, Middletown, Parma, South-Western, Springfield, and Warren.

[42] The statutory reasons for termination or nonrenewal of a community school contract (under continuing law) and for suspension of the operation of a community school with prior notice of intent to suspend (under the bill) are the following: (1) failure to meet student performance requirements stated in the contract, (2) failure to meet generally accepted standards of fiscal management, (3) violation of any provision of the contract or applicable state or federal law, or (4) other good cause.

suspension. The contract of a suspended school may still be subject to termination.

Vocational weights added to funding formula for community schools

(R.C. 3314.08)

Currently, each community school receives funding on a per pupil basis, which the Department of Education deducts from the amounts that would otherwise be paid to the school districts where the students enrolled in the community school are entitled to attend school. For each student enrolled, the school receives the "formula amount," which is the recognized minimum base cost that must be spent on each student in a school year, times the cost-of-doing-business factor for the county in which the student's resident school district is located, plus an applicable weight for any special education student. The school also receives some disadvantaged pupil impact aid for each student.

The bill adds to this funding system the same weights for vocational education students that school districts receive.

Community school transportation

(R.C. 3314.09 and 3314.091)

Current law provides that the school district in which the students enrolled in a community school are entitled to attend school must generally provide transportation for such students on the same basis that it provides transportation for its own students. However, a board is *not* required to transport nonhandicapped students to and from a community school located in another school district if the transportation would require more than thirty minutes of direct travel time. In addition, where it is impractical to transport a pupil to and from a community school by school conveyance, a district board may, in lieu of providing the transportation, make a payment to the parent of a community school student, based on the statewide average cost of transportation per pupil.

The bill permits a school district board and a community school governing authority to enter into an agreement under which the community school will assume the responsibility for transporting its own students. To be valid, the Superintendent of Public Instruction must certify that the agreement was submitted to the Department of Education by a deadline set by the Department and that it contains the qualifications of students to be transported. Under such an agreement, a community school must transport free of any charge at least its enrolled students in grades kindergarten through eight who live more than two miles from the school. It may also choose to transport (and receive the per pupil

payment for transporting) any students who live at least one mile from the school. Nevertheless, the governing authority may make a payment to a student's parent in lieu of transporting the student it is required to transport if the drive time for transporting the student from the student's residence to the school is more than thirty minutes.

If a community school assumes transportation responsibility under the agreement, it is entitled to a payment from the state, which is deducted from the state payments for transportation that otherwise would be paid to the students' home districts. The amount of the payment is $450 per pupil transported in fiscal year 2002. That amount is inflated by the annual increase in the Consumer Price Index for all urban transportation in each subsequent fiscal year.

Community School Classroom Facilities Loan Guarantee Program

(R.C. 3318.50, 3318.51, and 3318.52; Section 100.02)

Start-up community schools must arrange for their own buildings in which to operate. The bill creates a loan guarantee program to be administered by the Ohio School Facilities Commission (SFC). Under that program, start-up community schools may apply for loan guarantees from SFC for up to 15 years to assist in the acquisition of classroom facilities. The facilities must meet SFC specifications for community school facilities, which the bill requires SFC to adopt in consultation with the Department of Education Office of School Options. The bill also requires SFC in fiscal year 2002 to set aside $10 million of its capital appropriations for this program and to deposit that amount into a special fund established by the bill.

Right of first refusal on sale of school district real property for community schools

(R.C. 3313.41)

A school district board may dispose of real and personal property owned by the district only in a manner prescribed by law. Generally, when a board decides to dispose of property valued greater than $10,000, it must offer the property for sale at public auction. If the property does not sell at auction, it may be sold at a private sale. Property with a value of $10,000 or less also may be sold at private sale.

The bill requires that when a school district board decides to sell real property, it must first offer the property to the governing authorities of start-up community schools within the district's territory at a price not higher than the appraised fair market value of the property. If no community school governing

authority accepts the offer within 60 days after the offer is made, the board may dispose of the property in the manner otherwise provided by law.

OTHER PRIMARY-SECONDARY EDUCATION PROVISIONS

Requirements for academic intervention

Services that must be offered by school districts

(R.C. 3313.608)

Current law requires that school districts annually assess the reading skills of all students at the end of the first, second, and third grade, identify those students who are reading below grade level, notify their parents, and offer additional services to those students to help them improve their reading skills. The law also requires that those students reading below grade level at the end of the third grade be offered "intense remediation services" during the summer. In addition, those students who have not attained a passing score on the state fourth grade reading proficiency test by the end of fourth grade must be offered during the following summer intense remediation services and another opportunity to take the test. Finally, any student who fails to attain a passing score on three or more of the fourth or sixth grade proficiency tests must be offered summer remediation services.

The bill changes the prescribed services from "remediation" to "intervention" throughout all of these provisions.[43] It also adds the requirement that school districts assess a student's reading level at the end of kindergarten and provide intervention at that time if the student is behind. The bill removes the requirement that the "intervention" services for third graders behind in reading be offered during the summer. It does retain, however, the requirement that summer intervention services be offered in the summer after fourth grade to any student who has not passed the fourth grade reading test. It also retains the summer intervention requirement for students who have failed any *three or more* of the *fourth* or *sixth* grade proficiency tests. In addition, the bill adds a provision that such a student must be offered intervention services "during the following school year" if needed.

---

[43] *While the change might be semantic, the term appears to be preferred among educators. In addition, "intervention" might connote services provided before a student fails high stakes tests rather than after and may represent a more preventative posture as opposed to a reactive one.*

Standards for services that are provided by school districts

(R.C. 3313.608(E))

Current law provides permanent statutory standards for summer "remediation" services funded with any state money. Such services must include the following:

(1) Methods that are based on "reliable educational research";

(2) Student testing before and after the services have been provided;

(3) Parental involvement; and

(4) Conduct of the services in a school building or a community center, and not on an "at-home" basis.

The bill applies these standards to *all* "intervention" services conducted with any state funding (not just summer programs). However, the bill also removes the requirement that students be tested before and after the services have been provided. It requires, instead, that each district that provides intervention services to a student "assess" that student at some point.

Funding of intervention services under DPIA

(R.C. 3317.029(C) and (F))

Disadvantaged Pupil Impact Aid (DPIA) is a state subsidy paid in addition to base-cost funding to school districts that have relatively moderate to high concentrations of students from low-income families. Part of that subsidy is provided to qualifying districts to be used for "measures related to safety and security" and for "remediation." School districts with concentrations of students from low-income families above the state percentage of such students receive additional moneys to provide all-day kindergarten. Current law, not changed by the bill, requires any district receiving DPIA all-day kindergarten moneys to combine that amount with other moneys received under DPIA (including the funds for safety and remediation) so that it first fully funds its all-day kindergarten percentage before it uses those other DPIA moneys for other purposes.[44]

[44] *A district's "all-day kindergarten percentage" is the percentage of a district's actual total number of students enrolled in kindergarten who are enrolled in all-day kindergarten that the district certifies to the Department of Education (R.C. 3317.029(A)(9)).*

The bill requires that, beginning in FY 2003, any district that receives safety and remediation moneys under DPIA must use 20% of that money to pay for the intervention services that are required under R.C. 3313.608. Thus, under the bill, the money could be used to fund intervention services for students in grades kindergarten through three who are reading below grade level, for students who have failed the fourth grade reading proficiency test, or for students who have failed at least three of either the fourth grade or sixth grade proficiency tests. However, any district receiving safety and remediation moneys under DPIA that also has an obligation to provide all-day kindergarten must still fully fund its all-day kindergarten percentage before it can use the safety and remediation moneys to pay for intervention services. In the case of such a district, 20% of any safety and remediation moneys remaining after funding all-day kindergarten must be used for the required intervention services.

State minimum teacher salary schedule

(R.C. 3317.024, 3317.052, 3317.13, and 3317.19; Section 44.11)

Although school district boards set the compensation rate for the teachers they employ, state law provides a schedule for *minimum* salaries that must be paid to teachers based on level of education attained and years of experience. The bill amends that schedule to increase the minimum base salary paid to beginning teachers with a bachelor's degree from $17,000 to $20,000 and to proportionally increase the minimum salaries for teachers with different levels of education and experience.[45] It also permits the Department of Education, with Controlling Board approval, to make a supplemental payment in FY 2002 to those school districts that must increase their teacher salaries in order to comply with the new schedule if the calculated increase in their FY 2002 state aid does not cover the cost of that compliance.[46] The bill does not affect the cost of state-funded special education, vocational education, and gifted education units, which are tied to the state schedule.

Change of term "vocational education" to "career-technical education"

(R.C. 3303.01)

The bill provides that whenever the term "vocational education" occurs throughout the Revised Code, that term is deemed to refer to "career-technical education." However, this change specifically does not apply to joint vocational

[45] *R.C. 3317.13.*

[46] *Section 44.11 of the bill.*

school districts and vocational education districts, which must continue to be referred to as they are now under current law.

Relocation of gifted education staff within the Department of Education

(Section 170)

Staff members of the Department of Education who oversee gifted education are currently housed in the Center for Students, Families, and Communities within the Department. The bill requires the Department to consider the feasibility and desirability of relocating those staff members to the Center for Curriculum and Assessment.

LOEO study of gifted education

(Section 169)

Under current law, school districts were mandated to adopt a districtwide plan for the identification of gifted students, which specified the assessment techniques, assessment schedule, and parental notification procedures the district would use in determining gifted abilities. Plans had to be finalized by January 1, 2000.

The bill requires the Legislative Office of Education Oversight (LOEO) to review and evaluate these plans for the identification of gifted students. By November 30, 2002, LOEO must issue a report that (1) summarizes the results of its evaluation of the districts' identification plans and (2) recommends "reasonable" methods of funding educational services for gifted students. Copies of the report must be provided to the President and Minority Leader of the Senate, the Speaker and Minority Leader of the House of Representatives, and the Governor.

Inclusion of a coordinator for gifted education on a pupil personnel services committee

(R.C. 3321.01(D))

Continuing law requires each school district to establish a pupil personnel services committee. The sole responsibility of the committee is to issue a waiver allowing a student to be admitted to first grade without having completed kindergarten if the committee believes the student is socially and academically prepared for first grade. Members of the district's committee include the director of pupil personnel services, an elementary school counselor, an elementary school principal, a school psychologist, and a first-grade classroom teacher.

The bill adds a coordinator for gifted education (if one is employed by the district or the educational service center that serves the district) to the list of committee members.

School of attendance for homeless children

(R.C. 3313.64(F)(13))

Under a federal law enacted in 1987, Ohio receives grants for programs to assist homeless persons and families.[47] One of the statutory requirements for receiving the grants is a statewide plan for ensuring homeless children access to a free public education. Under current Ohio law, a student is generally assigned to the schools of the district in which the student's parent resides, but the lack of a definite residence makes it less certain where a homeless student must go to school.

The bill codifies a provision of the Department of Education's plan relating to which school a homeless student is entitled to attend. Specifically, if a child is staying with his or her parent at a homeless shelter, the parent may choose to send the child to either the school the child was enrolled in prior to becoming homeless or the school that is operated by the local school district and serves the geographic area in which the homeless shelter is located. In either case, the school is obligated to accept the child as a student and cannot charge any tuition for enrollment.

Auxiliary Services Mobile Unit Replacement and Repair Fund

(R.C. 3317.064(C))

Auxiliary services moneys are paid to school districts to provide specified goods and services for students at chartered nonpublic schools. The services that may be purchased for such students include therapeutic psychological, speech, and hearing services, guidance and counseling services, "remedial services," and special education services.[48] Money from the Auxiliary Services Mobile Unit Replacement and Repair Fund (which consists of excess moneys from the Auxiliary Services Personnel Unemployment Compensation Fund) is currently used exclusively to make payments to school districts to relocate, replace, or repair mobile classroom units used in some cases to provide these services. The bill provides that school districts may apply to the Department of Education for moneys from the "mobile unit" fund to be used by the districts to offer "incentives

[47] *Stewart B. McKinney Homeless Assistance Act of 1987, 42 U.S.C. 11421 et seq.*

[48] *R.C. 3317.06, not in the bill.*

for early retirement and severance" to the district personnel that provide those auxiliary services.[49]

HIGHER EDUCATION

Elimination of fee caps for state universities in FY 2003; OSU special allowance

(Section 92.03)

Under current uncodified law expiring this year, boards of trustees of state universities may not increase combined university main campus in-state undergraduate instructional and general fee increases for an academic year more than 6% over the amounts charged in the prior academic year. In addition, the boards of trustees may not authorize combined university main campus in-state undergraduate instructional and general fee increases of more than 4% in a single vote. The bill extends this provision for FY 2002, but includes a special provision allowing the Board of Trustees of Ohio State University to increase fees by an additional $4 per credit hour (not to exceed $144 for an academic year).

The bill removes all limitations on fee increases for all state universities beginning in FY 2003.

Increase in Ohio Instructional Grant amounts

(R.C. 3333.12; Section 92.07)

The Board of Regents administers an instructional grant program. This program basically pays instructional grants to full-time, Ohio resident students who attend a public, private, or proprietary institution of higher education in Ohio and are enrolled in a program leading to an associate or bachelor's degree. Grant amounts are for the equivalent of one academic year and the Board of Regents establishes all rules concerning application for the grant.

The bill increases the maximum grant amounts for public, private, and proprietary institutions. In addition, it also raises the maximum base amount of gross income a student may have and still qualify for a grant, both in the case of students who are financially dependent and those students who are financially independent.

---

[49] *The bill also requires the Treasurer of State to transfer $1.5 million from the Auxiliary Services Personnel Unemployment Compensation Fund to the Auxiliary Services Mobile Unit Replacement and Repair Fund in each year of the 2001-2003 biennium (Section 44.19).*

Grant amounts are generally based on whether an applicant is financially dependent or independent; the combined family income (if dependent) or the student and spouse income (if independent); the number of dependents; and whether the applicant attends a private nonprofit, public, or proprietary school. The amount of the grant cannot exceed the total instructional and general fees charged by the student's school.

Separate tables in each fiscal year set forth the grant amounts, one for each category of student (based on type of institution and financial dependence or independence). Each table has headings for income ranges and the number of dependents (up to five) in the family, with a grant amount for each income range and family size. The maximum and minimum grant amount under the bill for each of the types of institutions is as follows:

For a student enrolled in a private nonprofit institution

	Current Year	FY 2002	FY 2003
Minimum Grant	$396	$420	$444
Maximum Grant	$4,872	$5,466	$5,466

For a student enrolled in a proprietary school

	Current Year	FY 2002	FY 2003
Minimum Grant	$336	$354	$372
Maximum Grant	$4,128	$4,374	$4,632

For a student enrolled in a public school

	Current Year	FY 2002	FY 2003
Minimum Grant	$162	$168	$174
Maximum Grant	$1,956	$2,070	$2,190

Increase in amount of Ohio Academic Scholarship

(R.C. 3333.21 and 3333.22)

The Board of Regents annually awards 1000 scholarships to students who are Ohio residents and enrolled full-time at a state-assisted college or university, nonprofit institution, or proprietary school. Students are chosen on the basis of achievement and ability, as measured by grade point average and performance on a competitive examination. Under current law, the scholarship amount awarded to each student for an academic year is $2,000. The bill permanently increases this amount to "no less" than $2,000, and specifically provides $2,100 for FY 2002 and $2,205 for FY 2003.

Environmental Education Fund Scholarship

(R.C. 3745.22)

The Environmental Education Fund is a fund administered by the Director of the Environmental Protection Agency. The purpose of the Fund is to allow for implementation of programs that enhance public awareness and understanding about issues that affect environmental quality. Toward that end, money from the Fund may specifically be used for programs such as providing educational seminars for the public, providing training on environmental issues for elementary and secondary school teachers, and developing curricula on environmental issues. The Fund also provides scholarships for students studying environmental science or environmental engineering. Eligibility for these scholarships is currently limited to students who attend state colleges or universities, but the bill expands eligibility to include students enrolled in private colleges or universities.

Chancellor has sole authority to appoint and fix compensation of employees and staff

(R.C. 3333.03)

Under current law, the Board of Regents fixes the compensation for all employees of the Board and must give its approval to appointments of employees and staff made by the Chancellor. The bill gives the Chancellor authority to fix the compensation for all employees and staff. In addition, Chancellor's employee and staff appointments would no longer require Board approval.

Interactive video teleconferencing at Board of Regents meetings

(R.C. 3333.02)

The bill allows the Board of Regents to form a quorum and take votes at meetings conducted by interactive video teleconference. The Board, however, must make provisions for public attendance at any location involved in the teleconference.

Transfers to the Ohio Public Facilities Commission

(R.C. 3333.13)

Under current law, money can be appropriated to either the Board of Regents or institutions of higher education in order to meet required lease payments to the Ohio Public Facilities Commission or the Treasurer of State. The Public Facilities Commission receives such payments as a result of leases or other agreements entered into between the Commission and the Board or the institution of higher education. The bill allows only the Board of Regents to receive appropriations for these payments. Concomitantly, it makes the Board alone responsible for estimating the amounts of such payments and submitting those estimates to the Director of Budget and Management.

Currently, the Chancellor of the Board annually certifies to the Director the payments contracted to be made to the Commission. The bill gives authority to any vice-chancellor to make these certifications. A final change is that this certification must also include amounts to be credited to the Higher Education Capital Facilities Bond Service Fund pursuant to Commission leases and agreements.

ARP contributions for higher education employees

(R.C. 3305.061)

Current law requires each public institution of higher education to offer an alternative retirement plan (ARP) to certain academic and administrative employees. Current law also authorizes the Public Employees Retirement System (PERS), School Employees Retirement System (SERS), and State Teachers Retirement System (STRS) to establish ARPs. The educational institutions and the employers of participants in the state retirement systems' ARPs must contribute a percentage of the participants' compensation to the state retirement system that would otherwise cover the ARP participant to mitigate any negative financial impact of the ARP on the state retirement system. Each state retirement system's actuary determines the percentage of the participant's compensation necessary to mitigate negative financial impact on the state retirement system.

The percentage paid by public institutions of higher education is determined by actuarial studies conducted by the Ohio Retirement Study Council and submitted to the Board of Regents. The percentage is currently 6%.

Under the bill, the percentage of an ARP participant's compensation contributed by an institution of higher education to a state retirement system under the institution's ARP cannot exceed the percentage of compensation employers of participants in that state retirement system's ARP are required to pay to mitigate negative financial impact on the system for participation in an ARP. Any change in the percentage of compensation contributed by an institution under an ARP, as required by the bill, takes effect on the same day a change in the percentage of compensation takes effect for a state retirement system.

BILL SUMMARY

GENERAL

- Requires that, when the Office of Risk Management has designated state agencies to receive any of certain types of insurance coverage, the cost of that coverage be paid from appropriations made to the state agencies.
- Changes the date by which the Director of Administrative Services must file the annual report on the self-insured fidelity bond program with the Speaker of the House of Representatives and the President of the Senate from September 1 to March 31.
- Increases the fee that must accompany an annual or other disclosure statement filed with the Ohio Ethics Commission for holders of a county office ($45) or a city office ($20), member of the State Board of Education ($20), and member of the board of trustees of a state college or university ($50).
- Abolishes the State and Local Government Commission.
- Establishes a procedure whereby counties or not-for-profit organizations may be able to participate in a federal grant program if a state agency eligible to receive federal funds under the program cannot or has decided that it will not participate fully in the program.
- Replaces the Capitol Square Improvement Fund with the Capitol Square Government Television and Telecommunications Operating Fund.

- Amends or repeals current fee provisions relative to business entity or commercial transaction filings with the Secretary of State's office, and enacts new fees for certain similar filings with the Secretary of State's office.

- Requires all fees collected by the Secretary of State relative to those filings to be deposited into the state treasury to the credit of the Corporate and Uniform Commercial Code Filing Fund, and eliminates the present and future requirements that a portion of those fees be deposited into the General Revenue Fund.

- Amends the purposes for which the Corporate and Uniform Commercial Code Filing Fund moneys may be utilized.

- Allows the Secretary of State to implement an "alternative payment program" that allows payment of any covered fee by means other than cash, check, money order, or credit card.

- Broadens the application of the Secretary of State's "expedited filing service" that allows expeditious processing of certain filings with the Secretary of State, and allows the Secretary of State to set the fees for use of that service by rule.

- Allows the Secretary of State to adopt rules establishing and prescribing guidelines and fees for use of a "bulk filing service" that provides a method for providing large amounts of information, possibly with fees being in reduced amounts.

- Allows the Secretary of State to adopt rules establishing and prescribing guidelines and fees for use of "alternative filing procedures" that allow filing and payment of fees through any electronic, digital, facsimile, or other means of transmission.

- Directs the Secretary of State to prescribe forms for a person to use in complying with the requirements of Title XVII of the Revised Code (the Corporation and Other Business Entity Code).

- Extends from 60 days to 180 days the period in which a corporation for-profit, nonprofit corporation, limited liability company, or business trust may reserve a name.

- Creates the Secretary of State Business Technology Fund that is to be used for the upkeep, improvement, or replacement of equipment, or training employees in use of equipment, used to conduct the Secretary of State's business entity and commercial transaction filing functions.

- Amends various business entity "agent for service of process" provisions.

- Makes changes to the payment schedule for the services of the financial supervisor under the Local Government Fiscal Emergency Law.

- Changes the name of the Governor's Community Service Council to the Ohio Community Service Council.

- Abolishes the Women's Policy and Research Commission and the associated Women's Policy and Research Center.

- Requires the Director of Budget and Management to transfer any remaining money from the Women's Policy and Research Commission Fund into the General Revenue Fund.

- Creates for the Department of Development's Minority Business Development Division the additional duty of providing grant assistance to certain entities if they focus on business, technical, and financial assistance to minority business enterprises to assist the enterprises with fixed asset financing.

- Includes minority contractors business assistance organizations and minority business supplier development councils in the list of entities to which the Director of Development may lend funds for specified purposes and if certain determinations are made.

- Amends the definition of a "minority business enterprise" to exclude nonresidents of Ohio who have a significant presence in this state.

- Adds the Commission on African American Males to the list of boards and commissions to which the Department of Administrative Services provides routine support.

- Provides that the Director of Budget and Management's authority to approve the scheduling of initial sales of publicly offered obligations by state issuing agencies and the issuing agencies' duty to submit

information on their offerings to the Director apply only to certain nonconduit obligations.

- Conforms state government financial reporting requirements to the new financial reporting model for state and local governments adopted by the Governmental Accounting Standards Board.

- Eliminates a requirement that the Joint Select Committee on Volume Cap annually survey the entities that can issue tax-exempt private activity bonds concerning the amount of bonds issued the previous year and the amount requested for Committee approval the current year.

- Extends the Rural Industrial Park Loan Program until June 30, 2003.

- Specifies that any credit due a retail customer that is represented by a gift certificate, gift card, merchandise credit, or merchandise credit card, that is redeemable only for merchandise does not constitute unclaimed funds for purposes of the Unclaimed Funds Law.

- Changes the requirements for the allocation of funds in the Ohio Low- and Moderate-Income Housing Trust Fund.

- Clarifies that the Ohio Commission on Dispute Resolution and Conflict Management must consist of 12 specified, appointed members unless a vacancy exists in an appointment at any given time, and relatedly provides that a quorum of the Commission for the conduct of its business is a majority of the Commission's membership as it exists at any given time.

- Permits the Ohio Commission on Dispute Resolution and Conflict Management to authorize its executive director to enter into contracts for dispute resolution and conflict management services.

- Changes the sheriff's furtherance of justice fund law, so the amount paid into such a fund is only a portion of the sheriff's county-paid salary, not also a portion of the sheriff's state-paid salary.

- Allows a new community authority to issue revenue bonds to finance hospital facilities and to use a community development charge to cover various costs associated with those facilities.

- Permits limited home rule townships to increase the number of members of the board of township trustees from three to five members, and requires those board members to be elected from a slate of candidates for the office of township trustee.

- Increases in specified manners the pay for township trustees and clerks in townships with a budget of more than $6 million.

- Requires fees assessed and receipts received by the Ohio Athletic Commission relative to the Boxing Law to be deposited in the General Revenue Fund instead of in the Occupational Licensing and Regulatory Fund.

- Makes changes to the Ohio Arts and Sports Facilities Commission (OASFC) Law to cover state historical facilities by the definition of an "arts project," to modify the construction services and general building services provisions of the OASFC Law, and to modify a state funding requirement to apply to existing Ohio arts facilities.

- Eliminates the requirement that the state have a real property interest in state-financed Ohio arts facilities.

- Allows for cooperative agreements governing the use of Ohio arts facilities.

- Adds two voting members appointed by the Governor to the Ohio Arts and Sports Facilities Commission—one of whom must represent the State Architect.

- Creates in codified law the Arts Facilities Building Fund and the Sports Facilities Building Fund and authorizes investment earnings credited to them that exceed the amounts required to meet estimated federal arbitrage rebate requirements to be credited to the Ohio Arts and Sports Facilities Commission Administration Fund.

- Increases to $125 the fee assessed by the Superintendent of the Division of Industrial Compliance in the Department of Commerce for the reinspection of elevators when a previous attempt to inspect has been unsuccessful through no fault of the elevator inspector or the Division of Industrial Compliance.

- Changes the prevailing wage Penalty Enforcement Fund from a custodial fund not in the state treasury to one that is in the state treasury.

- Establishes late fees for holders of certified public accountant certificates or public accountant registrations who fail to timely apply for or renew their Ohio practitioner's permits or nonpractitioner's registrations.

- Increases the maximum fine that the Accountancy Board may levy against a registered firm or a holder of a CPA certificate, a PA registration, an Ohio permit or an Ohio registration to $5000 for each disciplinary offense.

- Increases to $21 the fee charged by the State Board of Cosmetology for the re-examination of an applicant who failed to pass the cosmetology examination.

- Requires that five members of the Board of Embalmers and Funeral Directors be licensed embalmers and practicing funeral directors and that one of these members be knowledgeable and experienced in operating a crematory.

- Effective December, 2002, and each even-numbered year thereafter, changes from annual to biennial the license renewal for embalmers and funeral directors and renewal of a license to operate a funeral home, embalming facility, and crematory facility.

- Permits the Board of Embalmers and Funeral Directors to contract with a third party to assist it in performing functions necessary to administer and enforce the continuing education requirements established for license renewal of embalmers and funeral directors and permits those third parties to charge a fee for their services.

- Gives broader rule-making authority to the Board of Embalmers and Funeral Directors concerning continuing education requirements for license renewal.

- Increases fees charged by the State Board of Sanitarian Registration.

- Eliminates the residency requirement for sanitarian registration.

- Revises the definitions of "motor vehicle collision repair operator" and "motor vehicle collision repair facility" and defines "collision" and

"collision repair" for purposes of the Motor Vehicle Collision Repair Operators Law.

- Increases the initial and annual renewal fee from $100 to $150 for the registration of all motor vehicle collision repair operators on and after January 1, 2002, and establishes as the fee for a motor vehicle collision repair operator who fails to register the initial fee then in effect plus an additional amount equal to the initial fee then in effect for each calendar year that the operator is not registered.

- Provides that any person or entity that conducts or attempts to conduct business as a motor vehicle collision repair operator in violation of the Motor Vehicle Collision Repair Operators Law performs an unfair and deceptive act or practice.

- Allows the Board of Motor Vehicle Collision Repair Registration to impose an administrative fine under specified circumstances.

- Requires the Ohio Family and Children First Cabinet Council to conduct an assessment of early childhood programs and develop a strategic plan for integrating early childhood care and education programs.

- Provides that the percentage of the compensation of a participant in an institution of higher education's alternative retirement program (ARP) that must be paid to the state retirement system to which the participant would otherwise belong cannot exceed the percentage of compensation paid to the retirement system by employers of participants in the retirement system's own ARP.

- Changes the deadline by which the Civil Service Review Commission must issue a report regarding its review of civil service laws and practices in Ohio to December 31, 2001.

- Requires the Director of Job and Family Services to continue operations through each of the existing local public employment offices until January 1, 2002, and states the General Assembly's intention that the Director negotiate with specified local officials regarding the transfer of services from those offices to other types of service centers.

- Requires the Director of Job and Family Services to present a report to specified members of the General Assembly on or before October 1,

2001, that describes the Director's plan to transfer services from the existing local public employment offices to other types of service centers.

CONTENT AND OPERATION

GENERAL

Payment of the cost of insurance coverage by state agencies

(R.C. 9.821)

Current law creates the Office of Risk Management in the Department of Administrative Services (R.C. 9.821(B)). It authorizes the Office to provide all insurance coverage for the state, including, but not limited to, automobile liability, casualty, property, public liability, and generally fidelity bond insurance. The bill continues these provisions but requires that the cost of the insurance coverage be paid from appropriations made to the state agencies that the Office has designated to receive the coverage.

Self-insured fidelity bond program report

(R.C. 9.822)

Currently, the Department of Administrative Services through its Office of Risk Management establishes insurance plans that can be purchased or be part of a self-insurance program. One type of insurance that must be provided is the fidelity bonding of state officers, employees, and agents who are required by law to provide a fidelity bond. The Director of Administrative Services must annually file a written report on any *self-insured* fidelity bond program established, detailing information relative to the premiums collected, income from recovery, loss experience, and administrative costs. The Director also must submit a separate, specified report on the Risk Management Reserve Fund, a fund consisting of moneys collected from each state agency to purchase insurance or administer self-insurance programs. That Fund report is accompanied by a written report of a competent property and casualty actuary certifying the adequacy of the rates of contributions, the sufficiency of excess insurance, and whether the amounts reserved conform to the Fund requirements. Portions of the most recent Fund report that pertain to any self-insured fidelity bond program must accompany its annual program report.

Both of the above reports are filed with the President of the Senate and the Speaker of the House of Representatives. The report on the self-insured fidelity bond program currently must be filed by September 1; the report on the Risk Management Reserve Fund currently must be filed by March 31. The bill changes

the date for submitting the report on the self-insured fidelity bond program to March 31 also.

Ethics Commission disclosure statement filing fees

(R.C. 102.02)

Current law requires certain public officials or employees to file an annual or other disclosure statement with the appropriate ethics commission (either the Ohio Ethics Commission, the Joint Legislative Ethics Committee, or the Board of Commissioners on Grievances and Discipline of the Supreme Court). A fee must accompany a filed disclosure statement.

The bill increases this fee for certain individuals who file with the Ohio Ethics Commission. The following table summarizes the fee changes. Included is a description of the position of the individual who must pay the fee with the relevant disclosure statement, the fee's amount under current law, and the fee's amount under the bill.

Individual's position	Fee under current law	Fee under the bill
County office	$25	$45
City office	$10	$20
State Board of Education member	$10	$20
State College or University Board of Trustees	$25[50]	$50

Abolition of the State and Local Government Commission

(R.C. 103.143, 105.45, 105.46, 503.162, and 3750.02)

The bill abolishes the State and Local Government Commission which is a 13-member commission composed of the Lieutenant Governor, state legislators, and members appointed by the Governor or the Commission's chairperson (Lieutenant Governor) to represent counties, municipal corporations, townships, and the general public. Its current function is to provide a forum for the discussion and resolution of problems associated with the relationship between local, state,

[50] *Current law does not specifically set a fee for the office of member of a board of trustees of a state college or university. However, a general provision of the Ethics Law that applies to all individuals filing statements who are not subject to a specifically set filing fee requires a $25 filing fee.*

and federal governments, to conduct relevant studies, and to issue reports on relevant matters. Under the bill, as a result of abolishing the Commission, (1) the Commission's chairperson no longer would be an ex officio member of the Emergency Response Commission, (2) the Commission's current function of annually commenting on a draft report of the Legislative Service Commission compiling local impact statements related to General Assembly enactments is eliminated, although local government organizations would continue to receive a copy of that draft report and would be able to comment directly to the Legislative Service Commission on it, and (3) only the Secretary of State would need to be notified if a township voted to change its name.

Community organizations access procedure

(R.C. 103.33)

Whenever a state agency that is eligible to receive federal funds under a federal grant program cannot participate or elects not to participate fully in the program, the bill requires the agency to report promptly to the Joint Legislative Committee on Federal Funds (1) the situation and the reason for it and (2) whether federal law allows counties or not-for-profit organizations (including those that are faith-based) to participate in the program, as by being agents or grantees of the state agency. If such participation is allowable, the bill requires the agency to post on a generally accessible Internet website detailed information about the program and the means by which counties or not-for-profit organizations can participate in the program. The information must be posted with ample time for the counties or not-for-profit organizations to participate fully in the program.

Any county interested in participating in the program must apply to the state agency on its own behalf. Any county that is willing to be the fiscal agent for a not-for-profit organization interested in participating and qualified to participate in the program, or that arranges with a responsible organization to be the fiscal agent for the program in the county, must advertise or otherwise inform such organizations about the program and apply to the state agency in conjunction with or on behalf of the not-for-profit organization. The agency must accept applications from the counties on a first-come, first-served basis, must apply to the federal government for the funds, and must pay the federal funds to the counties when available.

Replacement of the Capitol Square Improvement Fund by the Capitol Square Government Television and Telecommunications Operating Fund

(R.C. 105.41)

The Capitol Square Review and Advisory Board operates and maintains the Capitol Square. This includes coordinating and approving any improvements, additions, and renovations that are made to the Capitol Square and performing repair, construction, contracting, purchasing, maintenance, supervisory, and operating activities relative to the Capitol Square.

Currently the Board must use the Capitol Square Improvement Fund to pay construction, renovation, and other costs related to the Capitol Square for which money is not otherwise available to the Board. The bill eliminates the Capitol Square Improvement Fund and replaces it with the Capitol Square Government Television and Telecommunications Operating Fund. This fund is to be used by the Board to pay for the operations, improvements, and educational projects of, and any other costs related to, any television or telecommunications studio the Board authorizes to carry out its statutory functions. Generally similar to current law relative to the Capitol Square Improvement Fund, the Board may request the Director of Budget and Management to transfer moneys needed to pay the costs related to the studio from the Underground Parking Garage Operating (UPGO) Fund to the Capitol Square Government Television and Telecommunications Operating Fund under specified circumstances (involving an excess in the UPGO Fund).

Secretary of State provisions

Fees

(R.C. 111.16, 111.23, 1309.40, 1309.402, 1309.42, 1329.01, 1329.04, 1329.06, 1329.07, 1329.42, 1329.421, 1329.45, 1329.56, 1329.58, 1329.60, 1329.601, 1701.07, 1701.81, 1702.06, 1702.43, 1702.59, 1703.04, 1703.15, 1703.17, 1703.27, 1703.31, 1705.06, 1705.38, 1746.04, 1746.15, 1747.03, 1747.04, 1747.10, 1775.63, 1782.433, and 1785.06)

The Revised Code requires the Secretary of State to collect specified fees for a variety of items filed with the Secretary of State's office. The bill amends or repeals many of these existing fee provisions insofar as they relate to business entities or commercial transactions. Additionally, several new types of filing fees pertaining to business entities or commercial transactions are enacted. The following table summarizes these changes. Included is a description of the fee (if

any) under current law, a description of the fee under the bill, the fee amount (if any) under current law, and the fee amount under the bill. [51]

Fee description under current law	Fee description under the bill	Fee under current law	Fee under the bill
For filing and recording articles of incorporation of a domestic corporation, including designation of agent, wherein the corporation is not authorized to issue any shares of capital stock (R.C. 111.16(A)(1))	No change in language	$25	$125
For filing and recording articles of incorporation of a domestic corporation, including designation of agent, wherein the corporation is authorized to issue shares of capital stock, with or without par value: for each share authorized in excess of 500,000 shares (R.C. 111.16(A)(2)(f))	No change in language	1/4 cent for each excess share, but not less than $85 and no greater than $100,000	1/4 cent for each excess share, but not less than $125 and no greater than $100,000
For filing and recording a certificate of amendment to or amended articles of incorporation of a domestic corporation, or for filing and recording a certificate of reorganization or a certificate of dissolution, if the domestic corporation is not authorized to issue any shares of capital stock (R.C. 111.16(B)(1))	No change in language	$25	$50
For filing and recording a	No change in language	Generally,	Generally,

[51] *For many of its amended sections, the bill does not provide a new numerical amount for a fee in the <u>same</u> section. Rather, the bill often replaces the old numerical amount with a cross-reference to section 111.16 of the Revised Code, which contains a lengthy, consolidated list of fee descriptions and amounts relative to business and commercial transaction filings with the Secretary of State's office. Please note that the <u>second</u> and <u>fourth</u> columns state what will be the law if the bill's provisions are enacted and may relate to business entities or commercial transactions in addition to those referred to in the <u>first</u> column.*

Fee description under current law	Fee description under the bill	Fee under current law	Fee under the bill
certificate of amendment to or amended articles of incorporation of a domestic corporation, or for filing and recording a certificate of reorganization or a certificate of dissolution, if the domestic corporation is authorized to issue shares of capital stock (R.C. 111.16(B)(2))		$35	$50
For filing and recording articles of incorporation of a savings and loan association (R.C. 111.16(C))	No change in language	$100	$125
For filing and recording a certificate of amendment to or amended articles of incorporation *that do not involve an increase* in the authorized capital stock of a savings and loan association (R.C. 111.16(C))	For filing and recording a certificate of amendment to or amended articles of incorporation of a savings and loan association (R.C. 111.16(C))	$25	$50
For filing and recording a certificate of amendment to or amended articles of incorporation *that do involve an increase* in the authorized capital stock of a savings and loan association (R.C. 111.16(C))	For filing and recording a certificate of amendment to or amended articles of incorporation of a savings and loan association (R.C. 111.16(C))	$35	$50
For filing and recording a certificate of merger or consolidation (including special provisions pertaining to new corporations) (R.C. 111.16(D))	No change in language	$50	$125
After a merger or consolidation involving an Ohio corporation for-profit, for the *provision by the Secretary of State of a certificate* setting forth related, specified information (R.C. 1701.81(E))	No change in certificate description but cross-reference added to fee amount in R.C. 111.16(D)	$10	$125
After a merger or consolidation involving an Ohio nonprofit corporation, for the *provision by*	No change in certificate description but cross-reference added to fee	$10	$125

Fee description under current law	Fee description under the bill	Fee under current law	Fee under the bill
the Secretary of State of a certificate setting forth related, specified information (R.C.1702.43(D))	amount in R.C. 111.16(D)		
After a merger or consolidation involving a domestic limited liability company, for the *provision by the Secretary of State of a certificate* setting forth related, specified information (R.C. 1705.38(E)(1))	No change in certificate description but cross-reference added to fee amount in R.C. 111.16(D)	$10	$125
After a merger or consolidation involving a domestic limited partnership, for the *provision by the Secretary of State of a certificate* setting forth related, specified information (R.C. 1782.433(E))	No change in certificate description but cross-reference added to fee amount in R.C. 111.16(D)	$10	$125
For filing and recording articles of incorporation of a credit union or the American Credit Union Guaranty Association (R.C. 111.16(E))	No change in language	$35	$125
For filing and recording a certificate of increase in capital stock or any other amendment of the articles of incorporation of a credit union or the American Credit Union Guaranty Association (R.C. 111.16(E))	No change in language	$25	$50
For filing and recording articles of organization of a limited liability company or for filing and recording a registration application to become a domestic limited liability partnership or a registered foreign limited liability partnership (R.C. 111.16(F))	Filing and recording articles of organization of a limited liability company, *for filing and recording an application to become a registered foreign limited liability company*, for filing and recording a registration application to become a	$85	$125

Fee description under current law	Fee description under the bill	Fee under current law	Fee under the bill
	domestic limited liability partnership, or for filing and recording an application to become a registered foreign limited liability partnership (R.C. 111.16(F))[52]		
For filing and recording a certificate of limited partnership or an application for registration as a foreign limited partnership, if the certificate or application is for a certain type of limited partnership or foreign limited partnership and the partnership has complied with certain filing requirements (R.C. 111.16(G)(1))	For filing and recording a certificate of limited partnership or an application for registration as a foreign limited partnership (R.C. 111.16(G))	No fee	$125
For filing and recording a certificate of limited partnership or an application for registration as a foreign limited partnership, if the certificate or application is for a limited partnership or foreign limited partnership other than one described above (R.C. 111.16(G)(2))	For filing and recording a certificate of limited partnership or an application for registration as a foreign limited partnership (R.C. 111.16(G))	$85	$125
For filing and recording a license to transact business in Ohio by a foreign corporation for-profit (R.C. 111.16(I)(1) and 1703.04(C))	For filing and recording a license to transact business in Ohio by a foreign corporation for-profit or a *foreign nonprofit corporation* (see immediately below) (R.C. 111.16(I)(1) and 1703.27)	$100	$125
For filing by a foreign nonprofit corporation of a specified statement and a certificate of good standing or subsistence, which filing is for the purpose of obtaining a license to transact	For filing and recording a license to transact business in Ohio by a foreign corporation for-profit or a foreign nonprofit corporation (R.C. 111.16(I)(1) and 1703.27)	$35	$125

[52] *Italicized language reflects a new type of filing covered by the enhanced fee.*

Fee description under current law	Fee description under the bill	Fee under current law	Fee under the bill
business in Ohio (R.C. 1703.27)			
For filing an annual report by a domestic or foreign registered limited liability partnership (R.C. 111.16(I)(2))	For filing such an annual report or an *annual statement of a professional association* (R.C. 111.16(I)(2))	$10	$25
For filing and recording *any other certificate or paper* that is required or permitted by any provision of the Revised Code to be filed and recorded with the Secretary of State (R.C. 111.16(I)(3)). This description is referred to below as the "catch-all fee description."	Except as otherwise provided in R.C. 111.16 or any other section of the Revised Code, any other certificate or paper that is required to be filed and recorded or is permitted to be filed and recorded by any provision of the Revised Code with the Secretary of State (R.C. 111.16(I)(3))	$10	$25
N/A	For creating and affixing the seal of the Secretary of State's office to certain certificates pertaining to mergers or consolidations involving an Ohio corporation for-profit, an Ohio nonprofit corporation, or a domestic limited liability company (R.C. 111.16(K)(2))	N/A	$25
For examining documents to be filed at a later date for the purpose of advising as to the acceptability of the proposed filing (R.C. 111.16(M))	No change in language	$10	$50
For expedited filing service for certain filings (R.C. 111.16(N), 1309.402, and 1329.68 (the bill outright repeals the last section)	The *Secretary of State*, by rule, must establish, and prescribe guidelines *and fees* for the use of, an expedited filing service (R.C. 111.23(A) and 1309.402)	$10 in addition to the original filing fee	To be set by Secretary of State
Possibly "catch-all fee description" or possibly R.C. 111.16's filing and recording of a	For filing and recording a certificate of dissolution and accompanying documents, or	$10 or $25 or $35	$50

Fee description under current law	Fee description under the bill	Fee under current law	Fee under the bill
certificate of dissolution provision relative to corporations (R.C. 111.16(B)(1) and (2) and (I)(3))	a certificate of cancellation, relative to a voluntarily dissolved Ohio corporation for-profit, voluntarily dissolved Ohio nonprofit corporation, dissolved domestic limited liability company, or cancelled limited partnership (R.C. 111.16(N)(1))		
For filing by a foreign corporation of a certificate of surrender of its license to transact business in Ohio (R.C. 1703.17(F))	For filing and recording a notice of dissolution of a foreign licensed corporation or a certificate of surrender of license by a foreign licensed corporation (R.C. 111.16(N)(2) and 1703.17(F))	$25	$50
Possibly "catch-all fee description"	For filing and recording the withdrawal of registration of a foreign or domestic limited liability partnership or the certificate of cancellation of registration of a foreign limited liability company (R.C. 111.16(N)(3))	$10	$50
Possibly "catch-all fee description"	For filing of a cancellation of disclaimer of general partner status under the Limited Partnership Law (R.C. 111.16(N)(4))	$10	$50
For filing a statement of continued existence by a nonprofit corporation (R.C. 1702.59)	For filing a statement of continued existence by a nonprofit corporation (R.C. 111.16(O))	$5	$25
Possibly "catch-all fee description"	For filing a restatement of articles of organization or a certificate of limited partnership under the Limited Liability Company (LLC) Law or the Limited	$10	$50

Fee description under current law	Fee description under the bill	Fee under current law	Fee under the bill
	Partnership (LP) Law, an amendment to a certificate of cancellation under the LP Law, an amendment to articles of organization or a certificate of limited partnership under the LLC Law or LP Law, or a correction to an application for registration as a foreign limited liability company, a registration application to become a domestic limited liability partnership or a registered foreign limited liability partnership, or an application for registration as a foreign limited partnership (R.C. 111.16(P))		
For filing for reinstatement of the articles of incorporation of an Ohio corporation for-profit (R.C. 1701.07(N))	For filing for reinstatement of an entity cancelled by operation of law, by the Secretary of State, by order of the Department of Taxation, or by order of a court (R.C. 111.16(Q) and 1701.07(N))	$10	$25
For filing for reinstatement of the articles of incorporation of an Ohio nonprofit corporation after the articles have been cancelled for failure to appoint a new agent or to file a statement of change of address of an agent (R.C. 1702.06(M))	For filing for reinstatement of an entity cancelled by operation of law, by the Secretary of State, by order of the Department of Taxation, or by order of a court (R.C. 111.16(Q) and 1702.06(M))	$10	$25
For filing for reinstatement of the articles of incorporation for an Ohio nonprofit corporation that have been cancelled for previous failure to file a statement of continued existence (R.C.	For filing for reinstatement of an entity cancelled by operation of law, by the Secretary of State, by order of the Department of Taxation, or by order of a court (R.C. 111.16(Q) and	$10	$25

Fee description under current law	Fee description under the bill	Fee under current law	Fee under the bill
1702.59(F))	1702.59(F))		
For filing for reinstatement of a license of a foreign corporation that has been cancelled (R.C. 1703.15)	For filing for reinstatement of an entity cancelled by operation of law, by the Secretary of State, by order of the Department of Taxation, or by order of a court (R.C. 111.16(Q) and 1703.15)	$10	$25
For filing for reinstatement of registration by a domestic limited liability partnership or registered foreign limited liability partnership (R.C. 1775.63(C))	For filing for reinstatement of an entity cancelled by operation of law, by the Secretary of State, by order of the Department of Taxation, or by order of a court (R.C. 111.16(Q) and 1775.63(C))	$10	$25
For filing for reinstatement of articles by a professional association (R.C. 1785.06)	For filing for reinstatement of an entity cancelled by operation of law, by the Secretary of State, by order of the Department of Taxation, or by order of a court (R.C. 111.16(Q) and 1785.06)	$10	$25
For filing a change of agent or a statement of change of address of an agent--Ohio corporation for-profit (R.C. 1701.07(M))	For filing a change of agent, resignation of agent, or change of agent's address under the Corporation For-Profit Law, Nonprofit Corporation Law, Foreign Corporations Law, Limited Liability Company Law, Business Trust Law, Real Estate Investment Trust Law, or Limited Partnership Law (R.C. 111.16(R) and 1701.07(M))	$3	$25
For filing a change of agent or a statement of change of address of an agent--Ohio nonprofit	For filing a change of agent, resignation of agent, or change of agent's address	$3	$25

Fee description under current law	Fee description under the bill	Fee under current law	Fee under the bill
corporation (R.C. 1702.06(L))	under the Corporation For-Profit Law, Nonprofit Corporation Law, Foreign Corporations Law, Limited Liability Company Law, Business Trust Law, Real Estate Investment Trust Law, or Limited Partnership Law (R.C. 111.16(R) and 1702.06(L))		
For filing by a foreign nonprofit corporation of a change of agent or a statement of change of address of an agent (R.C. 1703.27)	For filing a change of agent, resignation of agent, or change of agent's address under the Corporation For-Profit Law, Nonprofit Corporation Law, Foreign Corporations Law, Limited Liability Company Law, Business Trust Law, Real Estate Investment Trust Law, or Limited Partnership Law (R.C. 111.16(R) and 1703.27)	$50	$25
For filing a change of agent or a statement of change of address of an agent--domestic limited liability company (R.C. 1705.06(L))	For filing a change of agent, resignation of agent, or change of agent's address under the Corporation For-Profit Law, Nonprofit Corporation Law, Foreign Corporations Law, Limited Liability Company Law, Business Trust Law, Real Estate Investment Trust Law, or Limited Partnership Law (R.C. 111.16(R))	$3	$25
For filing a change of the name or address of the designated agent of a business trust (R.C. 1746.04(C))	For filing a change of agent, resignation of agent, or change of agent's address under the Corporation For-Profit Law, Nonprofit Corporation Law, Foreign	$15	$25

Fee description under current law	Fee description under the bill	Fee under current law	Fee under the bill
	Corporations Law, Limited Liability Company Law, Business Trust Law, Real Estate Investment Trust Law, or Limited Partnership Law (R.C. 111.16(R) and 1746.04(C))		
For filing a change of the name or address of the designated agent of a real estate investment trust (R.C. 1747.03(B))	For filing a change of agent, resignation of agent, or change of agent's address under the Corporation For-Profit Law, Nonprofit Corporation Law, Foreign Corporations Law, Limited Liability Company Law, Business Trust Law, Real Estate Investment Trust Law, or Limited Partnership Law (R.C. 111.16(R) and 1747.03(B))	$10	$25
For the filing by a foreign corporation of an application registering its corporate name (R.C. 1703.31(A))	For filing an application for the exclusive right to use a name or an application to reserve a name for future use under the Corporation For-Profit Law, Nonprofit Corporation Law, Foreign Corporations Law, Limited Liability Company Law, or Business Trust Law (R.C. 111.16(S)(1) and 1703.31(A))	$25	$50
For filing for the exclusive right to use a specified name as a limited liability company or to transfer the exclusive right to use a specified name by a limited liability company (R.C. 1705.05(F))	For filing an application for the exclusive right to use a name or an application to reserve a name for future use under the Corporation For-Profit Law, Nonprofit Corporation Law, Foreign Corporations Law, Limited	$5	$50

Fee description under current law	Fee description under the bill	Fee under current law	Fee under the bill
	Liability Company Law, or Business Trust Law (R.C. 111.16(S)(1))[53]		
For filing for the exclusive right to use a specified name as a business trust or to transfer the exclusive right to use a specified name by a business trust (R.C. 1746.06(D) and (E))	For filing an application for the exclusive right to use a name or an application to reserve a name for future use under the Corporation For-Profit Law, Nonprofit Corporation Law, Foreign Corporations Law, Limited Liability Company Law, or Business Trust Law (R.C. 111.16(S)(1) and 1746.06(D) and (E))	$5	$50
For filing of a trade name registration application (R.C. 1329.01(C))	No changes (R.C. 1329.01(C)). Additionally, the following applies: for filing and recording a trade name or fictitious name registration or report (R.C. 111.16(S)(2))	$20	$50
For filing a report of use of a fictitious name (R.C. 1329.01(E))	No changes (R.C. 1329.01(E)). Additionally, the following applies: for filing and recording a trade name or fictitious name registration or report (R.C. 111.16(S)(2))	$10	$50
For filing by a foreign corporation of an application for the renewal of its registered corporate name (R.C. 1703.31(B))	For filing and recording an application to renew the exclusive right to use a name or to reserve a name for future use or an application to renew a trade name or	$25	$25

[53] *The bill extends from 60 days to 180 days the period of time for which an Ohio corporation for-profit, Ohio nonprofit corporation, limited liability company, or business trust acquires exclusive right to use a specified "reserved" name (R.C. 1701.05, 1702.05, 1705.05, and 1746.06).*

Fee description under current law	Fee description under the bill	Fee under current law	Fee under the bill
	fictitious name registration or report (R.C. 111.16(S)(3) and 1703.31(B))		
For filing to report assignment of a trade name or fictitious name and its registration or report (R.C. 1329.06)	For filing and recording an assignment of rights for use of a trade name, fictitious name, reserved name, or other exclusive name, the cancellation of a name registration or name reservation, or notice of a change of address of the registrant of a name (R.C. 111.16(S)(4) and 1329.06)	$10	$25
For filing by a registrant of a trade name or a person who reports a fictitious name changes in business address (R.C. 1329.07)	For filing and recording an assignment of rights for use of a trade name, fictitious name, reserved name, or other exclusive name, the cancellation of a name registration or name reservation, or notice of a change of address of the registrant of a name (R.C. 111.16(S)(4) and 1329.07)	$3	$25
For filing of a transfer of the right to an exclusive reserved name of a business trust (R.C. 1746.06(D))	For filing and recording an assignment of rights for use of a trade name, fictitious name, reserved name, or other exclusive name, the cancellation of a name registration or name reservation, or notice of a change of address of the registrant of a name (R.C. 111.16(S)(4) and 1746.06(D))	$5	$25
For filing a report to operate a business trust (R.C. 1746.04(C))	For filing and recording a report to operate a business trust or a real estate business trust, either foreign or	$75	$125

Fee description under current law	Fee description under the bill	Fee under current law	Fee under the bill
	domestic (R.C. 111.16(T) and 1746.04(C))		
For filing of a report to transact a real estate investment trust in Ohio (R.C. 1747.03(B))	For filing and recording a report to operate a business trust or a real estate business trust, either foreign or domestic (R.C. 111.16(T) and 1747.03(B))	$50	$125
For filing an amendment to a report to operate a business trust (R.C. 1746.04(C))	For filing and recording an amendment to a report or associated trust instrument, or a surrender of authority, to operate a business trust or real estate business trust (R.C. 111.16(T) and 1746.04(C))	$75	$50
For filing by a business trust to withdraw from this state (R.C. 1746.15)	For filing and recording an amendment to a report or associated trust instrument, or a surrender of authority, to operate a business trust or real estate business trust (R.C. 111.16(T) and 1746.15)	$15	$50
For filing an amendment to a trust instrument of a real estate investment trust (R.C. 1747.04)	For filing and recording an amendment to a report or associated trust instrument, or a surrender of authority, to operate a business trust or real estate business trust (R.C. 111.16(T) and 1747.04)	$25	$50
For filing to surrender authority to operate a real estate investment trust (R.C. 1747.10)	For filing and recording an amendment to a report or associated trust instrument, or a surrender of authority, to operate a business trust or real estate business trust (R.C. 111.16(T) and 1747.10)	$10	$50
For filing and recording statement evidencing actual use of a name,	For filing and recording the registration of a trademark,	$20	$125

Fee description under current law	Fee description under the bill	Fee under current law	Fee under the bill
mark, or device (R.C. 1329.42)	service mark, or a mark of ownership (R.C. 111.16(U)(1) and 1329.42)		
For filing of an application for registration of a trademark or service mark (R.C. 1329.56(D))	For filing and recording the registration of a trademark, service mark, or a mark of ownership (R.C. 111.16(U)(1) and 1329.56(D))	$20	$125
For filing and recording of a renewal of a statement evidencing actual use of a name, mark, or device (R.C. 1329.42)	For filing and recording the change of address of a registrant, the assignment of rights to a registration, a renewal of a registration, or the cancellation of a registration associated with a trademark, service mark, or mark of ownership (R.C. 111.16(U)(2) and 1329.42)	$10	$25
For recording a change in the business address of a registrant of a name, mark, or device used to indicate ownership (R.C. 1329.421)	For filing and recording the change of address of a registrant, the assignment of rights to a registration, a renewal of a registration, or the cancellation of a registration associated with a trademark, service mark, or mark of ownership (R.C. 111.16(U)(2) and 1329.421)	$3	$25
For recording an assignment of a name, mark, or device used to indicate ownership (R.C. 1329.45)	For filing and recording the change of address of a registrant, the assignment of rights to a registration, a renewal of a registration, or the cancellation of a registration associated with a trademark, service mark, or mark of ownership (R.C. 111.16(U)(2) and 1329.45)	$10	$25
For recording of a renewal of a trademark or service mark (R.C.	For filing and recording the change of address of a	$10	$25

Fee description under current law	Fee description under the bill	Fee under current law	Fee under the bill
1329.58)	registrant, the assignment of rights to a registration, a renewal of a registration, or the cancellation of a registration associated with a trademark, service mark, or mark of ownership (R.C. 111.16(U)(2) and 1329.58)		
For recording of assignment of a trademark or service mark and its registration (R.C. 1329.60)	For filing and recording the change of address of a registrant, the assignment of rights to a registration, a renewal of a registration, or the cancellation of a registration associated with a trademark, service mark, or mark of ownership (R.C. 111.16(U)(2) and 1329.60)	$10	$25
For recording change in the business address of a registrant of a trademark or service mark (R.C. 1329.601)	For filing and recording the change of address of a registrant, the assignment of rights to a registration, a renewal of a registration, or the cancellation of a registration associated with a trademark, service mark, or mark of ownership (R.C. 111.16(U)(2) and 1329.601)	$3	$25
N/A	Fee for use of a bulk filing service that provides, at the option of the person making a filing, a method for providing large amounts of information (R.C. 111.23(B))	N/A	To be set by Secretary of State by rule
N/A	Fee for use of alternative filing procedures in making filings with the Secretary of State (R.C. 111.23(C))	N/A	To be set by Secretary of State by rule
Under the Secured Transactions Law, for filing, indexing, and	No changes in fee language	$9	$12

Fee description under current law	Fee description under the bill	Fee under current law	Fee under the bill
furnishing filing data for an original, amended, or continuation (financing) statement on a form prescribed by the Secretary of State (R.C. 1309.40(E))	(R.C. 1309.40(E))		
Under the Secured Transactions Law, for issuance of a certificate showing whether there is on file any presently effective financing statement naming a particular debtor, owner, or lessee, and any statement of assignment of the financing statement, and, if there is, giving the date and hour of filing of each such statement and the names and address of each secured party in each such statement (R.C. 1309.40(H))	No substantive changes to language (R.C. 1309.40(H)(1))	$9 plus one dollar for each financing statement and for each statement of assignment reported therein	$20 total
Under the Secured Transactions Law, for a copy of any filed financing statement when the request is made in the Secretary of State's office (R.C. 1309.40(H))	Any person may request from the Secretary of State a copy of any financing statement naming a particular debtor, owner, or lessee, and of any statement of assignment of the financing statement, that is on file with the Secretary of State (R.C. 1309.40(H)(3))	Not more than $1 per page	$5 for each copy
Under the Secured Transactions Law, for filing, indexing, and furnishing filing data for a financing statement indicating an assignment of a security interest in collateral described in the financing statement (assignment on the face or back of the statement) (R.C. 1309.42(A))	No changes made to language (R.C. 1309.42(A))	$9	$12
Under the Secured Transactions Law, for filing, indexing, and furnishing filing data about a statement of assignment of all or a	No changes made to language (R.C. 1309.42(B))	$9	$12

Fee description under current law	Fee description under the bill	Fee under current law	Fee under the bill
part of a secured party's rights under a financing statement (assignment by a separate written statement and on Secretary of State form) (R.C. 1309.42(B))			
For filing by a foreign nonprofit corporation of an amendment to the statement setting forth the name of the corporation, the state under the laws of which it is incorporated, the location of its principal office, the corporate privileges it proposes to exercise in Ohio, the location of its principal office in this state, the appointment of a designated agent and the complete address of the agent, and its irrevocable consent to service of process on the agent (R.C. 111.16(B)(3) or (4) and 1703.27)	For filing and recording an amendment to a foreign license application (R.C. 111.16(B)(3) or (4) and 1703.27)	$50	$50

Deposit of fees into the Corporate and Uniform Commercial Code Filing Fund: in general

(R.C. 111.18(A))

Existing law. Existing law requires the Secretary of State to keep a record of all fees collected. The Secretary of State, with some limitations, must pay, *through June 30, 2001*, 50% of the previously described business entity and commercial transaction fees into the state treasury to the credit of the General Revenue Fund and the remaining 50% of those fees into the state treasury to the credit of Corporate and Uniform Commercial Code Filing (CUCCF) Fund. *On and after July 1, 2001*, the Secretary of State, with some limitations, will be required to pay 100% of those fees into the state treasury to the credit of the General Revenue Fund; the limitations include certain amounts of certain fees that must continue to be paid into the CUCCF Fund. (R.C. 111.18(A).)

Changes proposed by the bill. The bill repeals, on and after July 1, 2001, the payment of fees provisions, as well as the requirement through June 30, 2001, that 50% of the fees generally be deposited into the General Revenue Fund.

Instead, all fees collected by the Secretary of State's office generally must be paid into the state treasury to the credit of the CUCCF Fund. (R.C. 111.18(A).)

Credit card receipts

(R.C. 111.18(B))

Existing law directs the Secretary of State to deposit credit card receipts related to fee payments and obtained from a financial institution into the state treasury to the credit of the General Revenue Fund. The bill instead requires these credit card receipts generally to be deposited into the CUCCF Fund. (R.C. 111.18(B).)

Other CUCCF Fund provisions

(R.C. 1309.401(A))

Under existing law, the Secretary of State must deposit *through June 30, 2001*, $4.50, and, *on and after July 1, 2001*, $4.00, of each fee collected under certain provisions of the Secured Transactions Law (those involving filings of financing statements, amended financing statements, or continuation statements; the provision of certain associated certificates; or filings of assignments of security interests or releases of collateral) as well as all fees collected by the Secretary of State under the Secured Transactions Law for expedited filing service into the CUCCF Fund. The remainder of each fee currently must be deposited into the General Revenue Fund. The bill instead requires all fees collected by the Secretary of State for filings under *Title XIII of the Revised Code* (which includes not only the Secured Transaction Law but also the remainder of the Uniform Commercial Code, the Trade Name, Fictitious Name, and Mark of Ownership Law, and the Trademark and Service Mark Law) or *Title XVII of the Revised Code* (the Corporation and Other Business Entity Code) be deposited into the CUCCF Fund. (R.C. 1309.401(A).)

Under existing law, all money credited to the CUCCF Fund must be used only for the purpose of paying for expenses relating to the processing of filings under Title XVII of the Revised Code, the Uniform Commercial Code, the Trade Name, Fictitious Name, and Mark of Ownership Law, and the Trademark or Service Mark Law. Under the bill, the CUCCF Fund also generally can be used to pay for the operations of the office of the Secretary of State, other than the Division of Elections. (R.C. 1309.401(A).)

Secretary of State Business Technology Fund

(R.C. 1309.401(B))

The bill creates the Secretary of State Business Technology Fund. The Fund is to be used only for the upkeep, improvement, or replacement of equipment, or for the purpose of training employees in the use of equipment, used to conduct the Secretary of State office's business under Title XIII or XVII of the Revised Code. The Fund must receive 1% of the money credited to the CUCCF Fund. (R.C. 1309.401(B).)

Alternative payment programs

(R.C. 111.16 and 111.18(C))

Under existing law, fees may be paid to the Secretary of State by cash, check, or money order, or, if the Secretary of State implements a credit card program, by a credit card (R.C. 111.16 and 111.18(B)).

The bill allows the Secretary of State to implement "alternative payment programs" that permit payment of any fee charged by the Secretary of State by means other than cash, check, money order, or credit card. The alternative payment program may include, but is not limited to, one that permits a fee to be paid by electronic means of transmission. The Secretary of State may open an account outside the state treasury in a financial institution for the purpose of operating an alternative payment program. The Secretary of State generally must deposit funds collected by alternative payment programs into the CUCCF Fund, may pay the cost of any service charge required by a financial institution or service company in connection with an alternative payment program, and must adopt rules necessary to carry out the alternative payment program provisions. (R.C. 111.16 (last paragraph) and 111.18(C).)

Expedited filing service

(R.C. 111.23(A) and 1309.402)

Under existing law, the Secretary of State, by rule, must establish and prescribe *guidelines* for the use of an expedited filing service. This service provides, at the option of the person making a filing, expeditious processing of any filing with the Secretary of State under the Secured Transactions Law, the Trade Name, Fictitious Name, and Mark of Ownership Law, and the Trademark or Service Mark Law and certain filings by corporations, limited liability companies, limited liability partnerships, and limited partnerships. (R.C. 111.23.)

The bill makes several changes to the expedited filing service provisions. First, the Secretary of State must establish and prescribe guidelines *and fees* for use of an expedited filing service. Additionally, it would cover all filings with the Secretary of State under Title XVII of the Revised Code, not just certain filings relative to the business entities mentioned above. (R.C. 111.23(A) and 1309.402.)

Bulk filing service

(R.C. 111.23(B))

The bill allows the Secretary of State to adopt rules establishing and prescribing guidelines and fees for use of a bulk filing service. This service would provide, at the option of the person making a filing, a method for providing large amounts of information. The Secretary of State may charge and collect fees for filings made in this manner at reduced amounts from those otherwise specified or authorized by statute. (R.C. 111.23(B).)

Alternative filing procedures

(R.C. 111.23(C))

The bill allows the Secretary of State to adopt rules establishing and prescribing guidelines and fees for the use of alternative filing procedures. Under these procedures, the Secretary of State may accept any filing and payment of associated fees through any electronic, digital, facsimile, or other means of transmission. The bill gives the Secretary of State the power to prescribe the forms for filings under these procedures, but the filings otherwise must comply fully with applicable statutory requirements. (R.C. 111.23(C).)

Forms for filings under Title XVII

(R.C. 111.25(B))

The bill directs the Secretary of State to prescribe forms for a person to use in complying with the filing requirements of Title XVII of the Revised Code to the extent that those requirements relate to filings with the Secretary of State's office (R.C. 111.25(B)).

Designated agent for service of process

(R.C. 1703.041, 1703.27, 1705.55, 1775.63, 1775.64, 1782.04, 1782.08, and 1782.09)

In general. Ohio law contains various provisions relating to the designated agent for service of process upon a business entity. The bill makes various changes to several business entity laws in this regard.

Foreign corporation for-profit. Under existing law, every foreign corporation for profit that is licensed to transact business in Ohio must have a designated agent. If the agent dies, removes from the state, or resigns, the foreign corporation must appoint another agent and file in the Secretary of State's office *an amendment* to the corporation's application for a foreign license indicating the name and address of a new agent. Additionally, if the designated agent changes addresses from that appearing upon the record in the Secretary of State's office, the foreign corporation or the designated agent must file *an amendment* to the corporation's application for a foreign license setting forth the new address, unless the change is reported on the annual report filed with the Department of Taxation. (R.C. 1703.041(A) to (D).)

Under the bill, if a designated agent dies, removes from the state, or resigns, the foreign corporation must appoint another agent and file in the Secretary of State's office, *on a form prescribed by the Secretary of State, a written appointment* of the new agent (R.C. 1703.041(C)). If the agent changes addresses, the foreign corporation must file, *on a form prescribed by the Secretary of State, a written statement* setting forth the agent's new address (R.C. 1703.041(D)).

Finally, a foreign corporation currently may revoke the appointment of a designated agent by filing with the Secretary of State an amendment to its application for a foreign license appointing another agent and including a statement that the appointment of the former agent is revoked. Under the bill, a foreign corporation can revoke the appointment of a designated agent by filing with the Secretary of State, *on a form prescribed by the Secretary of State, a written appointment of another agent* together with the statement that the appointment of the former agent is revoked. (R.C. 1703.041(F).)

Foreign nonprofit corporation. Under existing law, a foreign nonprofit corporation must obtain from the Secretary of State a certificate authorizing it to exercise its corporate privileges in Ohio by filing a certificate of good standing or subsistence as well as a specified statement. The corporation must file an amendment with the Secretary of State if there is a modification of any information required to be included in that statement. (R.C. 1703.27.)

Under the bill, amendments to that statement generally must be made in the same manner, the exception being with regard to changes in information pertaining to the appointment of a designated agent or the complete address of the agent. Under the bill, any changes concerning this information are corrected not by amending the statement, but in the same manner as an Ohio nonprofit corporation corrects the same information (by filing an appointment of another agent or a written statement setting forth the new address on a form prescribed by the Secretary of State). (R.C. 1703.27.)

Foreign limited liability company. Similar provisions are contained in the existing law for foreign limited liability companies. Before transacting business in Ohio, a foreign limited liability company must register with the Secretary of State. The filing must set forth various information, including the name and address of an agent for service of any process, notice, or demand on the company. (R.C. 1705.54(A)--not in the bill.)

If this information becomes inaccurate because the designated agent *changes the agent's address*, the foreign limited liability company or the designated agent must file promptly with the Secretary of State a certificate of correction setting forth the new address. The bill amends this provision by requiring the filing of a certificate of correction in response not only to a change in the agent's address but also if the agent *resigns*. (R.C. 1705.55(B).)

The bill also gives a foreign limited liability company the power to *revoke* the appointment of its designated agent. To achieve this, the company must file with the Secretary of State, on a form prescribed by the Secretary of State, a written appointment of another agent and an acceptance of appointment in the manner described for a domestic limited liability company, and a statement indicating that the appointment of the former agent is revoked. (R.C. 1705.55(C).)

Limited liability partnerships. Under existing law, a domestic limited liability partnership or foreign registered limited liability partnership must, *annually*, during the month of July, file a report with the Secretary of State verifying and, if necessary, updating certain information (which includes the name and address of a statutory agent for service of process within this state). The bill instead requires a *biennial* filing of the report during the month of July in *odd-numbered* years. (R.C. 1775.63(A).)

On a related issue, existing law requires a foreign limited liability partnership to file a registration application with the Secretary of State before transacting business in Ohio. A registration ceases if (1) the registration is voluntarily withdrawn by filing with the Secretary of State, on a form prescribed by the Secretary of State, a specified written withdrawal notice or (2) the registration is canceled by the Secretary of State for failure to file an annual report

as described above. The bill removes the provision specifying that a registration ceases upon such a cancellation. (R.C. 1775.64(E).)

Limited partnerships. Under existing law, to form a limited partnership, a certificate of limited partnership must be executed and filed with the Secretary of State (R.C. 1782.08(A)). Additionally, each limited partnership must maintain in this state an agent for service of process (R.C. 1782.04). A limited partnership must include in its certificate of limited partnership the name and address, including the street and number or other particular description, of that agent (R.C. 1782.08(A)(2)). If a certificate of limited partnership becomes inaccurate because the name or identity of the agent changes or the agent changes the agent's address, the limited partnership or the designated agent must file promptly with the Secretary of State, on a form prescribed by the Secretary of State, an amendment setting forth the new address or apparently the name of a new agent (R.C. 1782.09(B) and (C)).

The bill requires the Secretary of State to keep a record of the names of all limited partnerships and the names and addresses of their respective agents (R.C. 1782.04(C)). It no longer requires the certificate of limited partnership to include designated agent information, but instead requires a written appointment of a statutory agent to be filed with the certificate of limited partnership (R.C. 1782.08(A) and (B) and 1782.09(B) and (C).)

Additionally, the bill prohibits the Secretary of State from accepting a certificate of limited partnership for filing unless (1) there is filed with the certificate a written appointment of an agent that is signed by the general partners of the limited partnership and a written acceptance of the appointment that is signed by the agent, or unless (2) there is filed with the certificate a written appointment of an agent that is signed by an authorized officer of the limited partnership and a written acceptance of the appointment that is either the original acceptance signed by the agent or a photocopy, facsimile, or similar reproduction of the original acceptance signed by the agent. In the discretion of the Secretary of State, an original appointment of statutory agent may be submitted on the same form as the certificate of limited partnership, but it cannot be considered a part of the certificate. (R.C. 1782.04(B).) The bill requires the *written appointment of an agent* to set forth the name and Ohio address, including the street and number or other particular description of the agent, and any other information the Secretary of State prescribes (R.C. 1782.04(C)). Additionally, unless an original appointment of an agent is filed with a certificate of limited partnership, the written appointment of an agent or a written statement filed by a limited partnership with the Secretary of State must be signed by an authorized officer of the limited partnership, or the general partners of the limited partnership, or a majority of them (R.C. 1782.04(H)).

Under the bill, if any agent dies, removes from the state, or resigns, the limited partnership must appoint another agent and file with the Secretary of State, on a form prescribed by the Secretary of State, a written appointment of the new agent (R.C. 1782.04(D)). Additionally, if the agent changes the agent's address from that appearing upon the record in the Secretary of State's office, the limited partnership or the agent must file with the Secretary of State, on a form prescribed by the Secretary of State, a written statement setting forth the new address (R.C. 1782.04(E).)

The bill also allows an agent to resign by filing with the Secretary of State, on a form prescribed by the Secretary of State, a written notice to that effect. This notice must be signed by the agent, and a copy of it must be sent to the limited partnership at its current or last known address or its principal office on or prior to the date the notice is filed with the Secretary of State. The notice must set forth the name of the limited partnership, the name and current address of the agent, the current or last known address, including the street and number or other particular description, of the limited partnership's office, the resignation of the agent, and a statement that a copy of the notice has been sent to the limited partnership within the required time and in the required manner. Upon the expiration of 30 days after the filing, the authority of the agent will terminate. (R.C. 1782.04(F).)

Finally, the bill permits a limited partnership to revoke the appointment of an agent by filing with the Secretary of State, on a form prescribed by the Secretary of State, a written appointment of another agent and a statement that the appointment of the former agent is revoked (R.C. 1782.04(G)).

Payment for services of financial supervisor under the Local Government Fiscal Emergency Law

(R.C. 118.08)

Existing law

Under the Local Government Fiscal Emergency Law, upon the occurrence of a fiscal emergency in any municipal corporation, county, or township, there is established a financial planning and supervision commission. The Auditor of State serves as the financial supervisor to a commission unless the Auditor of State contracts for that service to be provided. Generally, the commission and the financial supervisor review and make recommendations pertaining to the fiscal matters of the municipal corporation, county, or township in fiscal emergency.

The expenses incurred for the services of the financial supervisor are paid for 24 months by the commission from an appropriation made by the General Assembly. Expenses incurred beyond 24 months generally are borne by the

municipal corporation, county, or township in fiscal emergency, unless the Director of Budget and Management waives the costs and allows payment in accordance with current law permitting payment of specified portions of the compensation due for the continued performance of the financial supervisor (1) for specified time periods up to 37 months and (2) for a period exceeding eight years for a local government declared to be in a fiscal emergency before fiscal year 1996.

Under current law, if the continued performance of the financial supervisor is required for a period of 37 months or more, the local government is responsible for 100% of the compensation due except, *beginning in fiscal year 2000*, if the continued performance of the financial supervisor has been required longer than eight years for any local government declared to be in a fiscal emergency prior to fiscal year 1996. In that case, the municipal corporation, county, or township is responsible for 50% of the compensation due in fiscal year 2000 and 100% of the compensation due in fiscal year 2001.

Changes proposed by the bill

The bill changes the exception beginning in fiscal year 2000 by removing the specification of that fiscal year and providing instead that, if the continued performance of the financial supervisor has been required longer than eight *fiscal* years for any municipal corporation, county, or township declared to be in a fiscal emergency prior to fiscal year 1996, that municipal corporation, county, or township is responsible for 50% of the compensation due *in its ninth fiscal year* while in fiscal emergency and 100% of the compensation due in *its tenth fiscal year and every fiscal year thereafter* while in fiscal emergency.

Ohio Community Service Council

(R.C. 121.40, 1501.40, 3301.70, and 3333.043)

Among its other statutory duties, the Governor's Community Service Council assists various state boards and departments, and school districts and institutions of high education, in coordinating community service programs through cooperative efforts between institutions and organizations in the public and private sectors. The bill renames the Council as the Ohio Community Service Council and also corrects several outdated references to the Council (they referred to it as the "State Community Service Advisory Committee") by replacing them with references to the Ohio Community Service Council.

Women's Policy and Research Commission

(R.C. 121.51, 121.52, 121.53, and 3701.142; Section 163)

Under existing law, the Women's Policy and Research Commission consists of 15 members who are required to meet at least four times per year and is intended to "promote the advancement of women and remove barriers to women's equality." Under existing law, the Commission is permitted to hold hearings to assess the problems and needs of women in Ohio; create standing or special committees; sell publications issued by the Commission or the Women's Policy and Research Center (see below); and accept gifts, donations, benefits, and other funds.

The Commission also supervises the Women's Policy and Research Center, which is required to do all of the following: identify barriers to women's equality; maintain and make available lists of persons qualified for appointment to positions in state government; educate the public on the status of women and the impact of public policy on women; issue reports regarding women's policy issues; analyze current and proposed public policies to determine their impact on women; help the public and private sectors develop programs and services for women; and encourage collaboration between itself and other public agencies and institutions on issues of mutual interest.

The bill abolishes both the Women's Policy and Research Commission and the associated Women's Policy and Research Center. The Director of Budget and Management must transfer any remaining money in the Women's Policy and Research Commission Fund into the General Revenue Fund within 30 days after the bill's effective date.

Minority business enterprises

(R.C. 122.71, 122.76, and 122.92)

Minority Business Development Division

The Minority Business Development Division of the Department of Development must provide various forms of services and assistance to minority business enterprises. Its duties include, but are not limited to, the provision of technical, managerial, and counseling services and assistance to those enterprises.

The bill creates an additional duty for the Division. It must provide grant assistance to nonprofit entities that promote economic development, development corporations, community improvement corporations, and incubator business entities, if the entities or corporations focus on business, technical, and financial

assistance to minority business enterprises to assist the enterprises with fixed asset financing.

Lending of funds

Under current law, the Director of Development, with Controlling Board approval, may lend funds for certain purposes and if certain determinations are made to minority business enterprises, community improvement corporations, and Ohio development corporations. Funds so lent to the corporations apparently must be the purpose of their loaning funds to minority business enterprises and for the purpose of procuring or improving real or personal property for the establishment, location, or expansion of industrial, distribution, commercial, or research facilities in Ohio.

The bill adds minority contractors business assistance organizations and minority business supplier development councils to the list of entities to which the Director may lend funds for the latter purposes and if the Director makes certain determinations. A "minority contractors business assistance organization" is defined as an entity engaged in the provision of management and technical business assistance to minority business enterprise entrepreneurs, and a "minority business supplier development council" is defined as a nonprofit organization established as an affiliate of the National Minority Supplier Development Council.

Minority business enterprise: definitional revision

The bill amends the definition of a "minority business enterprise" that applies to several statutes involving loans, loan guarantees, bonds, or public contracts that these enterprises must or may be granted as well as to statutes pertaining to the Department of Development or other state entities. Under existing law, a minority business enterprise is an individual who is a United States citizen and owns and controls a business, or a partnership, corporation, or joint venture of any kind that is owned and controlled by United States citizens, which citizen or citizens are residents of Ohio or *nonresidents of this state who have a significant presence in Ohio*, and are members of one of the following economically disadvantaged groups: Blacks, American Indians, Hispanics, or Orientals. The bill removes the reference to the nonresidents of Ohio who have a significant presence in this state and, thus, limits the covered enterprises to those involving Ohio residents who fall into any of the disadvantaged groups.

Central Service Agency support for the Commission on African American Males

(R.C. 125.22)

Under current law, the Department of Administrative Services is required to establish a central service agency to perform routine support for approximately 20 different boards and commissions (occupational and professional licensing agencies and the Commission on Hispanic-Latino Affairs). The bill adds the Commission on African American Males to the list of boards and commissions to receive routine support from the Department of Administrative Services.

Modification of debt coordination requirements

(R.C. 126.11)

The Director of Budget and Management, in consultation with the Treasurer of State, is required to coordinate the activities of the various state agencies that are authorized to issue debt. Among the Director's duties is approving the scheduling of initial sales of publicly offered securities by the agencies. The agencies are required to submit information on their actions to the Director when proposing to issue debt, including the projected sale date, the amount of obligations to be sold, and the source of payment on the debt.

The bill provides that the Director's authority to schedule offerings and the agencies' duty to submit debt information to the Director apply only with regard to *nonconduit* obligations involving, or potentially involving, state appropriations. Conduit debt is that issued by a state agency on behalf of a nonstate borrower. These borrowers are mostly businesses, health care institutions, and private colleges or universities. Principal and interest due on conduit debt is not paid from state funds, but is usually payable from repayment of the loans made to the borrowers.

Currently, agencies that issue revenue-bond-type debt are not required to coordinate their issuing activities through OBM, but are required to submit to the Director copies of the preliminary and final offering documents for their obligations. The bill provides that these documents also must be submitted to the Director when bonds are issued pursuant to an agreement between two or more school districts and the Treasurer of State to finance the districts' School Facilities Commission school buildings through certificates of participation sold by a trustee selected by the Treasurer. (Authority for this type of agreement was granted in S.B. 272 of the 123rd General Assembly.) Conversely, the bill eliminates the requirement that the following entities submit preliminary and final offering documents to the Director: the Treasurer of State for development bonds issued under R.C. Chapter 122., the Director of Development for industrial development

bonds issued under R.C. Chapter 165., state universities and university housing commissions, the Ohio Higher Educational Facility Commission, and the Air Quality Development Authority.

Conformity to the new governmental financial reporting model

(R.C. 126.21, 131.01, 183.09, and 183.17)

In June 1999 the Governmental Accounting Standards Board (GASB) issued Statement No. 34, *Basic Financial Statements—and Management's Discussion and Analysis—for State and Local Governments*. The statement modifies generally accepted accounting principles (GAAP) by recommending the issuance of "basic financial statements" and "required supplementary information" rather than "general purpose financial statements." Basic financial statements report a government's financial position and operating results without reference to its underlying fund structure. The bill conforms existing law to Statement No. 34 by requiring the Director of Budget and Management, the Tobacco Use Prevention and Control Foundation, and the Southern Ohio Agricultural and Community Development Foundation to issue basic financial statements and required supplementary information rather than general purpose financial statements.

Except in the cases of proprietary funds, endowment funds, and public employee retirement system funds, the old financial reporting model called for a government to have a General Long-Term Debt Account Group in which to record long-term debt and a General Fixed Assets Account Group in which to record its capital assets (property, plant, and equipment). Both are self-balancing groups of accounts, not fiscal entities and hence not funds. Under the new financial reporting model, capital assets are to be recorded as fund assets and reported in a Statement of Net Assets. Since account groups will no longer exist, they are removed from the definition of "accounting system" in, and from the content of the state's comprehensive annual financial report prescribed by, existing law.

Elimination of volume cap survey requirement

(R.C. 133.021)

A federal income tax exemption is available when states or local governments issue bonds to finance certain nongovernmental activities that are determined to fulfill a public purpose. These bonds are referred to as tax-exempt private activity bonds. But the federal government imposes a limit, or cap, on the volume of private activity bonds that can be issued in each state each year. In general, the unified state and local volume cap for a state is the product of $50 multiplied by the state's population.

In Ohio, the Joint Select Committee on Volume Cap provides for the allocation of the amount of bonds available under the cap among the governmental units and authorities that can issue tax-exempt private activity bonds. The Committee consists of eight members--four appointed by the Governor, two members of the House of Representatives appointed by the Speaker, and two members of the Senate appointed by the President.

The bill eliminates a requirement that the Committee annually survey the entities that can issue tax-exempt private activity bonds concerning the amount issued the previous year and the amount requested for the current year.

Rural Industrial Park Loan Program

(R.C. 166.03)

The bill extends the expiration date of the Department of Development's Rural Industrial Park Loan Program from June 30, 2001, to July 1, 2003, and changes a statutory date with regard to that program accordingly.

Credit due a retail customer not considered unclaimed funds

(R.C. 169.01)

Current law defines items that are and *are not* "unclaimed funds" for purposes of the Unclaimed Funds Law (Chapter 169.). Items expressly *not* unclaimed funds include (1) money received or collected by public officials under color of office, (2) payments or credits to suppliers or service providers due, in the course of business, to a business association from a business association, and (3) payments or credits for tangible goods sold or services performed due, in the course of business, to a business association from a business association.

The bill adds another exclusion from the definition of unclaimed funds for purposes of the Unclaimed Funds Law. Specifically, any credit due a retail customer that is represented by a gift certificate, gift card, merchandise credit, or merchandise credit card, that is redeemable only for merchandise does *not* constitute unclaimed funds for purposes of the Unclaimed Funds Law.

Low- and Moderate-Income Housing Trust Fund

(R.C. 175.21 and 175.22)

The bill changes the requirements for the award of funds in the Ohio Low- and Moderate-Income Housing Trust Fund by (1) requiring that the percentage of total funds that may be awarded for specified purposes be calculated on the basis of the amount of funds awarded during any one fiscal year instead of on the basis

of the amount of money in the Fund, (2) changing the amount awarded for loans and grants to nonprofit organizations from 45% to 30% of total awards, (3) changing the eligibility criteria for rural areas and small cities awards from the requirement that award recipients be eligible for the federal community development block grant program to the requirement that award recipients not be eligible for the federal HOME Investment Partnership Program, (4) increasing the amount awarded to rural areas and small cities from not less than 35% to not less than 40% of funds awarded, (5) eliminating the requirement that not more than 5% of funds be used for administrative costs, and (6) allowing that reasonable direct and indirect costs, including third-party contractor costs, be allowed as a cost of administration.

The bill also does the following: (1) adds the provision that, to the greatest extent practicable, the funds allocated from the Low- and Moderate-Income Housing Trust Fund be used for construction activities that will result in a repayment to the Fund, (2) increases the income level of families in programs and projects that will receive funding preference from an income equal to or less than 35% of the median income level in the county to an income equal to or less than 50% of the median income level in the county, and (3) establishes that not more than 20% of the current appropriation authority be awarded in any fiscal year for activities not directly related to the acquisition, financing, construction, rehabilitation, remodeling, improvement, or equipping of housing.

Ohio Commission on Dispute Resolution and Conflict Management

(R.C. 179.02, 179.03, and 179.04)

In general

The Ohio Commission on Dispute Resolution and Conflict Management must provide, coordinate, fund, and evaluate dispute resolution and conflict management education, training, and research programs in the state. The Commission also must consult with, educate, train, provide resources for, and otherwise assist and facilitate other persons and public or private agencies, organizations, or entities that are engaged in activities related to dispute resolution and conflict management.

Commission membership, quorum, and validating action

The Commission consists of 12 members who are appointed by the Governor, the Chief Justice of the Supreme Court, the President of the Senate, or the Speaker of the House of Representatives. The bill clarifies that the Commission must consist of those 12 members unless a *vacancy* exists in an appointment at any given time.

Current law specifies that "seven members" constitutes a quorum for the conduct of Commission business. The bill substitutes a provision that a majority of the members of the Commission, as it exists at any given time, constitutes a quorum for the conduct of Commission business. Similar to current law, the votes of a majority of the Commission members present at a Commission meeting are required to validate an action of the Commission.

Commission contracts

Under current law, the Commission is authorized, among other things, to enter into contracts for dispute resolution and conflict management services. The bill additionally permits the Commission to authorize its executive director to enter into those contracts.

Changes in sheriff's furtherance of justice fund law

(R.C. 325.071)

The bill changes the formula for the sheriff's furtherance of justice fund, a fund for "expenses that the sheriff incurs in the performance of . . . official duties and in the furtherance of justice." Under the law prior to December 8, 2000, this fund consisted of an amount equal to 1/2 of the sheriff's salary paid by the county. The law was changed in December, 2000 to make the amount equal to 1/2 of the county-paid salary and 1/2 of the amount of state-paid salary the sheriff receives. The state-paid salary is equal to 1/8 of the sheriff's county-paid salary.

The bill returns the amount to be paid into the sheriff's furtherance of justice fund to the pre-December 8, 2000 calculation; that is, 1/2 of the county-paid salary of a sheriff.

Authority for new community authorities to finance hospital facilities

(R.C. 140.01 and 349.01)

Under existing law, new community districts may be established by developers by petition to the board of county commissioners. If a petition is approved, a "new community authority" is established, which has among its powers the authority to issue bonds for the construction and maintenance of *community facilities* and to levy a community development charge upon land in the district in order to pay (among other purposes) the debt charges arising from a bond issue.

The bill includes a new community authority organized under the New Community Districts (NCD) Law (Chapter 349.) among the entities included in the definition of a "public hospital agency" and includes hospital facilities within

the definition of "community facilities" under the NCD Law. Accordingly, the bill allows a new community authority to issue revenue bonds to finance hospital facilities and to use the community development charge to cover all or part of the cost of the acquisition, construction, operation, maintenance, and debt service charges of hospital facilities.

Increase members of board of township trustees in home rule townships

(R.C. 504.03, 504.04, and 504.21)

Currently, limited home rule townships are required to be governed like all townships, by a three-member board of township trustees. The bill changes this so that a limited home rule township may, after its creation, change its three-member board to a five-member board. By a unanimous vote, the board of township trustees may pass a resolution to put the question on the ballot of whether to increase the number of board members. If a majority of the voters on the question approve the change to a five-member board, at the next election at which board members are elected, two additional board members will be elected--one for a four-year term and one for a two-year term. After that initial election, all trustee positions will be for four-year terms.

The bill also requires that, if a board of township trustees is converted to a five-member board, the board members must be elected by determining which individuals receive the highest number of votes from a slate of candidates running for the office of township trustee.

Pay increases for trustees and clerks in townships with budgets of more than $6 million

(R.C. 505.24 and 507.09)

Currently, the pay schedules for township trustees and township clerks are based upon a township's budget, with the highest pay category being for townships with budgets of more than $6 million. Starting in 2002, the bill increases the compensation for township trustees and clerks in this highest pay category by dividing it into two sub-categories and setting new pay scales for each. One new category is for townships with a budget of more than $6 million but not more than $10 million; the other is for townships with a budget of more than $10 million.

Under the bill, in townships with a budget of more than $6 million but not more than $10 million, a township trustee is entitled to $70 per day for not more than 200 days, and the township clerk is entitled to $19,810. In townships with a budget of more than $10 million, a township trustee is entitled to $90 per day for not more than 200 days, and the township clerk is entitled to $20,900. In years

following 2002, those new base amounts, as under current law for all townships, will increase in a specified manner each year until 2009.

Ohio Arts and Sports Facilities Commission Law

(R.C. 3383.01 and 3383.07)

Definitional changes

The Ohio Arts and Sports Facilities Commission (OASFC) is required to determine the need for additional Ohio arts facilities and Ohio sports facilities and to provide for the use of those facilities in making the arts and professional sports available to the public in Ohio. Under the OASFC Law, the term "arts project" means all or any portion of an Ohio arts facility for which the General Assembly has authorized spending on, or made an appropriation for, under a provision of that law identifying one of three requirements that must be met before state money can be spent on the construction of any arts project. That provision of law (with 3 requirements) does not apply to state historical facilities, but the bill adds a reference in the definition of an "arts project" to a similar provision of law (with only one requirement) that applies to *state historical facilities*, apparently to clarify that an arts project means all or any portion of an Ohio arts facility, including a state historical facility, for which the General Assembly has authorized spending on or made an appropriation for. (R.C. 3383.01(C).)

OASFC and DAS duties

Under existing law, the Department of Administrative Services (DAS) generally must provide for the construction of an arts project in conformity with the Public Improvements Law. The following are among the exceptions to this requirement:

(1) An arts project that has an estimated construction cost, excluding its acquisition cost, of $25 million or more and that is financed by the Ohio Building Authority (OBA), in which case construction services may be provided by the OBA;

(2) An arts project, other than a state historical facility, may have construction services provided for it on behalf of the state by the OASFC, or by a governmental agency or an arts organization that occupies, will occupy, or is responsible for the Ohio arts facility involved, *as determined by DAS*.

The bill changes the second exception above by removing DAS' duty to make the determination whether the OASFC, or a governmental agency or an arts organization, may provide construction services for an arts project. The OASFC

replaces DAS as the entity making the determination; this is similar to the manner in which under other existing law (in a third exception to the previously mentioned requirement) the OASFC makes construction services determinations relative to an arts project that is a state historical facility.

Under existing law, DAS also generally provides for general building services for an Ohio arts facility. The bill removes this duty from DAS and, instead, generally *requires* the OASFC or, if the OASFC so determines, an arts organization that occupies, will occupy, or is responsible for the facility to provide those services. The bill retains the exception authorizing the OBA to elect to provide those services for Ohio arts facilities financed with proceeds of state bonds issued by the OBA.

Other changes

Under existing law, for arts facilities other than state historical facilities, state funds cannot be spent on the construction of any arts project unless three conditions are met. One of those conditions is that the OASFC must determine that there is a need for the project and the arts facility related to the project in the region of the state for which the Ohio arts facility is proposed to be located. The bill changes this condition to allow it to apply to existing facilities in addition to those proposed by requiring the demonstration of need in the region of the state in which the facility is either located or for which it is proposed to be located.

Commission property interests in facilities; "cooperative" contracts

(R.C. 3383.01, 3383.02, and 3383.04)

The Ohio Arts and Sports Facilities Commission has statutory authority to, among other things, own, construct, lease, furnish, administer, manage, or provide for the operation and management of Ohio arts facilities. There are presently three types of Ohio arts facilities: the Riffe Center theaters, state and local historical facilities, and other capital facilities related to arts projects authorized or funded by the General Assembly. Under existing law, the state must have a real property interest in any facility of the last type, and any such facility must be managed directly by the Commission or through a management contract with the Commission. The bill eliminates the requirement that the state have a real property interest in an Ohio arts facility financed by state obligations, and it allows for "cooperative" contracts as well as "management" contracts between the Commission and arts organizations. A cooperative contract must set forth the terms and conditions of the cooperative use of an Ohio arts facility. The bill requires that any cooperative or management contract be in effect for not less than the time remaining for the payment or provision for payment of any state obligations issued to finance the arts project.

Additional members on the Commission

(R.C. 3383.02)

The Ohio Arts and Sports Facilities Commission consists of eight members, five of them voting members appointed by the Governor from different geographical regions of the state. The three nonvoting members are the staff director of the Ohio Arts Council, a member of the Senate appointed by the President of the Senate, and a member of the House of Representatives appointed by the Speaker.

The bill adds two voting members to the Commission—both of them appointed by the Governor and one of whom must represent the State Architect. Concerning the new larger size of the Commission, the bill specifies that no more than four of the members appointed by the Governor can be from the same political party, four voting members constitute a quorum for meetings, and the affirmative vote of four members is necessary for approval of any action. The bill continues the requirement that the Governor's appointments must be from different geographical regions of the state.

Transfer of investment earnings on arts and sports facilities building funds to the Ohio Arts and Sports Facilities Commission Administration Fund

(R.C. 3383.09; Section 172)

The bill creates the Arts Facilities Building Fund and the Sports Facilities Building Fund in codified law and provides that investment earnings on the two funds are to be credited to those funds. Section 60 of Sub. S.B. 245 of the 123rd General Assembly provides, in temporary law, that (1) no investment income on these funds (which consist primarily of bond proceeds) is to be spent until the issuer of the bonds (the Ohio Building Authority) certifies to the Director of Budget and Management that sufficient money is available to make any required payments to the federal government contemplated by the agreements under which the bonds were issued and sold and (2) the Director of Budget and Management may authorize the investment income in excess of those requirements to be spent.

The bill authorizes the Director of Budget and Management to transfer investment earnings from the two building funds to the Ohio Arts and Sports Facilities Commission Administration Fund when requested by the Chairperson or Executive Director of the Commission. The administration fund, which currently exists in codified law, is used to pay expenses of the Commission. The amounts that may be so transferred are limited to amounts that exceed estimated federal arbitrage rebate requirements. The federal government imposes these requirements to prevent states from making a profit at federal expense by issuing

low-interest rate tax-exempt bonds and then investing the proceeds in securities that yield a higher rate of interest.

Elevator reinspection fees

(R.C. 4105.17)

Current law states that the fee for the reinspection of an elevator by a general inspector in the Division of Industrial Compliance of the Department of Commerce is $30 plus $5 for each floor where an elevator stops, if the previous attempt to inspect was unsuccessful through no fault of the general inspector or the Division of Industrial Compliance. The bill increases the base fee for reinspection to $125. The $5 additional fee for each floor where an elevator stops is unchanged by the bill.

Penalty Enforcement Fund in state treasury

(R.C. 4115.10)

The Director of Commerce is required to collect and deposit all money received from penalties paid to the Director due to violations of the Prevailing Wage Law (Chapter 4115.) into the Penalty Enforcement Fund which is in the custody of the Treasurer of State. Under current law, the Penalty Enforcement Fund is not a part of the state treasury. The bill moves the Fund into the state treasury. As a result of this change, expenditures can be made from the fund only pursuant to an appropriation made by law.

Accountancy Board late fees

(R.C. 4701.10 and 4743.05)

Existing law requires holders of certified public accountant (CPA) certificates or public accountant (PA) registrations to apply for an Ohio permit to practice within three years of the expiration of the current permit to practice or within three years of the date the CPA certificate or PA registration was granted. The bill requires CPA certificate holders and PA registration holders to apply for either an Ohio practitioner's permit or nonpractitioner's registration within one year from the expiration of the current Ohio permit or Ohio registration or within one year from the date a CPA certificate was granted. (The Board no longer issues new PA registrations.) The bill changes the consequence for failure to apply in a timely manner from mandatory indefinite suspension of the CPA certificate or PA registration (except in cases of excusable neglect) to suspension until late fees have been paid.

The bill establishes late filing fees of up to $100 for failure of a CPA certificate holder to apply for an Ohio permit or Ohio registration within 60 days after receiving the certificate, up to $100 per month or part of a month to a maximum of $1,200 for failure to renew an Ohio permit to practice on time, and up to $50 per month or part of a month to a maximum of $300 for failure of a nonpractitioner to renew an Ohio permit or Ohio registration on time.

The bill also makes a number of changes for the purpose of clarifying statutory requirements and organizing the law governing accountant registration more logically.

Accountancy Board disciplinary fine increased

(R.C. 4701.16)

Current law authorizes the Accountancy Board to discipline a person holding an Ohio permit, an Ohio registration, a firm registration, a CPA certificate, or a PA registration for certain designated offenses. One of the disciplinary policies that the Board may use at its discretion is to levy a fine that cannot exceed $1000 for each offense. The bill increases the maximum amount of the fine to $5000 for each offense. The exact amount of the fine levied would still have to be reasonable and in relation to the severity of the offense.

Fee increase for re-examination in cosmetology

(R.C. 4713.10)

Under current law, the State Board of Cosmetology must collect a $14 fee from an applicant who wants to be re-examined in cosmetology after failing a previous exam. The bill increases the amount of this fee to $21.

Qualifications of members of the Board of Embalmers and Funeral Directors

(R.C. 4717.02; Section 146)

The Board of Embalmers and Funeral Directors consists of seven members appointed by the Governor with the advice and consent of the Senate. Current law requires that four members be licensed embalmers and practicing funeral directors, each with at least ten consecutive years of experience in Ohio immediately preceding the person's appointment. One member currently must be knowledgeable and experienced in operating a crematory, and that member may be, but is not required to be, a licensed embalmer or funeral director. The final two members currently must represent the public, and one of them must be at least 60 years old.

The bill instead requires that five Board members be licensed embalmers and practicing funeral directors and that one of these members be knowledgeable and experienced in operating a crematory. Similar to current law, the remaining two Board members must represent the public. The bill further provides that, unless five licensed embalmers and funeral directors are already serving on the Board on the bill's effective date, the first person appointed to fill a vacancy occurring on the Board on or after that date must be a licensed embalmer and practicing funeral director with at least ten consecutive years of experience in Ohio immediately preceding the date of the person's appointment.

Biennial license renewal of embalmers, funeral directors, funeral homes, embalming facilities, and crematory facilities

(R.C. 4717.07 and 4717.08; Section 173)

The bill changes from annual to biennial the license renewal for embalmers and funeral directors and renewal of a license to operate a funeral home, an embalming facility, and a crematory facility. The biennial licensing takes effect beginning in December, 2002, and renewal is required each even-numbered year thereafter. The bill doubles the existing annual cost of renewal for each biennial renewal, so the actual cost remains the same as is required under current law.

Continuing education requirements for embalmers and funeral directors

(R.C. 4717.09)

Under existing law, licensed embalmers and funeral directors must attend educational programs determined by rules of the Board of Embalmers and Funeral Directors in the number of hours determined under those rules, provided that they meet the statutory requirement of between 12 and 30 hours of educational programs every two years.

The bill modifies the provision described above by specifying that the Board must adopt rules governing the administration and enforcement of the continuing education requirements for licensed embalmers and funeral directors. The bill retains the statutory requirement of between 12 and 30 hours of educational programs.

The bill permits the Board to contract with a professional organization or association or other third party to assist it in performing functions necessary to administer and enforce the continuing education requirements established for license renewal of embalmers and funeral directors. The bill permits a professional organization or association or other third party with whom the Board

so contracts to charge a reasonable fee for performing these functions to licensees or to the persons who provide continuing education programs.

State Board of Sanitarian Registration

(R.C. 4736.12 and 4736.14)

Current law requires the State Board of Sanitarian Registration to charge specified fees to be paid by persons who apply to the Board for various purposes. The bill increases those fees as follows:

Application	Current law	The bill
Sanitarian-in-training	$55	$57
Registered sanitarian if applicant is sanitarian-in-training	$55	$57
Registered sanitarian if applicant is not sanitarian-in-training	$110	$114

In addition, current law requires the Board to fix a renewal fee for registered sanitarians and for sanitarians-in-training and establishes a cap for that fee of $58. The bill increases the cap to $61.

Under current law, the Board, upon application and proof of valid registration, may issue a certificate of registration to any resident of Ohio who is or has been registered as a sanitarian by another state. The certificate may be issued as long as the requirements of that state, as determined by the Board at the time of registration, are at least equivalent to the requirements governing sanitarians under Ohio law. The bill eliminates the residency requirement for sanitarian registration.

Motor vehicle collision repair operators

Definitions

(R.C. 4775.01)

Under existing law, "motor vehicle collision repair operator" means a person who owns or manages, in whole or in part, a motor vehicle collision repair facility whether or not mechanical or other repairs also are performed at the facility. The bill instead defines "motor vehicle collision repair operator" as any person, sole proprietorship, foreign or domestic partnership, limited liability

corporation, or other legal entity that is not an employee or agent of a principal and performs five or more motor vehicle collision repairs in a calendar year.

In addition, current law defines "motor vehicle collision repair facility" as a business location in which five or more separate motor vehicle collision repairs are performed for the general public in a 12-month period, commencing with the day of the month in which the first such repair is made. The bill instead defines such a facility as a location from which five or more separate motor vehicle collision repairs are performed on motor vehicles in a 12-month period, commencing as provided in current law.

The bill also adds the following definitions:

(1) "Collision" means an occurrence in which two or more objects, whether mobile or stationary, contact one another in a manner that causes the alteration of the surface, structure, or appearance, whether separately or collectively, of an object that is party to the occurrence.

(2) "Collision repair" means any and all restorative or replacement procedures that are performed on and affect or potentially affect the structural, life safety, and cosmetic components of a motor vehicle that has been damaged as a result of a collision. It includes any procedure that is employed for the purpose of repairing, restoring, replacing, or refinishing, whether wholly or separately, any structural, life safety, or cosmetic component of a motor vehicle to a condition approximating or replicating the function, use, or appearance of the component prior to a collision.

Registration fees

(R.C. 4775.08; Section 175)

Under current law, motor vehicle collision repair operators must register annually with the Board of Motor Vehicle Collision Repair Registration. Current law establishes a $100 initial and annual renewal fee for a motor vehicle collision repair registration certificate and for a temporary motor vehicle collision repair registration certificate for each business location of a registrant. The Board, with the approval of the Controlling Board, may increase or decrease that fee, provided that the new fee does not exceed or is not less than the statutory fee by more than 50% and that the change does not cause an excessive build-up of surplus funds in the Motor Vehicle Collision Repair Registration Fund.

The bill increases the fee on and after January 1, 2002, to $150. It continues the authority for the Board to increase or decrease the fee in the manner currently provided. Additionally, the bill provides that if the Board has notified or

attempted to notify an operator that the operator is required to be registered, and the operator fails to register, the initial registration fee for such an unregistered operator, for each business location at which the operator conducts business as an operator, is the initial fee then in effect plus an additional amount equal to the initial fee then in effect for each calendar year that the operator does not register.

Enforcement

(R.C. 4775.02 and 4775.99)

Current law prohibits anyone from acting as a motor vehicle collision repair operator unless the person is registered with the Board. A violator must be fined not more than $1,000 on a first offense and between $1,000 and $5,000 on each subsequent offense. The bill also provides that any person or entity that conducts or attempts to conduct business as a motor vehicle collision repair operator in violation of the Motor Vehicle Repair Operators Law performs an unfair and deceptive act or practice. Additionally, the bill authorizes the Board, after conducting an investigation and upon establishing that an operator has failed to register or that the operator has performed an unfair and deceptive act or practice, to impose an administrative fine on the person or entity that committed the violation in an amount of not more than $1,000 on a first offense. On each subsequent offense, the Board may impose an administrative fine of not less than $1,000 nor more than $5,000. If the administrative fine is not paid, the Attorney General, upon the Board's request, must commence a civil action to collect the fine.

Ohio Family and Children First Cabinet Council strategic plan

(Section 164)

The bill requires the Ohio Family and Children First Cabinet Council to conduct an assessment of the need for and resources available for services and programs that serve children under age six. The assessment must identify supports available to those services and programs and gaps in services across Ohio, as well as review existing state laws and administrative procedures relevant to those services and programs. Based on the assessment, the Cabinet Council must develop a strategic plan that identifies goals for developing an integrated system of early care and education and recommends specific steps to be taken to accomplish those goals. The recommendations are to maximize opportunities for existing programs and services to blend funding sources and work together and to establish linkages between schools and early childhood programs to ensure successful transitions for children and their families.

The strategic plan must be developed in consultation with early childhood, business, and community organizations. The Cabinet Council must provide copies of the strategic plan to the Governor, Speaker and Minority Leader of the House of Representatives and President and Minority Leader of the Senate not later than June 30, 2002.

Civil Service Review Commission

(Section 153)

Under existing law (Section 4 of Am. S.B. 210, 123rd G.A.), the Civil Service Review Commission is required to review civil service laws and practice under those laws in Ohio. Upon completion of its review, but not later than nine months after all of the appointments have been made to the Commission, it is required to issue a report to the President of the Senate and the Speaker of the House of Representatives. The report must identify current statutes, rules, practices, and procedures and make recommendations for changes to them that the Commission determines are necessary to improve them. The Commission will cease to exist once that report has been issued.

The bill changes the deadline by which the Commission is required to complete its review and issue the associated report to December 31, 2001.

Transfer of services from local public employment offices

(Section 62.31)

The bill requires the Director of Job and Family Services to continue operations through each of the local public employment offices that exist on the bill's effective date until January 1, 2002. It also requires the Director to present a report to the members of the House Finance and Appropriations Committee and of the Senate Finance and Financial Institutions Committee on or before October 1, 2001, that describes the Director's plan to replace the existing local public employment offices with telephone registration centers, mail claims centers, or one-stop employment centers. The report must contain specified information concerning plans for staffing, cost projections, and a description of funding sources broken down by federal, state, and local funding expectations. The bill states that it is the General Assembly's intention that the Director negotiate with specified local officials regarding the transfer of services.

BILL SUMMARY

HEALTH AND HUMAN SERVICES

Family Services Stabilization Fund

- Abolishes the Family Services Stabilization Fund.
- Allows a public children services agency to use a credit card to make purchases for children in the agency's custody or care.

Fee for Children's Trust Fund

- Increases to $3 (from $2) the additional fee charged and credited to the Children's Trust Fund for copies of certain vital records provided on or after October 1, 2001.
- Increases to $11 the additional fee charged and credited to the Children's Trust Fund for filing for a divorce decree or decree of dissolution on or after October 1, 2001.
- Creates within the Department of Health the Ohio Hepatitis C Advisory Commission.

Long-term care and residential facility beds

- Modifies and continues until October 15, 2003 (from July 1, 2001) the moratorium on accepting certificate of need applications for certain long-term care beds.
- Modifies and continues until October 15, 2003 (from July 1, 2001) the moratorium on new residential facility beds for individuals with mental retardation and developmental disabilities.

Discharge or transfer from certified nursing home

- Requires the Ohio Department of Job and Family Services to establish a hearing procedure for residents to appeal a proposed transfer or discharge from a Medicare- or Medicaid-certified nursing home, other than an intermediate care facility for the mentally retarded.

Coverage of return to long-term care facility

- Extends, until October 15, 2003, a requirement that if certain conditions exist each health insuring corporation policy that provides benefits for skilled nursing care through a closed panel plan provide reimbursement for medically necessary covered skilled nursing care services an enrollee receives in a skilled nursing facility, continuing care facility, or home for the aging, even if the facility or home does not participate in the closed panel plan.

Ohio Health Care Data Center

- Repeals the provisions of law that require the Director of Health to establish, in consultation with the Health Data Advisory Committee, the Ohio Health Care Data Center in the Department of Health.

- Corrects cross-references in the statutes authorizing the Department of Health to use part of the Child Highway Safety Fund for a temporary program of state designation of hospitals as Level II pediatric trauma centers.

State Dental Board

- Requires the State Dental Board to develop a quality intervention program as an alternative or addition to disciplinary proceedings to remedy clinical and communication problems of Board licensees.

- Increases State Dental Board fees.

Board of Nursing fees

- Increases the fee for biennial renewal of a nursing license and establishes two new Board of Nursing fees.

- Authorizes the Board of Nursing to solicit and accept grants and services to develop and maintain a program that addresses patient safety and health care issues related to the supply of and demand for nurses and other health care workers.

State Medical Board

- Eliminates a provision under which the amount charged for a certificate to practice medicine or osteopathic medicine is reduced by the amount paid for a training certificate if the training certificate was issued not longer than four months before application for the certificate to practice.

- Requires an individual applying for a certificate to practice podiatry to present to the State Medical Board proof of completion of one year of postgraduate training in a podiatric internship, residency, or clinical fellowship program accredited by the Council on Podiatric Medical Education or the American Podiatric Medical Association.

- Requires an individual seeking to pursue an internship, residency, or clinical fellowship program in podiatric medicine to apply to the State Medical Board for a training certificate, unless the individual holds a certificate to practice podiatry.

County child welfare allocation

- Changes the way a reduction in a county's child welfare allocation is calculated by eliminating consideration of the county's expenditure of federal social services (Title XX) funds in determining whether a county spent less on services to children than in the preceding year.

- Repeals a provision that generally prohibited consideration of a reduction in funds due to sanction in determining whether the county spent less on services to children than in the preceding year.

- Eliminates the requirement that ODJFS prepare an annual report detailing on a county-by-county basis child welfare services provided.

Administrative funds for foster care and adoption assistance programs

- Increases to 3% (from (2%) the amount that ODJFS may withhold from federal funds for administrative and training costs incurred in the operation of foster care maintenance and adoption assistance programs and provides that the amount withheld may be used, in addition to funding the Ohio Child Welfare Training Program, to fund the university partnership program.

Child Welfare Training Fund

- Eliminates a provision of law that allows a government entity, private child placing agency (PCPA), or private noncustodial agency (PNA) to request that the Ohio Department of Job and Family Services (ODJFS) determine what portion of an amount the agency or entity charges for foster care maintenance for a child who qualifies for reimbursement under Title IV-E of the Social Security Act.

- Eliminates the requirement that the Department of Job and Family Services levy a special assessment on each PCPA, PNA, or government entity seeking a foster care maintenance rate determination and that the Department deposit moneys collected from the assessments into the Child Welfare Training Fund.

- Eliminates the Child Welfare Training Fund in the state treasury which the Department uses to secure federal matching funds under Title IV-E to help defray allowable and reasonable costs PCPAs, PNAs, and government entities incur in training staff and foster caregivers.

- Eliminates a provision that allows the Department to require a private agency or government entity that receives payment from the Child Welfare Training Fund for training costs to pay or help pay the cost of an adverse audit finding that the agency or entity causes or contributes to.

- Eliminates a provision that allows the Department to require all PCPAs, PNAs, and government entities that receive payments from the Child Welfare Training Fund for training costs to share in the cost of an adverse audit finding that PCPA, PNA, or government entity no longer in existence caused or contributed to.

Child care agency financial rules and training reimbursement

- Eliminates requirement that ODJFS establish a single form for reporting costs reimbursable under Title IV-E for foster care and adoption assistance and costs reimbursable under Medicaid and requires that the costs be distinguished in cost reports.

- Requires that a public children services agency, PCPA, or PNA acting as a recommending agency for a foster caregiver, rather than ODJFS, pay

the foster caregiver a stipend as reimbursement for attending training courses.

Consolidate grant of state aid for county children services

- Permits ODJFS, with the consent of a county, to combine into a single and consolidated grant, state funds provided to the county for child welfare services and kinship care.

Kinship care navigator program

- Eliminates the requirement that ODJFS establish a program providing support services to kinship caregivers and replaces it with a kinship care navigator program that provides kinship caregivers information and referral services and assistance in obtaining the support services that were required to be provided under the eliminated support service program.

- Provides for payments, within available funds, to public children services agencies for providing services under the kinship care navigator program.

- Permits ODJFS to provide training and technical assistance concerning needs of kinship caregivers to employees of public children services agencies and other persons and entities that serve kinship caregivers or perform the duties of a kinship care navigator and are under contract with an agency.

- Permits ODJFS to adopt rules to implement the kinship care navigator program.

Food stamp benefits and county identification cards

- Eliminates the requirement that a system for mail issuance of food stamp benefits be maintained and statutorily recognizes the statewide practice of issuing food stamp benefits in electronic form.

- Permits a county department of job and family services to issue, at the county department's expense, identification cards to recipients of benefits or services under any assistance program the county department administers.

Family Violence Prevention and Services Act

- Transfers from ODJFS to the Office of Criminal Justice Services the administration of funds received under the federal Family Violence Prevention and Services Act.

Burial expenses

- Eliminates law under which persons entitled to receive payment for funeral, cremation, cemetery, and burial expenses of deceased public assistance recipients may receive state funds to defray those expenses.

TANF Federal Fund

- Creates the Temporary Assistance for Needy Families (TANF) Federal Fund to receive federal funds for Ohio Works First, the Prevention, Retention, and Contingency program, and other purposes consistent with state and federal laws.

- Permits the Ohio Department of Job and Family Services (ODJFS) to provide, as part of the Ohio Child Welfare Training Program, preplacement and continuing training that foster caregivers must obtain for issuance or renewal of a foster home certificate.

- Requires the training program steering committee, which is charged with the duty of monitoring the Ohio Child Welfare Training Program, to ensure that the preplacement and continuing training meets the requirements of ODJFS for the training.

- Requires ODJFS to reimburse the Ohio Child Welfare Training Program for the cost of providing training to foster caregivers and to pay certain foster caregivers for attending the training.

Ohio Works First

- Provides that a minor who is at least six months pregnant and a member of an assistance group that does not include an adult is a minor head of household under Ohio Works First (OWF) and therefore subject to the minor head of household requirements, including entering into a self-sufficiency contract and satisfying work responsibilities.

- Provides that the OWF time limit applies to an assistance group that includes an individual who has participated in the program for 36 months as an adult or minor head of household or spouse of an adult or minor head of household.

- Permits a county department of job and family services to exempt not more than 20% of the average monthly number of OWF assistance groups, rather than participants, from the time limits on the basis of hardship and requires ODJFS to monitor the percentage of assistance groups exempted on a county-by-county basis.

- Changes requirements governing reports by ODJFS about participation in the Ohio Works First Program.

Prevention, Retention, and Contingency Program

- Requires that ODJFS's model design for the Prevention, Retention, and Contingency (PRC) program establish or specify eligibility requirements, the help to be provided under the program, administrative requirements, and other matters determined necessary.

- Eliminates a restriction that the PRC program serve only assistance groups that include at least one minor or a pregnant woman.

- Provides that benefits and services provided under the PRC program must be an allowable use of federal TANF funds, except that they may not be "assistance" as defined in a federal TANF regulation.

- Provides that the ODJFS model design and the policies of a county department of job and family services for the PRC program may establish eligibility requirements for, and specify benefits and services to be provided to, types of groups, such as students in the same class, that share a common need for the benefits and services.

- Provides that the ODJFS model design and the policies of a county department of job and family services for the PRC program may specify benefits and services that the county department may provide for the general public.

- Provides that benefits and services provided under the PRC program are inalienable whether by way of assignment, charge, or otherwise and are exempt from execution, attachment, garnishment, and other like process.

Medicaid single state agency

- Requires ODJFS, as the Medicaid single state agency, to comply with a federal regulation governing Medicaid single state agencies.

- Provides that ODJFS's rules governing Medicaid are binding on other agencies that administer Medicaid components and prohibits any other agency from establishing a policy governing Medicaid that is inconsistent with an ODJFS-established Medicaid policy.

- Provides that ODJFS may enter into interagency agreements with one or more other state agencies to have the state agency administer one or more Medicaid components under ODJFS's supervision.

- Requires a state agency that enters into an interagency agreement with ODJFS to administer a Medicaid component to reimburse ODJFS for the nonfederal share of the cost to ODJFS of a fiscal audit if rules governing the component require that a fiscal audit be conducted.

- Requires the Director of Job and Family Services to submit a state Medicaid plan amendment to the federal government to implement the Breast and Cervical Cancer Prevention and Treatment Act of 2000 under which certain uninsured women under age 65 receive Medicaid during the period treatment for breast or cervical cancer is needed.

Medicaid managed care

- Eliminates a requirement that ODJFS establish in specified counties a managed care system for qualified Medicaid recipients to obtain health care services from providers designated by the Department, but continues to permit the Department to establish such a program in any county.

- Eliminates a provision allowing the Department to issue requests for proposals from managed care organizations and specifies that the Department may enter into contracts with managed care organizations to provide health care services to qualified Medicaid recipients.

- Eliminates a provision allowing a health insuring corporation under a contract with the Department to enter into an agreement with any community based clinic for the provision of medical services to Medicaid recipients participating in a managed care system.

- Permits ODJFS to provide financial incentive awards to managed care organizations that provide Medicaid services for meeting or exceeding specified performance standards.

- Allows the Department to specify in a contract with a managed care organization the amounts of financial incentive awards, methodology for distributing awards, types of awards, and standards for administration by the Department.

- Creates the Health Care Compliance Fund to collect fines imposed on managed care organizations that provide Medicaid services for failure to meet performance standards or other requirements.

- Permits moneys credited to the Health Care Compliance Fund to be used to reimburse managed care organizations that have paid fines and come into compliance with Department requirements, and to provide financial incentive awards to managed care organizations that meet or exceed performance standards.

Medicaid nursing facility reimbursement

- Provides that in determining Medicaid reimbursement a nursing facility's (NF's) licensed bed days available (capacity), rather than its inpatient days (occupancy), is to be used as a factor in determining capital, indirect care, and other protected cost per diems for services provided on or after July 1, 2001.

- Provides that, for the purpose of calculating rates to be paid for NF services provided on or after July 1, 2001, quarterly case-mix scores are to be determined using data for Medicaid recipients only.

- Eliminates a requirement that ODJFS annually report to the Speaker of the House of Representatives and Senate President on any necessary refinements to the case-mix system for reimbursing direct care costs under the Medicaid program.

- Eliminates the return on equity factor in NFs' Medicaid capital cost payments.

- Eliminates a formula used to determine the amount an NF owner must refund to ODJFS for excess depreciation when the owner sells the NF.

- Provides that an NF's capital cost payment for assets in the NF's possession on July 1, 1993, is no longer to be calculated under a formula established by former law when that calculation produces a higher rate than the formula established by current law.

- Provides that the only circumstance that ODJFS must specify in rules as warranting a reconsideration of an NF's Medicaid reimbursement rate is an inner-city NF's increased security costs.

Facility closure or change in NF or ICF/MR operator

- Requires both the entering and exiting operator of an NF or ICF/MR to provide ODJFS written notice before an intended change of operator.

- Provides that an NF or ICF/MR is not required to undergo Medicaid recertification as a condition of an entering operator entering into a Medicaid provider agreement with ODJFS if certain conditions are met, including meeting a requirement that the entering operator assume any remaining Medicaid debt to ODJFS that ODJFS is unable to collect from the exiting operator.

- Provides that an exiting operator is considered to be the operator of an NF or ICF/MR until the effective date of the entering operator's Medicaid provider agreement, ODJFS is not responsible for payments made to the exiting operator before that date, and no rate adjustment resulting from the change of operator is effective before that date.

- Requires that ODJFS, on receipt of an NF or ICF/MR operator's written notice of an intended facility closure or change of operator, to determine the amount of any overpayments the Medicaid program made to the exiting operator, including overpayments the exiting operator disputes, and other actual and potential Medicaid debts the exiting operator owes or may owe.

- Requires that ODJFS withhold from Medicaid payments due an exiting operator the greater of (1) the total amount of ODJFS's preliminary determination of the exiting operator's Medicaid debt and (2) the average monthly Medicaid payment made to the exiting operator in the twelve months before the change of operator or facility closure occurs.

- Provides that, if Medicaid payments due an exiting operator are less than the amount ODJFS is required to withhold, ODJFS may require that the exiting operator provide the difference in the form of an acceptable security.

- Requires that ODJFS release the actual amount withheld from an exiting operator if the exiting operator files a complete and adequate cost report and provides ODJFS an acceptable security in the amount ODJFS is required to withhold from the exiting operator, less any of that amount already provided to ODJFS in the form of an acceptable security.

- Requires that an exiting operator file with ODJFS a cost report no later than 90 days after the effective date of an entering operator's Medicaid provider agreement or the date of a facility closure.

- Provides that, if an exiting operator fails to file a timely and adequate final cost report, all Medicaid payments for the period the cost report covers are deemed overpayments until the date ODJFS receives the complete and adequate cost report and ODJFS may impose on the exiting operator a penalty of $100 for each calendar day the report is late.

- Requires that ODJFS determine the actual amount of all final debts an exiting operator owes ODJFS under the Medicaid program by completing all audits not already completed and performing all other appropriate actions ODJFS determines to be necessary.

- Provides that ODJFS must release the withholdings and security held under the bill 91 days after the date an exiting operator files a complete and adequate final cost report unless ODJFS, within 90 days of that date, completes the report on the exiting operator's final Medicaid debt.

- Provides that, if ODJFS completes the report on the exiting operator's final Medicaid debt within 90 days of the date an exiting operator files a complete and adequate cost report, ODJFS must release the withholding

and security no later than 15 days after the exiting operator agrees to a final settlement resulting from the report.

- Provides that ODJFS is to keep from a withholding and security any amount an exiting operator owes ODJFS under the Medicaid program.

- Provides that, if transactions leading to a change of operator are canceled or postponed for more than 90 days, or a facility closure does not occur as reported in a written notice, ODJFS must release a withholding and security on receipt of written notice from the exiting operator of the cancellation or postponement.

- Gives ODJFS sole discretion as to whether to release a withholding and security if transactions for a change of operator or facility closure are postponed for at least 30 days but less than 90 days beyond the originally proposed date for the change or closure.

- Authorizes ODJFS to impose a penalty on an NF or ICF/MR operator who fails to provide notice of a facility closure or change of operator in an amount not exceeding the current average bank prime rate plus four per cent of two month's average Medicaid payments to the operator.

Medicaid payments to long-term care facilities

- Eliminates a requirement that the Medicaid provider agreement of a nursing facility or ICF/MR contain provisions regarding the time by which the Department of Job and Family Services must make Medicaid payments.

Medicaid waiver programs

- Authorizes the Director of ODJFS to adopt rules governing components of the Medicaid program authorized by federal waivers, including rules that establish eligibility requirements for the waiver components and the type, amount, duration, and scope of services the waiver components may provide.

- Authorizes the Director of ODJFS to conduct reviews of Medicaid waiver components, including physical inspections of records and sites where services are provided under a waiver component and interviews of providers and recipients of the services.

- Authorizes the Director of the Ohio Department of Job and Family Services (ODJFS) to seek federal approval to create a new, or modify an existing, Medicaid home and community-based services waiver program to serve individuals with mental retardation or a developmental disability who (1) need the level of care provided by intermediate care facilities for the mentally retarded, (2) need habilitation services, and (3) are transferred from the Ohio Home Care Waiver program to the new or modified waiver program.

- Provides that the Director of ODJFS may reduce the maximum number of individuals the Ohio Home Care Waiver program may serve by the number of individuals transferred from that program to the new or modified home and community-based services waiver program.

- Permits ODJFS to administer the new or modified home and community-based services waiver program or, subject to the approval of the Director of Budget and Management, enter into an interagency agreement with the Ohio Department of Mental Retardation and Developmental Disabilities (ODMR/DD) for ODMR/DD to administer the waiver program under ODJFS's supervision.

Ohio Access Project

- Authorizes the Director of ODJFS to establish the Ohio Access Project to help Medicaid recipients make the transition from residing in a nursing facility to residing in a community setting.

- Specifies the eligibility requirements for, and the benefits to be provided under, the Ohio Access Project.

- Requires that the Director of Job and Family Services seek federal approval to continue operation of the Program of All-Inclusive Care for the Elderly (PACE).

- Authorizes the Director of Job and Family Services to enter into an interagency agreement with the Director of Aging, subject to the approval of the Director of Budget and Management, to transfer responsibility for the administration of PACE from the Department of Job and Family Services to the Department of Aging.

- Revokes the authority of the Director of Job and Family Services to adopt a rule excluding drugs for the treatment of obesity from coverage under the Medicaid program.

- Requires that the Director of JFS report to the chairperson and ranking minority member of the House and Senate finance committees regarding an evaluation of whether the Medicaid program should cover federally approved anti-obesity agents.

- Requires that the Director of Job and Family Services evaluate the Preferred Option component of Medicaid's managed care system and submit a report on the evaluation to the Governor and legislative majority leaders no later than June 30, 2003.

Prescription Drug Rebates Fund

- Establishes the Prescription Drug Rebates Fund in the state treasury for the deposit of manufacturer rebates for covered Medicaid outpatient drugs.

- Requires federal matching funds received as a result of expenditures from the Prescription Drug Rebates Fund to be credited to the Hospital Care Assurance Program (HCAP) Match Fund and used toward the federal share of expenditures under Medicaid.

- Delays HCAP's termination date from July 1, 2001 to October 15, 2003.

- Subjects law requiring provision of services to indigents by HCAP compensated hospitals to the termination date to which HCAP is subject.

Disability Assistance Program

- Maintains the current grant levels for the Disability Assistance program.

Community mental health services

- Requires that an application be made for a waiver of federal Medicaid requirements to allow community mental health services to be covered by Medicaid according to the priorities set by the Department of Mental Health and boards of alcohol, drug addiction, and mental health services.

ADAMH board interaction with public children services agencies

- Requires the adoption of rules for prior notification and service coordination between public children services agencies and boards of alcohol, drug addiction, and mental health services.

- Requires formulation of a plan that delineates the funding responsibilities that apply to Medicaid-covered community mental health services provided to children in the custody of public children services agencies.

- Requires the Department of Mental Health to reduce its requirements for certification of community mental health providers for the purpose of increasing cost-effectiveness of services.

- Requires the Department of Mental Health to adopt rules and establish criteria for use in certifying providers of community mental health services and evaluating whether they have prevented inappropriate service delivery.

- Requires that promotion of health and safety be included in the Department of Mental Health's program to protect and promote the rights of consumers of mental health services.

- Changes how ODADAS allocates alcohol and drug addiction services funds based on the ratio of the population of an alcohol, drug addiction and mental health service district to the state's population.

- Requires ODADAS to establish a plan to evaluate the current per capita allocation formula.

Certification of mental health facilities

- Eliminates certain responsibilities for the certification of mental health facilities held by the Department of Mental Health and its Director, and provides certain accrediting organizations with the authority to approve the outpatient mental health facilities formerly certified by the Department of Mental Health.

Oversight of Department of Rehabilitation and Correction mental health programs

- Eliminates Department of Mental Health (ODMH) oversight and audit duties regarding Department of Rehabilitation and Correction (ODRC) mental health programs.

- Eliminates requirement that ODMH and ODRC jointly develop standards for audits of ODRC mental health programs.

Medicaid-funded mental retardation and developmental disability services

- Requires ODJFS to adopt rules governing Medicaid coverage of habilitation center services provided by habilitation centers certified by the Ohio Department of Mental Retardation and Developmental Disabilities (ODMR/DD).

- Requires ODMR/DD to accept and process Medicaid reimbursement claims from habilitation centers providing habilitation center services to Medicaid recipients and pay the Medicaid claims pursuant to an interagency agreement with ODJFS.

- Permits ODJFS to seek federal approval for one or more Medicaid waivers under which home or community-based services are provided to individuals with mental retardation or other developmental disability as an alternative to placement in an intermediate care facility for the mentally retarded.

- For the purpose of obtaining additional federal Medicaid funds for home or community-based services that ODMR/DD administers, habilitation center services, and case management services, permits a county board of mental retardation and developmental disabilities (county MR/DD board) to transfer certain individuals with mental retardation or other developmental disability to home or community-based services.

- Requires a county MR/DD board to give certain individuals with mental retardation or other developmental disability who are eligible for Medicaid-funded home or community-based services that ODMR/DD administers priority over others on waiting lists created for county board services.

- For the purpose of obtaining local administrative authority for Medicaid-funded home or community-based services that ODMR/DD administers, habilitation center services, and case management services, provides for county MR/DD boards to seek approval of a plan from ODMR/DD.

- Requires that ODMR/DD, in consultation with ODJFS and the Office of Budget and Management, approve county MR/DD board plans that include all the required information and conditions.

- Provides that a county MR/DD board may not receive payments under the tax equalization program unless its plan is approved.

- Specifies when ODMR/DD or a county MR/DD board is required to pay the nonfederal share of Medicaid expenditures for home or community-based services that ODMR/DD administers, habilitation center services, and case management services.

- Requires ODMR/DD to charge county MR/DD boards a fee for the purpose of generating funds to be used by ODMR/DD and ODJFS for (1) the administration and oversight of Medicaid-funded home or community-based services, habilitation center services, and case management services that a county MR/DD board develops and monitors and (2) the provision of technical support to county MR/DD boards for their local administrative authority for the services.

- Requires ODMR/DD, in consultation with ODJFS and county MR/DD boards, to plan for paying for extraordinary costs and ensuring the availability of adequate funds in the event a county property tax levy for services for individuals with mental retardation or other developmental disability fails.

- Requires ODMR/DD to adopt rules governing the authorization and payment of Medicaid-funded home or community-based services that ODMR/DD administers, habilitation center services, and case management services.

- Provides for ODMR/DD to certify providers of Medicaid-funded home or community-based services that ODMR/DD administers.

- Provides for ODMR/DD to certify habilitation centers that meet certification requirements established by ODJFS, rather than certification standards established by ODMR/DD.

- Eliminates law that requires ODJFS to enter into an interagency agreement with ODMR/DD with regard to a Medicaid component under which home or community-based services are provided to an individual with mental retardation or other developmental disability as an alternative to placement in a nursing facility.

- Provides for an individual with mental retardation or other developmental disability who moves to a different county to receive ODMR/DD-administered, Medicaid-funded home or community-based services that are comparable in scope to the services the individual receives before moving.

Freedom to choose provider

- Provides that eligible individuals with mental retardation or other developmental disability may choose their provider of supported living, residential, habilitation, vocational, and community employment services.

Arranging residential services and supported living

- Requires, rather than permits, a county MR/DD board to provide or arrange, subject to available resources, residential services and supported living for individuals with mental retardation or other developmental disability.

Certification of supported living providers

- Requires that ODMR/DD rules governing the certification of supported living providers allow a private or government entity that holds a residential facility license to automatically satisfy a standard for certification that the entity had to meet to obtain the residential facility license.

Help Me Grow

- Creates the Help Me Grow program in the Department of Health to encourage early prenatal care and well-baby care and prohibits the

program from conducting home visits unless requested in writing by an infant or toddler's parent.

CONTENT AND OPERATION

HEALTH AND HUMAN SERVICES

Family Services Stabilization Fund

(R.C. 131.41 (repealed))

Current law establishes a "rainy day fund" for family services purposes called the Family Services Stabilization Fund. The Director of Budget and Management is authorized to transfer money in the fund to the General Revenue Fund (GRF) to cover identified shortfalls in programs administered by the Department of Job and Family Services that are brought on by such things as higher caseloads and federal funding changes. A transfer can be made only after the Director and Department exhaust the possibilities for using other money within the Department's budget.

The bill abolishes the Family Services Stabilization Fund.

County credit card use by public children services agencies

(R.C. 301.27)

Existing law establishes procedures for monitoring a county employee's use of a credit card held by the office of a county appointing authority. The law specifies the work-related expenses for which a credit card may be used.

The bill allows an employee of a public children services agency to use the agency's credit card to make purchases for children in the agency's custody or care.

Children's Trust Fund

(R.C. 3109.14)

The Children's Trust Fund finances child abuse and child neglect prevention programs through fees collected for copies of certain vital records or for filing for a divorce decree or a decree of dissolution. These fees are in addition to those charged by state and local officials for administration of the vital statistics law and operation of the courts.

The additional fee for a certified copy of a birth record, certification of birth, or copy of a death record is $2. The bill increases the additional fee to $3 effective October 1, 2001.

The additional fee for filing for a divorce decree or a decree of dissolution is $10. The bill increases the additional fee to $11 effective October 1, 2001.

Ohio Hepatitis C Advisory Commission

(R.C. 3701.92)

The bill creates the Ohio Hepatitis C Advisory Commission in the Department of Health. The Commission is to be composed of 15 members, 11 appointed by the Director of Health, two by the Speaker of the House of Representatives, and two by the President of the Senate. Members are to serve without compensation for a term of one year.

Moratorium on long-term care beds

(R.C. 3702.68; Sections 141 and 142)

Ohio law prohibits building or expanding the capacity of a long-term care facility without a certificate of need (CON) issued by the Director of Health. The bill continues, until October 16, 2003, a provision that was scheduled to expire July 1, 2001, prohibiting the Director of Health from accepting for review any application for a CON for any of the following purposes:

(1) Approval of beds in a new health care facility or an increase in beds in an existing health care facility, if the beds are proposed to be licensed as nursing home beds;

(2) Approval of beds in a new county home or county nursing home, or an increase of beds in an existing county home or county nursing home, if the beds are proposed to be certified as skilled nursing facility beds under Medicare or nursing facility beds under Medicaid;

(3) An increase of hospital beds registered as long-term care beds or skilled nursing facility beds or recategorization of hospital beds that would result in an increase of beds registered as long-term care beds or skilled nursing facility beds.

The bill modifies a provision that requires the Director to continue to accept for review a CON application for nursing home beds in a health care facility, or skilled nursing facility beds or nursing facility beds in a county home or county nursing home, if the application is to replace or relocate existing beds within the

same county. The modification is that if the health care facility operates as an intermediate care facility for the mentally retarded, the Director may accept a CON application only if it is for a replacement of existing beds (see "***Relocation of existing beds in certain nursing homes***," below). Under the bill, the Director also must accept an application seeking CON approval for existing beds located in an infirmary that is operated exclusively by a religious order, provides care exclusively to members of religious orders who take vows of celibacy and live by virtue of their vows within the orders as if related, and was providing care exclusively to members of such a religious order on January 1, 1994.

A prohibition against the Director accepting an application for a CON to recategorize hospital beds as skilled nursing beds continues indefinitely beyond July 1, 2003.

Relocation of existing beds in certain nursing homes

(R.C. 3702.68 and 3721.07; Sections 157 and 158)

Under current law, the Director of Health may accept a CON application for a replacement or relocation of existing nursing home beds (see "***Moratorium on long-term care beds***," above). Under the bill, if the health care facility in which the beds are located is a nursing home that operates as an intermediate care facility for the mentally retarded (ICF-MR), the Director may accept a CON application only if it is for a replacement of existing beds. However, the Director is required to continue to review and issue a decision on any CON application to relocate existing beds that is pending on the bill's effective date.

If a nursing home operating as an ICF-MR seeks to relocate existing beds on or after the bill's effective date, the bill requires the nursing home to apply to the Department of Mental Retardation and Developmental Disabilities (DMR/DD) for a license as a residential facility. The bill excepts from the current moratorium on the issuance of new licenses for residential facilities a nursing home operating as an ICF-MR if the sole purpose of the issuance is a relocation of existing beds in the same county (see "***Moratorium on new MR/DD residential facility beds***," below). If a nursing home operating as an ICF-MR obtains a license from DMR/DD, the nursing home's license issued by the Director of Health under the law regulating nursing homes terminates.

Moratorium on new MR/DD residential facility beds

(Sections 157 and 158)

The bill modifies and continues, until October 15, 2003, a prohibition on the issuance of development approval for or licensure of any new residential facility beds for persons with mental retardation or developmental disabilities.

Background

During state fiscal years 2000-2001, current law prohibits the Department of Mental Retardation and Developmental Disabilities (DMR/DD) from issuing development approval for or licensure of any new residential facility beds, except in an emergency. DMR/DD is required to adopt rules under the Administrative Procedure Act to specify what constitutes an emergency. Under current law, neither of the following are considered new beds for purposes of the moratorium: (1) beds relocated from one facility to another and (2) beds that replace ones that no longer comply with Medicaid standards.

The bill

Under the bill, during the period beginning on July 1, 2001, and ending on October 15, 2003, the Director of MR/DD must refuse to approve a proposal for the development of residential facility beds or to issue a license to a new residential facility if the approval or issuance will result in an increase in the number of residential facility beds, including those certified as intermediate care facility for the mentally retarded (ICF-MR) beds under Medicaid. The bill no longer permits the Department to approve a development proposal or issue a license in an emergency; however, the bill does specify that a modification, replacement, or relocation of existing beds in a residential facility is not a bed increase. The Director must adopt rules under the Administrative Procedure Act specifying what constitutes a modification or replacement of existing beds.

In addition, the bill provides that, during the period beginning on July 1, 2001, and ending on October 15, 2003, the Director may issue a license to certain nursing homes operating ICF-MR beds if the sole purpose of the issuance is to relocate existing beds within the same county. The Director may not authorize any additional beds beyond those being relocated.

Involuntary transfer or discharge from a nursing home

(R.C. 3721.12, 3721.16, 3721.17, 5111.63, and 5111.64)

Background

The Director of Health administers the nursing home licensing laws. Current law applicable to both private-pay nursing homes and Medicare- or Medicaid-certified nursing homes provides that a resident has certain rights when the home proposes a discharge or transfer. Ohio law generally conforms to the federal law requirements for the transfer or discharge of Medicare- or Medicaid-covered residents—the law that all states must follow to receive Medicare or Medicaid funds.[54] However, current law differs from the federal law requirements in that a resident who seeks to appeal a proposed transfer or discharge from a facility may do so, but the decision on the appeal is not enforceable by the Director of Health against the nursing home.

The bill

Under the bill, the Director of Health continues to have responsibility for hearing an appeal by a resident of a proposed transfer or discharge from a private-pay nursing home. However, the bill establishes another hearing procedure for residents to appeal a proposed transfer or discharge from a Medicare- or Medicaid-certified nursing home (referred to under the federal law requirements as a "skilled nursing facility" or "nursing facility," respectively).[55]

Grounds for transfer or discharge and notice

The bill codifies in Ohio law the circumstances specified in federal law under which the administrator of a Medicare-certified skilled nursing facility or Medicaid-certified nursing facility may transfer or discharge a resident.[56] In addition, the bill provides that the administrator is required to notify, in writing, the resident and the resident's sponsor or legal representative of a proposed

---

[54] *Medicare is a federal health insurance program for eligible persons who are age 65 or older or disabled. Medicaid is a joint state-federal health plan that provides health care coverage to families, children, aged, and disabled persons who meet criteria established by the Social Security Act, federal regulations, the Ohio Revised Code, and Ohio administrative rules.*

[55] *The bill excludes from the definition of "facility" a nursing facility that is certified as an intermediate care facility for the mentally retarded.*

[56] *(42 C.F.R. 483.12.)*

transfer or discharge. Notice is required to conform to the requirements specified in federal law.

Not later than 90 days after the date a resident receives notice of a proposed transfer or discharge, the resident may request a hearing before the Ohio Department of Job and Family Services (ODJFS). The bill specifies that a facility must permit a resident to remain in the facility pending the order of the hearing officer if the resident requests a hearing not later than 10 days after the date the resident receives notice.

Hearing procedure

Under the bill, ODJFS is required to establish and administer a hearing procedure for a resident of a Medicare- or Medicaid-certified facility to appeal a proposed transfer or discharge from a facility. ODJFS is authorized to contract with the Department of Health to establish and administer the hearing procedure and, if ODJFS does so, the Department of Health has the same authority as ODJFS.

The hearing procedure must provide for all of the following:

(1) The hearing to be conducted by a hearing officer who is to be an ODJFS employee or a hearing examiner who is under contract with ODJFS;

(2) The hearing to be tape-recorded;

(3) The hearing officer to issue an order based on the facts presented at the hearing not later than 90 days after receipt of the request for hearing;

(4) Notice of the contents of the order to be provided to the resident and the administrator of the facility.

The bill specifies that the order of the hearing officer is final and not subject to appeal. ODJFS may adopt rules in accordance with the Administrative Procedure Act (Revised Code Chapter 119.) to implement the hearing procedure.

Enforcement

If ODJFS finds that a facility is in violation of the order of a hearing officer, ODJFS may apply to the court of common pleas of Franklin County or the county in which the facility is located for an order enjoining the violation or other appropriate relief to prohibit the violation. If the court finds that the facility is in violation of the order, the court must grant the injunction, restraining order, or other appropriate relief. The court may award payment of reasonable attorney fees by the facility.

Health insuring corporation policy to cover return to long-term care facility

(Sections 147 and 148)

The bill extends, until October 16, 2003, a requirement that, if certain conditions exist, each health insuring corporation policy, contract, certificate, or agreement delivered, issued for delivery, or renewed in Ohio that provides benefits for skilled nursing care through a closed panel plan provide reimbursement for medically necessary covered skilled nursing care services an enrollee receives in a skilled nursing facility, continuing care facility, or home for the aging even though the facility or home does not participate in the closed panel plan. Under current law, this requirement is to expire July 1, 2001. The following are the conditions that must exist:

(1) The enrollee or the enrollee's spouse, on or before September 1, 1997, resided in or had a contract to reside in the facility or home.

(2) The enrollee or the enrollee's spouse, immediately prior to the enrollee being hospitalized, resided in the facility or home or had a contract to reside in the facility or home and, following the hospitalization, the enrollee resides in a part of the facility or home that is a skilled nursing facility, regardless of whether the enrollee or spouse resided in or had a contract to reside in a different part of the facility or home prior to the enrollee's hospitalization.

(3) The facility or home provides the enrollee the level of skilled nursing care that the enrollee requires.

(4) The facility or home is willing to accept from the health insuring corporation all of the same terms and conditions that apply to a facility or home that provides skilled nursing care and is participating in the corporation's closed panel plan. (R.C. 1751.68.)

Ohio Health Care Data Center

(R.C. 125.22, 2317.02, 2317.022, 3902.23, and 4121.44; repeal R.C. 3702.17 and Chapter 3729.)

The bill repeals the provisions of current law (Revised Code Chapter 3729.) that require the Director of Health to establish, in consultation with the Health Data Advisory Committee, the Ohio Health Care Data Center in the Department of Health.[57] Under current law, the center is required to perform a number of duties

[57] *Under current law, the Health Data Advisory Committee consists of the directors of certain state agencies. According to representatives of the Department of Health, the committee has not met. In eliminating the data center, the bill abolishes the committee.*

relating to the collection and dissemination of health care data, other than price and price-related data. Some of those duties include data collection and analysis, conducting surveys, and issuing reports. For example, the center is required to facilitate the coordination of health care policies among state agencies by improving the systems of collection and dissemination of health care data to providers, payers, consumers, and purchasers of health care services. In addition, the center is required to collect financial and nonfinancial health care data concerning health care access, quality, and costs and to analyze the data it collects. The center is to conduct surveys and issue a number of reports that contain the data analyzed. The bill eliminates all references to the center from current law.

Funds for designation of pediatric trauma centers

(R.C. 4511.81)

The Child Highway Safety Fund, which consists of money from fines paid by motor vehicle operators who do not properly use child restraint systems, currently may be used by the Department of Health to administer a child highway safety program and to defray the cost of operating a temporary program for state designation of hospitals as Level II pediatric trauma centers.

The bill makes technical corrections in cross-references pertaining to the Department's authority to use part of the fund for designating hospitals as pediatric trauma centers.

Dental Board quality intervention program

(R.C. 4715.03 and 4715.031)

The bill requires the State Dental Board to develop and implement a quality intervention program for licensees who the Board determines would benefit from educational or clinical services in lieu of disciplinary proceedings.[58] If the Board determines pursuant to an investigation that there are reasonable grounds to believe that a licensee has violated the licensing law due to a clinical or communication problem that could be remedied by participation in the program, it may propose that the license holder participate in the program. If the licensee agrees to participate, the Board is to select and refer the licensee to an educational and assessment service provider. The educational and assessment service provider is to recommend services designed to remedy the licensee's clinical or communication problem. Providers may include quality intervention program

[58] *The Board licenses dentists, dental hygienists, and dental x-ray machine operators.*

panels of case reviewers. If the Board approves the recommendation, the licensee may begin receiving the services at the licensee's expense.

The bill also requires the Board to monitor a licensee's progress in the program. If the Board determines that the licensee has successfully completed the program, the Board may continue to monitor the licensee or take other action it considers appropriate, or both. The Board must commence disciplinary action if it determines the licensee has not successfully completed the program. The Board may adopt rules to implement the quality assurance program. The rules must be adopted in accordance with provisions of the Administrative Procedure Act (R.C. Chapter 119.) that require public hearings.

Dental Board fees

(R.C. 4715.13, 4715.14, 4715.16, 4715.21, 4715.24, and 4715.27)

The bill increases by approximately 35% the following State Dental Board fees:

Reason for fee	Fee in current law	Fee under the bill
License by examination to practice dentistry issued in odd-numbered year	$141	$190
License by examination to practice dentistry issued in even-numbered year	$235	$317
License by endorsement to practice dentistry issued in odd-numbered year	$141	$190
License by endorsement to practice dentistry issued in even-numbered year	$235	$317
Duplicate of lost license to practice dentistry	$15	$20
General anesthesia permit	$94	$127
Conscious intravenous sedation permit	$94	$127
Biennial registration to practice dentistry	$163	$220
Reinstatement of suspended license to practice dentistry	$60	$81
Limited resident's license to practice dentistry as a resident at a dental college or hospital	$7.50	$10

Reason for fee	Fee in current law	Fee under the bill
Limited teaching license to practice dentistry in connection with an endorsing dental college	$75	$101
Temporary limited continuing education license to practice dentistry as part of a continuing dental education practicum	$75	$101
License to practice as a dental hygienist issued in odd-numbered year	$71	$96
License to practice as a dental hygienist issued in even-numbered year	$109	$147
Biennial registration to practice as a dental hygienist	$75	$101
Reinstatement of suspended license to practice as a dental hygienist	$23	$31
Dental hygienist teacher's certificate	$43	$58

Board of Nursing program to address supply of nurses and other workers

(R.C. 4723.062)

The bill authorizes the Board of Nursing to solicit and accept grants and services to develop and maintain a program that addresses patient safety and health care issues related to the supply of and demand for nurses and other health care workers. The Board is prohibited from soliciting or accepting a grant or service that interferes with its independence or objectivity.

The Board is required by the bill to deposit money it receives for the program into the Nursing Special Issue Fund, which the bill creates in the state treasury. The Board is to use money in the Fund to pay the costs it incurs in implementing the program.

Board of Nursing fees

(R.C. 4723.08; ancillary section: 4723.79)

The bill increases the amount the Board of Nursing charges for biennial renewal of a nursing license to $45 (from $35). This 28.57% increase applies to nursing licenses that expire on or after September 1, 2003.

The bill creates a $100 fee for reinstatement of a dialysis technician certificate. The bill also creates a $25 fee for processing checks returned to the Board for nonpayment.

No reduction in fee for certificate to practice medicine

(R.C. 4731.14)

The State Medical Board has authority under current law to issue a training certificate to an individual pursuing an internship, residency, or clinical fellowship. If the individual applies for a certificate to practice medicine or osteopathic medicine not later than four months after receiving the training certificate, the fee for the certificate to practice is reduced by the amount paid for the training certificate.

The bill eliminates this reduction.

Podiatric internship, residency, or clinical fellowship program

(R.C. 4731.53 and 4731.573)

Current law does not require an individual seeking a certificate to practice podiatry to have completed an internship, residency, or fellowship program. The bill establishes such a requirement.

An individual applying for a certificate to practice podiatry is required by the bill to present to the secretary of the State Medical Board proof of completion of one year of postgraduate training in a podiatric internship, residency, or clinical fellowship program accredited by the Council on Podiatric Medical Education or the American Podiatric Medical Association.

Under the bill, an individual seeking to pursue an internship, residency, or clinical fellowship program in podiatric medicine and surgery must apply to the State Medical Board for a training certificate, unless the individual holds a certificate to practice podiatric medicine and surgery. Unless grounds established by current law for denying a certificate apply, the Board is required to issue the training certificate if the individual applies using an application form the Board is to furnish, pays a $75 application fee, and furnishes the Board all of the following:

(1) Evidence satisfactory to the Board that the individual is at least age 18 and of good moral character;

(2) Evidence satisfactory to the Board that the individual has been accepted or appointed to participate in this state in an internship or residency program accredited by either the Council on Podiatric Medical Education or the American

Podiatric Medical Association or a clinical fellowship program at an institution with a residency program accredited by either the Council on Podiatric Medical Education or the American Podiatric Medical Association that is in a clinical field the same as or related to the clinical field of the fellowship program;

(3) The beginning and ending dates of the internship, residency, or fellowship program;

(4) Any other information that the Board requires.

The Board may not require an examination as a condition of receiving a training certificate.

A training certificate is valid only for one year. The Board may renew a certificate annually for a maximum of five years. Renewal is subject to the Board's discretion, submission of a renewal application, and payment of a $35 renewal fee. The Board is required to maintain a register of all individuals who hold training certificates.

An individual holding a valid training certificate is entitled to perform such acts as may be prescribed by or incidental to his or her internship, residency, or clinical fellowship program. The certificate holder is not entitled otherwise to engage in the practice of podiatric medicine and surgery. The certificate holder must limit activities under the certificate to the programs of the hospitals or facilities for which the certificate is issued. The certificate holder must train only under the supervision of the podiatrists responsible for his or her supervision. The Board is authorized to revoke the certificate on proof, satisfactory to the Board, that (1) the certificate holder has engaged in practice in this state outside the scope of the internship, residency, or fellowship program, (2) the certificate holder has engaged in unethical conduct, or (3) there are grounds under current law for action against the certificate holder.

The bill authorizes the Board to adopt rules as the Board finds necessary to effect the purpose of this provision of the bill.

Calculation of reduction in county child welfare allocation

(R.C. 5101.14)

Currently, ODJFS is required to reduce a county's child welfare allocation if the amount the county spent on child welfare services in the preceding year from local funds and Title XX funds was less than the amount the county spent from

those funds the year before.[59] The bill eliminates consideration of a county's Title XX expenditures, so that a reduction in a county's child welfare allocation is based solely on the amount of local funds expended.

In determining whether a county spent less on child welfare services, a decrease in spending because the county received a reduced allocation in funds as a sanction from ODJFS does not count to the extent that the decrease in spending on child welfare services resulted from the reduced allocation. The bill repeals that restriction so that a reduction in spending that results from an ODJFS sanction could be considered in determining whether a county spent less on child welfare services than in the previous year.

Child welfare services report

(R.C. 5101.14)

ODJFS is required to prepare an annual report to the General Assembly detailing on a county-by-county basis the child welfare services provided with funds distributed by ODJFS. The bill repeals this requirement.

Administrative funds for foster care and adoption assistance programs

(R.C. 5101.141 and 5153.78)

ODJFS receives federal funds to pay part of the administrative and training costs incurred in the operation of foster care and adoption assistance programs. Current law permits up to 2% of this "federal financial participation" to be withheld by ODJFS, but the amount withheld may be used only for the Ohio Child Welfare Training Program. Funding for the Program, in addition to this withholding from federal financial participation, comes from federal funds available under Title XX, Title IV-B, and Title IV-E of the Social Security Act for training costs and from other available state or federal funds.

The bill increases to 3% (from 2%) the amount of federal financial participation ODJFS may withhold and provides that the amount withheld may also be used to fund the university partnership program for college and university students majoring in social work who have committed to work for a public children services agency upon graduation. The bill also specifies that ODJFS is permitted, rather than required, to use any of the three types of funds to fund the Program.

---

[59] *Title XX of the Social Security Act authorizes the federal Social Services Block Grant Program. Funds from the block grant are used by counties for a variety of social services.*

Child Welfare Training Fund

(R.C. 5101.143 (repeal))

The bill eliminates a provision that allows a government entity, private child placing agency (PCPA), or private noncustodial agency (PNA) to request that the Ohio Department of Job and Family Services (ODJFS) determine what portion of an amount the government entity, PCPA, or PNA charges for foster care maintenance for an eligible child qualifies for reimbursement under Title IV-E of the Social Security Act.

The bill eliminates the requirement that, subject to approval by the United States Department of Health and Human Services, the Department levy a special assessment on each PCPA, PNA, or government entity, other than a public children services agency, seeking a rate determination for foster care maintenance payments. The amount of the special assessment is $300 or 15 cents times the number of days the PCPA, PNA, or government entity provided foster care in the preceding calendar year for each child the agency or entity arranged or provided foster care, whichever is greater.

The bill eliminates the Child Welfare Training Fund created in the state treasury to receive moneys collected from the special assessments on each PCPA, PNA, and government entity seeking a rate determination for foster care maintenance payments. The Department is required to use money in the fund to secure federal matching funds under Title IV-E to help defray allowable costs PCPAs, PNAs, and government entities incur in training staff and foster caregivers and to make payments to agencies and entities with those costs.

The bill also eliminates a provision that allows the Department to require a PCPA, PNA, or government entity that receives payment for training costs from the fund to pay or help pay the cost of an adverse audit finding that the agency or entity causes or contributes to. The bill also eliminates a provision that allows the Department to require all PCPAs, PNAs, and government entities that receive payment for training costs from the fund to share in the cost of an adverse audit finding that a PCPA, PNA, or government entity no longer in existence caused or contributed to.

Child care agency financial rules

(R.C. 5101.145, 5103.0312, and 5103.0316)

Existing law provides that ODJFS is the single state agency of Ohio to administer federal payments for foster care and adoption assistance pursuant to Title IV-E of the Social Security Act and must adopt rules to implement that

authority. ODJFS is specifically required to adopt internal management rules governing financial and administrative requirements applicable to public children services agencies (PCSAs), private child placing agencies (PCPAs), and private noncustodial agencies (PNAs). The rules adopted by ODJFS must establish a single form for PCSAs, PCPAs, and PNAs to report costs reimbursable under Title IV-E and costs reimbursable under Medicaid and procedures to monitor those cost reports. The bill eliminates the requirement that ODJFS establish a single form for reporting Title IV-E and Medicaid costs and requires instead that the procedures to monitor cost reports both determine which costs are reimbursable under Title IV-E and ensure that costs reimbursable under Medicaid are excluded from that determination.

Recommending agencies to pay for cost of training

(R.C. 5103.0312 and 5103.0316)

ODJFS is required to make payments for attending training courses pursuant to ODJFS-approved preplacement or continuing training programs. The payments are to be made to foster caregivers who have been issued a foster home certificate and have had at least one foster child placed in their home and are based on a per diem rate ODJFS establishes. ODJFS must pay a foster caregiver for attending preplacement training courses during the first month a foster child is placed in the foster caregiver's home. The bill requires instead that a PCSA, PCPA, or PNA acting as a recommending agency for the foster caregiver pay a stipend to reimburse the foster caregiver for attending training courses and eliminates the requirement that payment be made during the first month a foster child is placed in the home. The payment is to be based on a stipend rate established by ODJFS. Under the bill, ODJFS is required to adopt rules that establish how it will reimburse recommending agencies for making the payments.

Consolidated grant of state aid for county children services

(Section 62.16)

The bill permits the Ohio Department of Job and Family Services (ODJFS), with the consent of a county, to combine into a single and consolidated grant, state funds provided to the county for child welfare services and kinship care. A county may retain in fiscal year 2003 the amount of unspent fiscal year 2002 funds.

The bill provides that funds contained in a consolidated grant are not subject to either statutory or administrative rules that would otherwise govern allowable uses of the funds consolidated into the grant. They must, however, be used to meet the expenses of a county's child welfare program.

Funds contained in a consolidated grant must be paid to each county within 30 days after the beginning of each calendar quarter. The funds must be deposited into the county children services fund. Each county is required to return to ODJFS, within 90 days after the end of fiscal year 2003, any unspent balance in the consolidated grant, unless this provision of the bill is renewed for a subsequent period of time.

Kinship care navigator program

(R.C. 5101.85, 5101.851, 5101.852, and 5101.853)

Current law

Current law requires the establishment of the Kinship Care Services Planning Council in ODJFS with the duty of making recommendations to the Director of ODJFS specifying the types of services that should be included in a program providing support services to kinship caregivers.[60] Current law requires ODJFS, based on the recommendations of the Council, to establish a program providing support services to kinship caregivers that addresses their needs. The program is required to provide support services that include the following: (1) publicly funded child day-care, (2) respite care, (3) training related to caring for special needs children, (4) a toll-free telephone number that may be called to obtain basic information about the rights of, and services available to, kinship caregivers, and (5) legal services. ODJFS is directed to adopt rules to implement the support services program. The rules, to the extent permitted by federal law, may expand eligibility for programs administered by ODJFS in a manner making kinship caregivers eligible for the programs.

The bill--kinship care navigator program

The bill repeals the law establishing the Council and imposing duties on it to make recommendations. The bill also eliminates the requirement that ODJFS

---

[60] Current law not proposed to be changed by the bill defines "kinship caregiver" to mean any of the following who is 18 years old or older and is caring for a child in place of the child's parents: (1) the following individuals related by blood or adoption to the child: grandparents (of any level of relation); siblings; aunts, uncles, nephews, and nieces (of any level of relation); first and second cousins, (2) stepparents and stepsiblings of the child, (3) spouses and former spouses of (1) and (2), and (4) a legal guardian or custodian of the child.

The Council is to make its recommendations to the Director no later than December 1, 1999. After making recommendations, the Council ceases to exist. The Council made its recommendations December 31, 1999, and consequently has ceased to exist.

establish and adopt rules implementing the program providing services to kinship caregivers described above.

Instead of the eliminated program, the bill permits ODJFS to establish a statewide program of kinship care navigators 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. The program must provide to kinship caregivers information and referral services and assistance obtaining support services including those described in (1) to (5) above under "***Current law***."

The bill also provides that ODJFS must, within available funds, make payments to public children services agencies (PCSAs) for the purpose of permitting the agencies to provide kinship care navigator information and referral services and assistance obtaining support services to kinship caregivers pursuant to the kinship care navigator program. ODJFS may provide training and technical assistance concerning the needs of kinship caregivers to employees of PCSAs and to persons or entities that serve kinship caregivers or perform the duties of a kinship care navigator and are under contract with a PCSA.

ODJFS is permitted to adopt rules to implement the kinship care navigator program. The rules must be adopted in accordance with provisions of the Administrative Procedure Act (R.C. Chapter 119.) that require public hearings, except that rules governing fiscal and administrative matters related to implementation of the program are internal management rules and must be adopted in accordance with Ohio law governing adoption of internal management rules.[61]

Format for issuing food stamp benefits

(R.C. 329.042, 5101.184, 5101.54, 5739.02, and 5747.122; R.C. 5101.541, 5101.542, and 5101.543, repealed)

Current law requires ODJFS to have a system of mail issuance of food stamp allotments utilizing direct coupon mailing. The county departments of job and family services are responsible for administering the mailing of coupons. An alternative system may be used in a county where there is little demand for mail issuance, the loss rate of mailed coupons is excessive, or benefits are issued

[61] *"Internal management rule" means any rule, regulation, bylaw, or standard governing the day-to-day staff procedures and operations within an agency. Public hearings are not required for adoption of these rules.*

through a medium of electronic benefit transfer. According to a Department spokesperson, all counties currently use a medium of electronic benefit transfer.

The bill eliminates the requirement that a system of mail issuance of food stamp coupons be maintained and repeals the statutes related to that requirement. At the same time, in recognition of the use of electronic cards in the food stamp program, the bill changes existing law's references to food stamp *coupons* to food stamp *benefits*.

Identification cards issued to assistance recipients

(R.C. 329.19, 5101.19, 5107.10, and 5107.14; R.C. 5101.541(C), repealed)

Current law requires the issuance of an identification card to persons who receive benefits under the Ohio Works First, Disability Assistance, and Food Stamp programs. The identification cards may be issued by the county department of job and family services, or the state Department of Job and Family Services may enter into a contract for another entity to furnish the cards. The state Department is responsible for determining the card's format. All expenses incurred in issuing the cards must be paid from funds appropriated to the state Department.

The bill eliminates the state Department's involvement in issuing identification cards, but permits a county department to continue issuing them. The bill provides that the cards may be used in any assistance program administered by the county department. The bill makes the county department responsible for determining the cards' format, but requires the county department to comply with any state or federal laws governing the issuance of the cards. The duty to pay for the expenses incurred in issuing the cards is transferred from the state Department to the county department, which must use funds available for administrative expenses. The bill eliminates language that recognized the use of county identification cards before July 7, 1972.

Transfer of administration of Family Violence Prevention and Services Act

(R.C. 181.52 and 5101.251; Section 162)

Current law requires ODJFS to administer funds it receives under the federal Family Violence Prevention and Services Act and authorizes it to establish a family violence prevention program. The statute provides that ODJFS has all the powers necessary to administer the funds, including the authority to adopt rules and issue appropriate orders. The bill transfers the duty to administer the funds to the Office of Criminal Justice Services and provides that the Office has all powers

necessary to administer the funds, including the authority to establish a family violence prevention program.

ODJFS and the Office are required to enter into an interagency agreement regarding the transfer of duties, records, assets, and liabilities concerning the administration of funds received under the Family Violence Prevention and Services Act. Subject to statutory layoff provisions and any applicable collective bargaining agreement, ODJFS employees whose primary duties relate to the administration of the funds are transferred to the Office and retain their positions and all of the benefits accruing to them.

Indigent burial expenses

(R.C. 5101.52 (repealed) and 5101.521)

The bill eliminates the requirement that, under certain circumstances, ODJFS pay funeral, cremation, cemetery, and burial expenses of deceased recipients of public assistance, including recipients of Ohio Works First, Disability Assistance, and Supplemental Security Income (SSI); persons who would have been eligible for SSI had they not resided in a county home; and persons who in December, 1973, received assistance under a former program for the aged, disabled, or needy blind.[62] The deceased person must not have had, at the time of death, funds available for the expenses. The total cost of the expenses cannot exceed the amount the Department is authorized to pay: $750, if the deceased person was age 11 or older or $500 if under age 11.

Temporary Assistance for Needy Families (TANF) Federal Fund

(R.C. 5101.821)

The bill creates in the state treasury the Temporary Assistance for Needy Families (TANF) Federal Fund. It requires ODJFS to deposit into the fund federal funds received under Title IV-A of the Social Security Act, except as otherwise approved by the Director of Budget and Management. The Department is to use money in the TANF Federal Fund for Ohio Works First, the Prevention, Retention, and Contingency program, and other purposes consistent with state and federal laws. Currently, federal funds received under Title IV-A are deposited in the General Revenue Fund to the credit of the TANF Federal Block Grant Fund.

[62] *A recipient of Ohio Works First or Disability Assistance must have resided in an unincorporated area.*

Ohio Child Welfare Training Program training for foster caregivers

(R.C. 5103.031, 5103.033, 5103.036, 5103.0313, 5153.60, and 5153.69; secs. not in the bill: 5103.032, 5103.033, 5103.038, 5153.61, 5153.66, and 5153.70)

Current law requires the Ohio Department of Job and Family Services (ODJFS) to establish a statewide program to provide training that public children services agency caseworkers and supervisors are required to complete as part of their jobs. The program is called the Ohio Child Welfare Training Program and is operated by a training coordinator under contract with ODJFS. The training coordinator's actions in developing, implementing, and managing the program are overseen by ODJFS. Monitoring and evaluation of the operation of the program to ensure that it is satisfying the caseworker and supervisor training requirements is the duty of the training program steering committee established by ODJFS.

A foster caregiver must meet certain preplacement training requirements to qualify for a certificate to operate a foster home or to have a child placed with the foster caregiver. Continuing training is also required before a foster home certificate can be renewed for a foster caregiver. Training is provided pursuant to preplacement or continuing training programs approved by ODJFS. To be approved, programs must meet requirements established by ODJFS that include requirements addressing the courses that must be provided and the budget and administration of the program.

The bill permits ODJFS to provide, as part of the Ohio Child Welfare Training Program, preplacement and continuing training that foster caregivers must obtain for issuance or renewal of a foster home certificate. The bill requires the training program steering committee to ensure that if preplacement and continuing training is provided by the Ohio Child Welfare Training Program, it meets the same requirements that preplacement training programs and continuing training programs must meet to obtain ODJFS approval. However, the Ohio Child Welfare Training Program is not required to obtain ODJFS approval.

The bill also provides for reimbursement on a per diem basis of the Ohio Child Welfare Training Program. The reimbursement amount is limited to the cost associated with providing the training, obtaining a training site, and the administration of the training. Reimbursement rates are required to be the same regardless of whether the Ohio Child Welfare Training Program or a public children services agency, private child placing agency, or private noncustodial agency is providing the training.

The bill requires ODJFS to pay foster caregivers who have been issued a foster home certificate and had at least one foster child placed in their home who attend training provided by the Ohio Child Welfare Training Program. The

payment must be on a per diem rate established by ODJFS and be the same regardless of the type of recommending agency from which a foster caregiver seeks a recommendation for a certificate.[63] Payment must be made for attending preplacement training courses during the first month a foster child is placed in the foster caregiver's home.

Minor heads of households

(R.C. 5107.02)

The Ohio Works First (OWF) program is an income maintenance program for families with or expecting a child. In return for monthly cash assistance, adults and minor heads of household participating in the program must satisfy requirements designed to lead to self-sufficiency and personal responsibility. The requirements include entering into a written self-sufficiency contract with the county department of job and family services (CDJFS) that sets forth the rights and responsibilities of the group as applicants for and participants of the program, including work responsibilities. Under current law, a minor head of household is a minor child who is a parent of a child included in the same assistance group that does not include an adult. The bill expands the definition of "minor head of household" to include a minor who is at least six months pregnant and a member of an assistance group that does not include an adult. Therefore, under the bill, such a minor becomes subject to a number of OWF program requirements, such as entering into a self-sufficiency contract with the CDJFS and participation in work activities.

Time limits

(R.C. 5107.18)

An assistance group is ineligible to participate in OWF if the group includes an adult who has participated in the program for 36 months, regardless of whether the 36 months are consecutive. An assistance group that ceases to participate in OWF because of the 36-month time limit for at least 24 months is permitted to reapply to participate in the program if good cause exists as determined by the CDJFS. If the CDJFS is satisfied that good cause exists for the assistance group to reapply, the group is permitted to reapply to participate, with

[63] *A recommending agency is a public children services agency, private child placing agency, or private noncustodial agency that recommends that ODJFS take any of the following actions regarding a foster home certificate: (1) issue a certificate, (2) deny a certificate, or (3) renew a certificate.*

certain exceptions, for up to 24 additional months, regardless of whether the 24 months are consecutive.

The bill provides that the time limit provisions apply to assistance groups that include an individual who participated in OWF as an adult head of household, minor head of household, or spouse of an adult or minor head of household rather than only to adults. Additionally, the bill clarifies that the 24 months that the group cannot participate in OWF because of time limits do not have to be consecutive.[64]

Time limit exemptions

(R.C. 5107.18)

A CDJFS is allowed to exempt not more than 20% of the average monthly number of OWF participants from the initial 36- and additional 24-month time limits on the grounds that the CDJFS determines that the time limit is a hardship. ODJFS is required to continually monitor the percentage of the average monthly number of OWF participants in each county that is exempted from the time limit. The bill permits the CDJFS to exempt not more than 20% of the average monthly number of OWF ***assistance groups***, rather than participants. Similarly, ODJFS must monitor the number of assistance groups exempted, rather than participants.

ODJFS report on participation in Ohio Works First

(R.C. 5101.80)

ODJFS is required by current law to make periodic reports on OWF participation. The bill eliminates a requirement that the Department complete a report of the county by county participation in OWF by September 1, 2001, that contains the reasons individuals ceased to participate.

The Department is required beginning this year to complete a report each January and July that includes county by county breakdowns of individuals who cease to participate in OWF and the reasons they ceased to participate including exhausting the time limits for participation and about individuals who are exempt from the time limits. Under the bill, the Department's report need deal only with

---

[64] *In practice, the 24 months will usually be consecutive. It is possible, however, that an assistance group could be prohibited from participation due to time limits, could then be exempted from time limits due to hardship and permitted to resume participation, and then when the hardship ceases, be prohibited from participation again until the 24-month period has expired.*

individuals who exhaust or are exempt from the time limits for participation in OWF, not with individuals who cease to participate for other reasons.

Prevention, Retention, and Contingency Program

(R.C. 5108.01, 5108.03, 5108.05, 5108.06, 5108.07, and 5108.08; ancillary sections: 2329.66, 2715.041, 2715.045, 2716.13, 2921.13, 4123.27, 5101.36, 5101.80, 5101.83, 5108.09, 5108.10, and 5153.165)

Background

The Prevention, Retention, and Contingency (PRC) program helps persons overcome immediate barriers to achieving and maintaining self-sufficiency and personal responsibility. ODJFS is required to administer the program in accordance with the federal TANF block grant, federal TANF regulations, state law, and the state TANF plan submitted to the United States Secretary of Health and Human Services. ODJFS must develop a model design for the PRC program. A county department of job and family services (CDJFS) may adopt the model design or develop its own policies for the program.

Provisions of ODJFS model design

Current law requires that a CDJFS's policies on the PRC program establish or specify eligibility requirements, the help to be provided under the program, administrative requirements, and other matters determined necessary. The bill requires that the ODJFS model design also establish or specify these matters.

Limitation on eligibility

Under current law, the PRC program may serve only assistance groups that include at least one minor or a pregnant woman. The bill eliminates this restriction.

Types of benefits and services

The bill provides that help provided under the PRC program must be, with one restriction, an allowable use of federal TANF funds. This means that it must be reasonably calculated to (1) provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives, (2) end the dependency of needy parents on government benefits by promoting job preparation, work, and marriage, (3) prevent and reduce the incidence of out-of-wedlock pregnancies, or (4) encourage the formation and maintenance of two-parent families. PRC help is also an allowable use of federal TANF funds if the state could have used federal funds under the former Aid to Families with Dependent Children Program or Job Opportunities and Basic Skills Training

Program, as those programs existed on September 30, 1995, or, at the state's option, August 21, 1996, to provide the help.

The restriction is that PRC help may not be "assistance" as defined in a federal TANF regulation but must be help excluded from that definition. The federal TANF regulation defines "assistance" as including cash, payments, vouchers, and other forms of benefits designed to meet a family's ongoing basic needs for such things as food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses. It includes such benefits even when they are provided in the form of payments to individual recipients and conditioned on participation in work experience, community service, or other work activities provided by federal TANF law. Unless specifically excluded, "assistance" also includes supportive services such as transportation and child care provided to unemployed families. All of the following are excluded from the definition of "assistance":

(1) Nonrecurrent, short-term benefits that are designed to deal with a specific crisis situation or episode of need, are not intended to meet recurrent or ongoing needs, and will not extend beyond four months;

(2) Work subsidies such as payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training;

(3) Supportive services such as child care and transportation provided to employed families;

(4) Refundable earned income tax credits;

(5) Contributions to, and distributions from, Individual Development Accounts;

(6) Services such as counseling, case management, peer support, child care information and referral, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support;

(7) Transportation benefits provided under a Job Access or Reverse Commute project to an individual who is not otherwise receiving assistance.

Consistent with this requirement, the bill provides that the PRC program is to provide help in the form of *benefits* and services rather than *assistance* and services.

In addition to providing benefits and services for assistance groups that apply to participate in the program, the bill provides that the ODJFS model design and a CDJFS's policies may establish eligibility requirements for, and specify

benefits and services to be provided to, types of groups, such as students in the same class, that share a common need for the benefits and services.[65] If the model design or a CDJFS's policies include such a provision, the model design or policies must require that each individual who is to receive the benefits and services meet the eligibility requirements established for the type of group of which the individual is a member. The model design or CDJFS's policies also must require that the CDJFS providing benefits and services certify the group's eligibility, specify the duration that the group is to receive the benefits and services, and maintain the eligibility information for each member of the group receiving the benefits and services.

The bill also provides that the ODJFS model design and a CDJFS's policies may specify benefits and services that a CDJFS may provide for the general public, including billboards that promote the prevention, and reduction in the incidence, of out-of-wedlock pregnancies or encourage the formation and maintenance of two-parent families.

Benefits and services are inalienable

The bill provides that benefits and services provided under the PRC program are inalienable whether by way of assignment, charge, or otherwise. They are also exempt from execution, attachment, garnishment, and other like process.

Medicaid single state agency

(R.C. 5111.01)

Federal Medicaid law requires a state Medicaid plan to establish or designate a single state agency to administer or supervise the administration of the plan. The bill makes explicit in statute the current practice: ODJFS acts as the single state agency to supervise the administration of the Medicaid program. The bill requires that ODJFS, as the single state agency, comply with a federal regulation governing single state agencies. The federal regulation provides that, for an agency to qualify as the single state agency, all of the following must be the case:

---

[65] *The bill provides that a group that shares a common need for specific PRC benefits and services is ineligible for them if the group has received fraudulent benefits and services. The ineligibility continues until a member of the group repays the cost of the fraudulent benefits and services. This applies under current law to an assistance group that applies to participate in the program.*

(1) The agency must not delegate, to other than its own officials, authority to exercise administrative discretion in the administration or supervision of the plan or issue policies, rules, and regulations on program matters;

(2) The authority of the agency must not be impaired if any of its rules, regulations, or decisions are subject to review, clearance, or similar action by other offices or agencies of the State.

(3) If other agencies perform services for the single state agency, they must not have the authority to change or disapprove any administrative decision made by the single state agency or otherwise substitute their judgment for that of the single state agency with respect to the application of policies, rules, and regulations issued by the single state agency.

The bill provides that ODJFS's rules governing Medicaid are binding on other agencies that administer components of the program and prohibits other agencies from establishing, by rule or otherwise, a policy governing Medicaid that is inconsistent with a Medicaid policy established, in rule or otherwise, by the Director of ODJFS.

Medicaid coverage of treatment for breast or cervical cancer

(R.C. 5111.0110)

The bill requires the Director of Job and Family Services to submit to the United States Secretary of Health and Human Services an amendment to the state Medicaid plan to implement the federal Breast and Cervical Cancer Prevention and Treatment Act of 2000. Under the state plan amendment, certain women would qualify for Medicaid during the period treatment for breast or cervical cancer is needed. To qualify, a woman must (1) be under age 65, (2) not otherwise be eligible for Medicaid, (3) have been screened for breast and cervical cancer under the Centers for Disease Control and Prevention Breast and Cervical Cancer Early Detection Program, (4) need treatment for breast or cervical cancer, and (5) not otherwise be covered under creditable coverage.[66]

The Director is required to implement the state plan amendment if it is approved.

---

[66] *All of the following are creditable coverage: (1) a group health plan, (2) health insurance, (3) Part A or B of Medicare, (4) Medicaid, other than for pediatric vaccines, (5) United States armed forces medical and dental care, (6) a medical care program of the Indian Health Service or a tribal organization, (7) a state health benefits risk pool, (8) a health plan offered under federal law to federal government employee, (9) a public health plan, and (10) a health benefit plan under the Peace Corps Act.*

Interagency agreements for the administration of Medicaid components

(R.C. 5111.86; ancillary sections: 173.40, 5111.87, and 5111.88)

The bill authorizes ODJFS to enter into interagency agreements with one or more other state agencies to have the other state agency administer one or more components of the Medicaid program, or one or more aspects of a component, under ODJFS's supervision.[67] A state agency that enters into such an interagency agreement must do both of the following:

(1) Comply with any rules the Director of ODJFS has adopted governing the component, or aspect of the component, that the state agency is to administer, including any rules establishing review, audit, and corrective action plan requirements;

(2) Reimburse ODJFS for the nonfederal share of the cost to ODJFS of performing, or contracting for the performance of, a fiscal audit of the Medicaid component, or aspect of the component, the state agency administers if rules governing the component or aspect of the component require that a fiscal audit be conducted.

The bill creates in the state treasury the Medicaid Administrative Reimbursement Fund. ODJFS is required to use money in the fund to pay the nonfederal share of a fiscal audit for which a state agency is required to reimburse ODJFS. ODJFS is required to deposit the reimbursements in the fund.

[67] *Current law provides for ODJFS to enter into an interagency agreement with the Ohio Department of Aging (ODA) for ODA to administer the PASSPORT Program, a Medicaid component under which aged and disabled Medicaid recipients receive home and community-based services as an alternative to nursing facility placement. ODJFS is also required to enter into an interagency agreement with the Ohio Department of Mental Retardation and Developmental Disabilities (ODMR/DD) for ODMR/DD to administer two Medicaid components: the Individual Options and Residential Facility Programs, which are operated under waivers of federal regulations. Under these waiver programs, Medicaid recipients with mental retardation or a developmental disability receive home or community-based services. The Individual Options Program provides the services as an alternative to placement in an intermediate care facility for the mentally retarded. The Residential Facility Program provides the services as an alternative to nursing facility placement.*

Medicaid managed care

(R.C. 5111.17)

ODJFS is required by current law to establish in Franklin, Hamilton, and Lucas counties a managed care system under which qualified Medicaid recipients are required to obtain health care services from providers designated by the Department. The Department is also permitted to require any recipients in any other counties to receive all or some of their care through managed care organizations in accordance with rules adopted by the Department. The bill removes the requirement that the Department establish managed care programs in the specified counties but continues to provide that the Department may establish a managed care system for Medicaid recipients in some or all counties.

The Department is also permitted by current law to issue requests for proposals from managed care organizations interested in contracting with the Department to provide managed care to Medicaid recipients. The bill eliminates this provision and specifies that the Department may enter into contracts with managed care organizations to provide health care services to Medicaid recipients participating in a managed care system.

The bill also eliminates a provision that allows a health insuring corporation under contract with the Department to enter into an agreement with a community based clinic for the purpose of providing medical services to Medicaid recipients participating in a managed care system. "Community based clinic" is defined as a clinic that provides prenatal, family planning, well child, or primary care services and is funded in whole or part by the state or federal government.

Health Care Compliance Fund

(R.C. 5111.171; Section 62.25)

ODJFS contracts with managed care organizations to provide Medicaid services to qualified recipients. The bill allows the Department to provide financial incentive awards to managed care organizations that meet or exceed performance standards specified by the Department in provider agreements or rules adopted by the Department. The bill also allows the Department to specify in contracts with managed care organizations the amounts of financial incentive awards, methodology for distributing awards, types of awards, and standards for administration by the Department.

The bill creates in the state treasury the Health Care Compliance Fund. Fines imposed by the Department on managed care organizations that contract with the Department to provide Medicaid services to qualified recipients and that

fail to meet performance standards or other requirements are to be deposited into the fund. Moneys in the fund may be used by the Department only to reimburse managed care organizations that have been fined and that have come into compliance with Department requirements, and to provide financial incentive awards to managed care organizations that meet or exceed performance standards. The bill states that the Health Care Compliance Fund is the same fund created by the Controlling Board in October 1998.

Medicaid reimbursement of long-term care services

(R.C. 5111.20, 5111.23, 5111.231, 5111.25, 5111.251, 5111.255, 5111.29, and 5111.341 (repealed))

Background

Current law requires ODJFS to pay the reasonable costs of services that a nursing facility (NF) or intermediate care facility for the mentally retarded (ICF/MR) with a Medicaid provider agreement provides to Medicaid recipients.[68] The amount ODJFS pays an NF or ICF/MR is determined by formulas established by state law.

NF and ICF/MR services are divided into four different categories, referred to as cost centers in state law. Each cost center has its own Medicaid reimbursement formula. The four cost centers are capital, direct care, other protected, and indirect care costs.

Capital costs are the costs of ownership and nonextensive renovation. Cost of ownership covers the actual expense incurred for (1) depreciation and interest on capital assets that cost $500 or more per item, (2) amortization and interest on land improvements and leasehold improvements, (3) amortization of financing costs, and (4) with certain exceptions, lease and rent of land, buildings, and equipment. Costs of nonextensive renovation covers the actual expense incurred for depreciation or amortization and interest on renovations that are not extensive.

Direct care costs include an NF or ICF/MR's costs for (1) certain staff, including nurses, nurse aides, medical directors, and respiratory therapists, (2) purchased nursing services, (3) quality assurance, (4) training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or costs for self-insurance claims, (5) consulting and management fees

[68] *A cost is reasonable if it is an actual cost that is appropriate and helpful to develop and maintain the operation of patient care facilities and activities and does not exceed what a prudent buyer pays for a given item or services. Reasonable costs may vary from provider-to-provider and from time-to-time for the same provider.*

related to direct care, and (6) allocated direct care home office costs. In the case of an ICF/MR, direct care costs also include the facility's costs for physical therapists, physical therapy assistants, occupational therapists, occupational therapy assistants, speech therapists, and audiologists.

Other protected costs are costs for medical supplies; real estate, franchise, and property taxes; natural gas, fuel oil, water, electricity, sewage, and refuse and hazardous medical waste collection; allocated other protected home office costs; and any additional costs included in ODJFS rules.

Indirect care costs are all reasonable costs other than direct care costs, other protected costs, or capital costs. This includes costs of habilitation supplies, pharmacy consultants, medical and habilitation records, program supplies, incontinence supplies, food, dietary supplies and personnel, housekeeping, security, administration, liability and property insurance, travel, dues, license fees, subscriptions, legal services, accounting services, minor equipment, maintenance and repairs, help-wanted advertising, informational advertising, and consumer satisfaction survey fees.

Change in per diem calculation

ODJFS must determine an NF or ICF/MR's per diem as part of the process of calculating the facility's Medicaid payment. Under current law, a facility's occupancy is a factor in determining per diem. The bill provides that an NF's capacity, rather than its occupancy, is to be used as a factor in determining its capital, indirect care, and other protected cost per diems. (The bill does not apply this change to ICFs/MR.) Unless an NF has 100% occupancy, its capacity will be greater than its occupancy. When costs are divided to establish a per diem, using capacity will result in a lower per diem.

A facility's indirect care cost per diem is determined by dividing the facility's actual, allowable indirect care costs for a cost reporting period by the greater of its inpatient days (occupancy rate) for that period or the number of inpatient days it would have had during that period if its occupancy rate had been 85%.[69] Inpatient days are all days during which any resident, including a non-Medicaid recipient, occupies a bed that is included in the facility's Medicaid certification.[70] A bed is considered occupied for a day even when a resident is on

[69] *For fiscal year 2001 only, 75% is used in this calculation rather than 85%.*

[70] *For an NF or ICF/MR bed to qualify for Medicaid payment, it must be Medicaid certified by the Director of Health. It is possible for a facility to have both certified and uncertified beds. For purposes of determining a facility's per diem, ODJFS only considers a facility's Medicaid certified beds.*

therapeutic or hospital leave if a Medicaid payment is made for that day. Using hypothetical numbers, the indirect care cost per diem for a nursing facility with 100 beds would be $41.90 if its actual, allowable indirect care costs in a 365-day cost reporting period were $1.3 million and its occupancy rate was 85%.[71] (1,300,000/31,025 = 41.90.)[72]

The bill changes the indirect care cost per diem calculation for NF services provided on or after July 1, 2001. An NF's indirect care cost per diem is to be determined by dividing the facility's actual, allowable indirect care costs in a cost reporting period by its licensed bed days available (capacity) in that cost reporting period. "Licensed bed days available" is defined as the number of calendar days in a cost reporting period multiplied by the number of licensed bed days in an NF during the cost reporting period.[73] This means that the same 100 bed NF with $1.3 million indirect care costs during the 365-day cost reporting period would have a $35.62 indirect care cost per diem. (1,300,000/36,500 = 35.62.)

The bill similarly changes the per diem calculation for NFs' capital costs. Under current law, an NF's capital cost per diem is determined by dividing the facility's actual, allowable capital costs for a cost reporting period by the greater of its inpatient days for that period or the number of inpatient days it would have had during that period if its occupancy rate had been 95%.[74] This means a 100-bed NF with $400,000 capital costs during a 365-day cost reporting period and a 95% occupancy rate would have a $11.54 per diem. (400,000/34,675 = 11.54.)

Under the bill, that NF would have a $10.96 capital cost per diem for services provided on or after July 1, 2001. This is because its per diem would be

---

[71] All the numbers used to illustrate the bill's changes to the Medicaid reimbursement formula are hypothetical and may not reflect actual costs and per diems.

[72] The 31,025 figure is determined by figuring 85% of 100 beds occupied in a 365-day cost reporting period.

[73] If the number of licensed bed days in an NF changes one or more times during a cost reporting period, "licensed bed days available" is determined for each period during the cost reporting period in which the number of licensed beds was the same and, in such case, the "licensed bed days available" is the sum of those determinations. If an NF is not required to be licensed, such as a home established by a board of county commissioners, the number of its Medicaid certified beds is used to determine its licensed bed days available.

[74] For fiscal year 2001 only, 85% is used in this calculation, rather than 95%. When ODJFS determines a new NF's initial rates, it must determine its capital cost per diem using the greater of actual inpatient days or an imputed 80% occupancy rate.

determined by dividing its actual, allowable capital costs in the cost reporting period by its licensed bed days available in that period.[75] (400,000/36,500 = 10.96.)

The bill also changes the manner in which an NF's other protected cost per diem is determined. Current law determines an NF's other protected cost per diem by dividing its actual, allowable other protected costs in a cost reporting period by its inpatient days for that period. A 100-bed NF with $250,000 other protected costs and 31,025 inpatient days during a 365-day cost reporting period would have a $8.06 per diem. (250,000/31,025 = 8.06.)

Under the bill, that NF's other protected cost per diem for services provided on or after July 1, 2001, would be determined by dividing its actual, allowable other protected costs in a cost reporting period by its licensed bed days available in that period. This means its other protected cost per diem would be $6.85. (250,000/36,500 = 6.85.)

Quarterly case-mix scores for NFs' direct care costs

In determining NFs' Medicaid payments for direct care costs, ODJFS must determine quarterly and annual case-mix scores. A case-mix score is the measure of the relative direct-care resources needed to provide care and habilitation to a resident. ODJFS determines case-mix scores, in part, by using data from a resident assessment instrument. Under current law, both quarterly and annual case-mix scores are derived from data for all residents, including non-Medicaid recipients. The bill provides that, for the purpose of calculating rates to be paid for NF services provided on or after July 1, 2001, only annual case-mix scores are to be determined using data for all residents. Quarterly case-mix scores are to be determined using data for Medicaid recipients only. According to ODJFS officials, this will reduce quarterly case-mix scores, and thus Medicaid payments for direct care costs, because it will remove from the calculation Medicare recipients, whose nursing facility costs on average are more expensive than Medicaid recipients. This change is not made for ICFs/MR.

Annual report on refinements to case-mix system

ODJFS, no later than July 1 of each year, is required to report to the Speaker of the House of Representatives and Senate President on any necessary refinements to the case-mix system for reimbursing direct care costs under the Medicaid program. In preparing the report, ODJFS must consult with and

[75] *This also applies to the determination of a new NF's initial rates.*

consider the comments of representatives of NFs, ICFs/MR, and other interested parties.

The bill eliminates the requirement that ODJFS make this report.

Return on equity factor in NF's capital cost rate determination

As part of capital costs, ODJFS is required to pay each eligible proprietary NF a return on equity computed at the rate of one and one-half times the average interest rate on special issues of public debt obligations issued to the federal Hospital Insurance Trust Fund for a cost reporting period. No NF's return on net equity may exceed $100 per patient day.

The bill eliminates the return on equity factor in NFs' capital cost rate determination.

NF's refund of excess equity

An owner that sells an NF may be required to refund to ODJFS an amount of excess depreciation that ODJFS paid the NF as part of its capital costs for each year the owner has operated the NF under a Medicaid provider agreement.[76] The refund is prorated according to the number of Medicaid patient days for which the NF has received payment.

The amount the owner must refund depends on the number of years the NF operated under a Medicaid provider agreement. If the NF is sold after five or fewer years, the refund must be equal to the excess depreciation ODJFS paid the NF. If the NF is sold after more than five years but less than ten years, the refund must equal the excess depreciation multiplied by 20%, multiplied by the difference between ten and the number of years that the NF was operated under the Medicaid provider agreement. No refund is required if the NF was operated under the Medicaid provider agreement for ten or more years.

The bill eliminates the provision used to compute the amount of the refund an NF owner must pay to ODJFS. An NF must refund the amount of excess depreciation prorated according to the number of Medicaid patient days the NF received payment.

---

[76] *A transfer of corporate stock, merger of one corporation into another, or a consolidation does not constitute a sale of an NF.*

Former law no longer factor in NF capital cost rate

If an NF would receive, using the formula established in current law, a lower rate for capital costs for assets in the NF's possession on July 1, 1993, than it would under former law that existed immediately prior to December 22, 1992, the NF is to receive for those assets the rate it would have received under that former law. The bill eliminates this provision of current law.

Reconsideration of NF's rates due to extreme circumstances

The Director of ODJFS is required to adopt rules establishing a process under which an NF may seek reconsideration of its Medicaid payment rates if it demonstrates that its actual, allowable costs have increased because of extreme circumstances. An NF may qualify for a rate increase only if its per diem, actual, allowable costs have increased to a level that exceeds its total rate. The rules must specify the circumstances that would justify a rate increase. Current law requires that the rules provide that extreme circumstances include (1) an increase in workers' compensation experience rating of greater than five per cent for an NF that has an appropriate claims management program, (2) increased security costs for an inner-city NF, and (3) a change of ownership that results from bankruptcy, foreclosure, or findings of violations of Medicaid certification requirements. Under the bill, the only circumstance the rules must specify are increased security costs for an inner-city NF. The bill provides that the following are not to be included among the circumstances: an increase in workers' compensation experience rating or a change of operator that results from bankruptcy, foreclosure, or findings of violations of Medicaid certification requirements.

Change of operators and facility closures

(R.C. 5111.20, 5111.25, 5111.251, 5111.28, 5111.34 to 5111.3415, 5111.58, and 5123.195)

Required notice of change of operator

Current law requires the owner of an NF or ICF/MR operating under a Medicaid provider agreement to provide written notice to ODJFS at least 45 days before entering into a contract of sale for the facility or voluntarily terminating participation in Medicaid. The bill requires, instead, notification before a change of operator occurs. Both the operator operating the NF or ICF/MR before the change of operator occurs (exiting operator) and the operator that will operate the facility after the change of operator (entering operator) are required to provide ODJFS written notice of the intended change of operator.

A change of operator occurs when an entering operator becomes the operator of an NF or ICF/MR in the place of the exiting operator. Actions that constitute a change of operator include all of the following:

(1) Changing an operator's form of legal organization, including forming a partnership or corporation from a sole proprietorship;

(2) Transferring ownership of the operator to another entity, regardless of whether ownership of all of the real property or personal property associated with the NF or ICF/MR is also transferred;

(3) Leasing the operation of an NF or ICF/MR to a new operator or terminating an existing operator's lease;

(4) If the operator is a partnership, dissolution of the partnership;

(5) If the operator is a partnership, changing the composition of the partnership, unless the change does not cause the partnership's dissolution under state law and the partners agree that the change in composition does not constitute a change in operator;

(6) If the operator is a corporation, dissolution of the corporation, merging the corporation with another corporation that is the survivor of the merger, or consolidating with one or more other corporations to form a new corporation.

The bill provides that the following actions, alone, do not constitute a change of operator:

(1) An entity contracting with the operator to manage the NF or ICF/MR as the operator's agent, subject to the operator's approval of daily operating and management decisions;

(2) The changing of ownership, leasing, or termination of a lease of real property or personal property associated with an NF or ICF/MR that does not result in an operator entering into a Medicaid provider agreement;

(3) If the operator is a corporation, the changing of one or more members of the corporation's governing body, or transfer of ownership of one or more shares of the corporation's stock, if the same corporation continues to be the operator of the NF or ICF/MR.

In the written notice to ODJFS, the exiting operator must provide all of the following:

(1) The name of the exiting operator and, if any, exiting operator's authorized agent;

(2) The name of the NF or ICF/MR to undergo the change of operator;

(3) The exiting operator's Medicaid provider agreement number;

(4) The name of the entering operator;

(5) The proposed date that the change of operator is to occur;

(6) The manner in which the entering operator is to become the facility's operator, including through sale, lease, merger, or other action;

(7) If the manner in which the entering operator is to become the facility's operator involves more than one step, a description of each step;

(8) The signature of the exiting operator's representative.

The entering operator is required to include an application for a Medicaid provider agreement with the written notice to ODJFS and attach all of the following to the application:

(1) If the entering operator provides the written notice to ODJFS prior to the date the exiting operator and entering operator complete the transaction for the change of operator, copies of all the proposed leases, management agreements, and sales contracts and supporting documents relating to the facility's change of operator, as applicable to the change;

(2) If the entering operator provides the written notice to ODJFS on or after the date the exiting operator and entering operator complete the transaction for the change of operator, copies of all the actual leases, management agreements, and sales contracts and supporting documents relating to the facility's change of operator.

Medicaid provider agreement with entering operator

An NF or ICF/MR is not required to undergo a Medicaid recertification by the Department of Health as a condition of an entering operator entering into a Medicaid provider agreement with ODJFS if certain conditions are met.[77] The

[77] *The entering operator may enter into a Medicaid provider agreement with ODJFS only if eligible for Medicaid payments. An NF or ICF/MR operator is eligible for Medicaid payments under a provider agreement if the operator applies for and maintains a valid license to operate, if so required by law, and complies with all applicable state and federal statutes and rules.*

exiting operator and entering operator must comply with the requirement they provide ODJFS written notice of the intended change of operator. After the change of operator occurs, the entering operator must furnish to ODJFS copies of all the fully executed leases, management agreements, and sales contracts and supporting documents relating to the facility's change of operator. And, the provider agreement must satisfy all of the following requirements:

(1) Comply with all applicable federal and state statutes and regulations;

(2) Include all the terms and conditions of the exiting operator's provider agreement, including (a) any plan of correction, (b) compliance with health and safety standards, ownership and financial interest disclosure requirements of federal regulations, civil rights requirements of federal regulations, and additional requirements ODJFS imposes, and (c) any sanctions relating to remedies for violation of the provider agreement, including deficiencies, compliance periods, accountability periods, monetary penalties, notification for correction of contract violations, and history of deficiencies;

(3) Require the entering operator to assume the exiting operator's remaining debt to ODJFS that ODJFS is unable to collect from the exiting operator;

(4) Have a different provider number than the exiting operator's provider agreement.

The provider agreement is to go into effect at 12:01 a.m. on the date the change of operator occurs if (1) ODJFS receives the written notice of the intended change of operator at least 45 days before the change is to occur, if the change does not entail the relocation of residents, or at least 90 days before the change if the change entails the relocation of residents and (2) the entering operator furnishes copies of the fully executed leases, management agreements, and sales contracts and supporting documents not later than ten days after the change occurs. If either or both of these time frames are not met, the provider agreement is to go into effect 12:01 a.m. on a date ODJFS determines. The effective date must give ODJFS sufficient time to process the change of operator, assure no duplicate payments are made, make required withholdings, and withhold the final payment to the exiting operator until 90 days after the exiting operator submits to ODJFS a properly completed cost report required by the bill. (See "***Withholdings and security***" and "***Final cost report***" below.) The effective date may not be earlier than the date by which the exiting operator and entering operator have provided ODJFS written notice of the intended change of operator and no later than the following after that date: (1) if the change does not entail the relocation of residents, 45 days, (2) if the change of operator entails the relocation of residents, 90 days.

If an entering operator does not agree to a Medicaid provider agreement that requires the entering operator to assume the exiting operator's remaining debt to ODJFS that ODJFS is unable to collect from the exiting operator, the entering operator and ODJFS may enter into a provider agreement under current law rather than under the bill. The NF or ICF/MR must undergo a Medicaid recertification by the Department of Health and the provider agreement's effective date may not precede the date of the facility's recertification.

The bill provides that an exiting operator is considered to be the operator of an NF or ICF/MR until the effective date of the entering operator's Medicaid provider agreement. ODJFS is not responsible for payments made to the exiting operator before the effective date of the entering operator's provider agreement. No rate adjustment resulting from the change of operator is effective before that date.

Other agencies' actions not determinable for ODJFS

The bill provides that neither the Department of Health's determination that a change of operator has or has not occurred for purposes of Medicaid certification or nursing home licensure nor the Department of Mental Retardation and Developmental Disabilities' determination that a change of operator has or has not occurred for purposes of residential facility licensure effect ODJFS's determination of whether or when a change of operator occurs, a Medicaid payment to an exiting or entering operator, or the effective date of an entering operator's Medicaid provider agreement.

Preliminary determinations of Medicaid debt

Current law requires that an NF or ICF/MR licensed as a nursing home provide ODJFS at least 90-days written notice of the intent to terminate its status as a Medicaid provider. The bill establishes the same requirement for ICFs/MR licensed as residential facilities. These requirements would apply in the case of a facility closure.

The bill defines facility closure as actions resulting in the relocation of all residents of an NF or ICF/MR and discontinuance of the use of the building, or part of the building, that houses the facility as an NF or ICF/MR. A facility closure occurs regardless of whether one or more of the residents are relocated to another of the operator's NFs or ICFs/MR and whether or when the Department of Health terminates the facility's Medicaid certification.

ODJFS is required by the bill, on receipt of an NF or ICF/MR operator's written notice of an intended facility closure or change of operator, to determine the amount of any overpayments the Medicaid program made to the exiting

operator, including overpayments the exiting operator disputes, and other actual and potential Medicaid debts the exiting operator owes or may owe. ODJFS is required to determine the amount of any overpayments by settlement or final rate recalculation. If a settlement is unavailable for any period before the effective date of the entering operator's Medicaid provider agreement or the date of the facility closure, ODJFS must make a reasonable estimate of any overpayment for the period. ODJFS is to base the reasonable estimate on settlements from prior periods, available audit findings, the projected impact of prospective rates, and other information available to ODJFS. In determining the exiting operator's other actual and potential Medicaid debts, ODJFS is required to include all of the following:

(1) Refunds due to ODJFS for excess depreciation;

(2) Interest owed to ODJFS;

(3) Final civil monetary and other penalties for which all right of appeal has been exhausted;

(4) Third-party liabilities;

(5) Money owed ODJFS from a final rate recalculation for the last fiscal year or portion thereof in which the exiting operator participated in Medicaid;

(6) A billings and claims reconciliation.

Withholdings and security

Under current law, ODJFS is required to hold in escrow the amount of the last two monthly payments to an NF or ICF/MR owner before the facility is sold or voluntarily terminates its participation in Medicaid. However, if the amount the owner will be required to refund to ODJFS is likely to be less than the amount of the last two monthly Medicaid payments, ODJFS is required to withhold the amount of the owner's last monthly payment or, if the owner owns other NFs or ICFs/MR that participate in Medicaid, obtain a promissory note in an amount sufficient to cover the amount likely to be refunded.

ODJFS is required by the bill to withhold an amount from payment due an exiting operator under Medicaid. The amount to be withheld is the greater of (1) the total amount of ODJFS's preliminary determination of the exiting operator's Medicaid debt (see "***Preliminary determinations of Medicaid debt***" above) and (2) the average monthly Medicaid payment made to the exiting operator in the twelve months before the change of operator or facility closure occurs. ODJFS is permitted to transfer the amount withheld to an escrow account with a bank, trust company, or savings and loan association. If payment due an exiting operator

under Medicaid is less than the amount ODJFS is required to withhold, ODJFS may require that the exiting operator provide the difference in the form of an acceptable security.

ODJFS is required to release to the exiting operator the actual amount withheld if the exiting operator files a complete and adequate cost report as required by the bill (see "***Final cost report***" below) and provides ODJFS an acceptable security in the amount ODJFS is required to withhold from the exiting operator, less any of that amount already provided to ODJFS in the form of an acceptable security.

A security is acceptable if it is provided in either or both of the following forms:

(1) In the case of a change of operator, the entering operator's nontransferable, unconditional, written agreement to pay ODJFS any debt the exiting operator owes under the Medicaid program;

(2) A form of collateral or security acceptable to ODJFS that is (a) at least equal to the amount ODJFS is required to withhold from the exiting operator, less any amounts ODJFS has already received through actual withholding or one or more other forms of acceptable security and (b) payable to ODJFS if the exiting operator fails to pay any Medicaid debt within 15 days of receiving ODJFS's written demand for payment of the debt.

Final cost report

Current law requires that cost report be filed with ODJFS within 90 days after the date on which the transaction of an NF or ICF/MR sale is closed or participation in the Medicaid program is voluntarily terminated. The cost report must show the accumulated depreciation, sales price, and other information ODJFS requires.

The bill requires instead that an exiting operator file with ODJFS a cost report not later than 90 days after the effective date of an entering operator's Medicaid provider agreement or the date of a facility closure. The cost report is for the period that begins with the day after the last day covered by the operator's most recent previous cost report required by current law and ends on the effective date of the entering operator's Medicaid provider agreement or the date of the facility closure. The cost report must include, as applicable, the NF or ICF/MR's accumulated depreciation and sales price, a list of assets transferred to the entering operator, and any other information ODJFS requires.

If an exiting operator fails to file a timely and adequate cost report, all Medicaid payments for the period the cost report covers are deemed overpayments until the date ODJFS receives the complete and adequate cost report. ODJFS is authorized to impose on the exiting operator a penalty of $100 for each calendar day the complete and adequate cost report is late. ODJFS must provide the exiting operator notice and opportunity for a hearing in accordance with the Administrative Procedure Act (Revised Code Chapter 119.). ODJFS is prohibited from providing an exiting operator final Medicaid payment until ODJFS receives all complete and adequate cost reports the exiting operator must file under current law and the bill.

Final determination of Medicaid debt

Under current law, ODJFS is required to audit a final cost report from an NF or ICF/MR. ODJFS must issue an audit report within 90 days of receipt of the cost report. ODJFS is also permitted to audit any other cost report the NF or ICF/MR filed during the previous three years. ODJFS is required to state its findings and the amount of any money owed to ODJFS in an audit report. The findings are subject to an adjudication in accordance with the Administrative Procedure Act.

ODJFS is required by the bill to determine the actual amount of all final debts an exiting operator owes ODJFS under the Medicaid program by completing all audits not already completed and performing all other appropriate actions ODJFS determines to be necessary. ODJFS must issue a report on its determination. The report is to include ODJFS's findings and the amount of all the exiting operator's final Medicaid debts. The report is subject to an appeal in accordance with the Administrative Procedure Act.

Release of withholdings and security and collection of debt

ODJFS is required by current law to release any funds held in escrow, less any amount owed ODJFS, no later than 15 days after an NF or ICF/MR owner agrees to a settlement. Amounts due to ODJFS, including any amount not covered by the amount in escrow, must be paid within that 15-day period. ODJFS is also required to release any money held in escrow if it fails to issue an audit report of the final cost report within the required 90-day period.

The bill provides that ODJFS must release the withholdings and security held under the bill 91 days after the date the exiting operator files a complete and adequate final cost report unless ODJFS, within 90 days of that date, completes the report on the exiting operator's final Medicaid debt. If ODJFS completes the report within the 90 days, ODJFS must release the withholding and security no later than 15 days after the exiting operator agrees to a final settlement resulting

from the report. ODJFS is to keep from a withholding and security any amount the exiting operator owes ODJFS under the Medicaid program.

If the actual amount ODJFS withholds from an exiting operator under the bill, and any security provided to ODJFS in lieu of a withholding, is inadequate to pay the exiting operator's Medicaid debt or ODJFS is required to release the withholdings and security before ODJFS is paid the exiting operator's Medicaid debt, ODJFS is required to collect the debt from the exiting operator. If ODJFS is unable to collect the entire debt from the exiting operator and the entering operator's Medicaid provider agreement requires the entering operator to assume the exiting operator's remaining Medicaid debt, ODJFS must collect the debt from the entering operator. ODJFS is permitted to collect the remaining debt from the entering operator by withholding the amount due from Medicaid payments to the entering operator. ODJFS may enter into an agreement with the entering operator under which the entering operator pays the remaining debt, with applicable interest, in installments from withholdings from the entering operator's Medicaid payments.

Notice of postponed or canceled change of operator or facility closure

Under current law, ODJFS is required to order any payments held in escrow released if it receives written notice from an NF or ICF/MR owner that the facility will not be sold or its participation in Medicaid will not be terminated. The owner is required to provide notice to ODJFS at least 45 days before entering into any contract of sale or terminating participation in Medicaid at a future time.

The bill provides that if transactions leading to a change of operator are canceled or postponed for more than 90 days after the proposed date reported in the written notice to ODJFS, or a facility closure does not occur as reported in a written notice, ODJFS must release the amount withheld from Medicaid payments under the bill and any security provided to ODJFS in lieu of withholdings, on receipt of written notice from the exiting operator of the cancellation or postponement. After ODJFS receives the written notice regarding a cancellation or postponement of a change of operator, the exiting operator and entering operator must provide new written notice to ODJFS regarding any transactions leading to a change of operator at a future time. After ODJFS receives a written notice regarding a cancellation or postponement of a facility closure, the exiting operator must provide new written notice to ODJFS regarding any transactions leading to a facility closure at a future time. ODJFS is given sole discretion as to whether to release withholdings and security if transactions for a change of operator or facility closure are postponed for at least 30 days but less than 90 days beyond the originally proposed date for the change or closure.

Penalty for not providing notice of change of operator or facility closure

ODJFS is permitted by current law to impose a penalty on an NF or ICF/MR owner that fails to provide notice of sale of the facility or voluntary termination of participation in the Medicaid program. The penalty may not exceed two per cent of the last two monthly Medicaid payments.

The bill provides instead that ODJFS may impose a penalty if an NF or ICF/MR operator fails to provide notice of a facility closure or change of operator. The penalty may not exceed the current average bank prime rate plus four per cent of two month's average Medicaid payments to the operator. As under current law for payment of penalties, ODJFS is required to deduct any amount an operator must pay as a penalty from the operator's next available Medicaid payment. The bill provides that if the operator does not continue to participate in the Medicaid program, ODJFS is to deduct any amount due as a penalty from the amount withheld or provided as security under the bill.

Due date of Medicaid payments to long-term care facilities

(R.C. 5111.22)

Current law requires that a Medicaid provider agreement between ODJFS and a nursing facility or intermediate care facility for the mentally retarded contain a requirement that the Department make Medicaid payments to the facility no later than the fifteenth day of the month following a month in which care and services are provided to Medicaid recipients. The payments must be retroactive to the first day of the month in which a Medicaid application is made or the day a Medicaid recipient is admitted to the facility. In the case of a newly admitted Medicaid recipient, the first payment must be made no later than 60 days following authorized admission.

The bill eliminates the requirement that the Medicaid provider agreement contain those provisions.

Medicaid waiver components

(R.C. 5111.85; Section 62.24)

Background

Federal law authorizes the United States Secretary of Health and Human Services to grant states waivers of federal Medicaid law for various purposes, including instituting pilot programs that are likely to assist in promoting the objectives of the Medicaid program and providing Medicaid recipients home and

community-based services. The Ohio Department of Job and Family Services has sought and received a number of these federal waivers.

Rules

The bill authorizes the Director of ODJFS to adopt rules in accordance with the Administrative Procedure Act governing components of the Medicaid program authorized by federal waivers, other than a waiver component providing for a managed care system.[78] The rules may establish all of the following:

(1) Eligibility requirements for the waiver components;

(2) The type, amount, duration, and scope of services the waiver components may provide;

(3) The conditions under which the waiver components cover services;

(4) The amount the waiver components pay for services or the method by which the amount is determined;

(5) The manner in which the waiver components pay for services;

(6) Safeguards for the health and welfare of Medicaid recipients receiving services under a waiver component;

(7) Procedures for enforcing the rules, including establishing corrective action plans for, and imposing financial and administrative sanctions on, persons and government entities that violate the rules;[79]

(8) Other policies necessary for the efficient administration of the waiver components.[80]

The Director is permitted to adopt different rules for the different Medicaid waiver components. A waiver component's rules must be consistent with the terms of the federal waiver authorizing the component. A rule that is in effect on

---

[78] *Current law requires the Director of ODJFS to adopt rules to implement the managed care waiver component.*

[79] *The bill provides that the rules establishing enforcement provisions must include due process protections.*

[80] *The rules must be adopted in accordance with the provisions of the Administrative Procedure Act (R.C. Chapter 119.) that require public hearings.*

the effective date of this provision of the bill is to remain in effect until amended or rescinded as part of the adoption of rules under this provision.

Reviews

The bill authorizes the Director of ODJFS to conduct reviews of the Medicaid waiver components. The reviews may include physical inspections of records and sites where services are provided and interviews of providers and recipients of the services. If the Director determines pursuant to a review that a person or government entity has violated a rule governing a waiver component, the Director is permitted to sanction the violator. If the violator is a county department of job and family services, child support enforcement agency, or public children services agency, the Director may sanction the agency in accordance with current law governing sanctions of such agencies that fail to comply with federal or state requirements. If the violator is not one of those agencies, the Director may establish a corrective action plan for the violator and impose fiscal, administrative, or both types of sanctions in accordance with rules.

New or modified Medicaid home and community-based services waiver

(Section 62.21)

The Director of ODJFS is authorized by the bill to submit a request to the United States Secretary of Health and Human Services to create a Medicaid home and community-based services waiver program, or modify a current Medicaid waiver program, to serve certain individuals with mental retardation or a developmental disability. To be eligible for the new or modified waiver program, an individual with mental retardation or a developmental disability must (1) need the level of care provided by intermediate care facilities for the mentally retarded, (2) need habilitation services, and (3) be transferred from the Ohio Home Care Waiver program to the new or modified waiver program.

If the waiver request is approved and the Director of ODJFS creates a new, or modifies an existing, waiver program, the waiver program is to specify the maximum amount that it may spend per individual enrolled in it. The Director of ODJFS is permitted to reduce the maximum number of individuals the Ohio Home Care Waiver program may serve by the number of individuals transferred from that program to the new or modified home and community-based services waiver program.

ODJFS is permitted to administer the new or modified waiver program or enter into an interagency agreement with the Ohio Department of Mental Retardation and Developmental Disabilities (ODMR/DD) for ODMR/DD to administer the waiver program under ODJFS's supervision. If entered into, the

interagency agreement must specify the maximum number of individuals who may be transferred from the Ohio Home Care Waiver Program to the new or modified waiver program and the estimated cost of services to the transferred individuals. The departments may not enter into the interagency agreement without the approval of the Director of Budget and Management.

Ohio Access Project

(Section 62.18)

The bill authorizes the Director of ODJFS to establish the Ohio Access Project to help Medicaid recipients make the transition from residing in a nursing facility to residing in a community setting. The Director's authority to establish the project is limited to the extent the bill makes funds available. If the Director establishes the project, the Director must provide one-time benefits to not more than 75 Medicaid recipients in fiscal year 2002 and not more than 125 Medicaid recipients in fiscal year 2003.

To be eligible for benefits under the Ohio Access Project, a Medicaid recipient must satisfy all of the following requirements:

(1) At the time of applying for the benefits, be a recipient of Medicaid-funded nursing facility services;

(2) Have resided continuously in a nursing facility since at least January 1, 2000;

(3) Need the level of care provided by nursing facilities;

(4) Need benefits whose projected cost does not exceed 80% of the average monthly Medicaid cost of individual Medicaid recipients' nursing facility care.

Benefits provided under the Ohio Access Project, if established, must include payment of (1) the first month's rent in a community setting, (2) rental deposits, (3) utility deposits, (4) moving expenses, and (5) other expenses not covered by Medicaid that facilitate a Medicaid recipient's move from a nursing facility to a community setting. No person is to receive more than $2,000 worth of benefits under the project.

Program of All-Inclusive Care for the Elderly

(Section 62.26)

The Program of All-Inclusive Care for the Elderly (PACE) is a Medicaid component that provides acute and long-term care services to frail, older adults

who need the level of care provided by nursing facilities but wish to remain at home. PACE is operated in Cuyahoga and Hamilton counties and parts of Butler, Clermont, and Warren counties.

The bill requires that the Director of Job and Family Services submit to the United States Secretary of Health and Human Services a state Medicaid plan amendment to provide for the continued operation of PACE. The Director must submit the amendment no later than October 31, 2001. The Director is permitted to seek federal approval to transfer the day-to-day administration of PACE to the Department of Aging. If the amendment is approved, the Directors of Job and Family Services and Aging are permitted, with the approval of the Director of Budget and Management, to enter into an interagency agreement to transfer responsibility for the administration of PACE. The interagency agreement must include an estimated cost of services to be provided under PACE.

Medicaid coverage of obesity treatment drugs

(Section 62.27)

Current law authorizes the Director of Job and Family Services to adopt rules establishing the scope of medical services to be included in the Medicaid program. The bill revokes the Director's authority to adopt a rule excluding drugs for the treatment of obesity from coverage under the Medicaid program and requires the Director to rescind a rule that does that. The rule is suspended pending the rescission. However, the bill provides that it does not require the Medicaid program to cover drugs for the treatment of obesity.[81]

The Director is required by the bill to evaluate whether the Medicaid program should cover anti-obesity agents that have been approved by the United States Food and Drug Administration for the treatment of obesity and obesity's related co-morbidities. The evaluation must consider, at a minimum, the safety, efficacy, and cost-effectiveness of having the Medicaid program cover such anti-obesity agents. Not later than six months after the effective date of this provision of the bill, the Director is required to submit a report on the evaluation to the chairperson and ranking minority member of the House of Representatives

[81] *An item, other than an amending, enacting, or repealing clause, that composes the whole or part of an uncodified section contained in the bill has no effect after June 30, 2003, unless its context clearly indicates otherwise. The bill provides that this does not apply to the uncodified section of the bill rescinding the Director's authority to adopt a rule excluding drugs for the treatment of obesity from coverage under the Medicaid program.*

Finance and Appropriations Committee and the chairperson and ranking minority member of the Senate Finance and Financial Institutions Committee.[82]

Preferred Option Evaluation

(Section 62.30)

The Medicaid program includes a managed care component. In Butler, Franklin, Hamilton, and Montgomery counties, the Preferred Option program is operated as part of the managed care component. Under Preferred Option, a Medicaid recipient subject to managed care requirements is automatically enrolled in managed care if the recipient fails to select the Medicaid fee-for-service component. However, unlike other Medicaid recipients subject to managed care, a Medicaid recipient enrolled in Preferred Option may choose to transfer to the fee-for-service component at any time.

The bill requires the Director of Job and Family Services to evaluate Preferred Option. As part of the evaluation, the Director must examine whether Preferred Option should be expanded to additional counties. The Director is required to submit the report to the Governor, Speaker of the House of Representatives, and President of the Senate not later than June 30, 2003. The Director must include in the report any findings made pursuant to the evaluation. The Director is prohibited from expanding Preferred Option to additional counties before the report is submitted.

Prescription drug rebates fund

(R.C. 5111.081)

Under federal law to be eligible for Medicaid payments for covered outpatient drugs the manufacturer must have in effect a rebate agreement that the Secretary of the U.S. Department of Health and Human Services has made on behalf of the states.[83] Under the agreement, the manufacturer must give rebates for the covered outpatient drugs dispensed and paid for under a state's Medicaid plan.

---

[82] *Because the Director's authority to adopt a rule excluding a drug for the treatment of obesity from coverage under the Medicaid program is revoked, the General Assembly would need to restore the Director's authority if the evaluation determines such a drug should not be covered and the General Assembly supports that determination.*

[83] *"Covered outpatient drugs" are prescription drugs that meet requirements imposed under federal law governing Medicaid. 42 U.S.C. § 1396r-8(k)(2).*

The bill creates the Prescription Drug Rebates Fund in the state treasury and requires all rebates paid by drug manufacturers to ODJFS in accordance with a rebate agreement required under federal law to be credited to the account. ODJFS must use money credited to the fund for Medicaid services and contracts.

Hospital care assurance program

(Sections 143 and 144)

Under the Hospital Care Assurance Program (HCAP), hospitals are annually assessed an amount based on their total facility costs. ODJFS distributes the money generated by the assessment and federal matching funds generated by the assessment, to hospitals.

Extension of "sunset"

Under existing law, HCAP is to terminate on July 1, 2001. The act delays HCAP's termination until October 16, 2003.

"Sunset" of law requiring provision of services to indigent hospital patients

Under current law, a hospital compensated under HCAP must provide, without charge, basic, medically necessary hospital-level services to individuals who are residents of this state, are not recipients of Medicare or Medicaid, and whose income does not exceed the federal poverty guidelines. This requirement is not currently subject to the future repeal (sunset) to which HCAP is subject. The bill subjects this requirement to the HCAP October 16, 2003 sunset.

Disability Assistance grant levels

(Section 62.03)

The Disability Assistance (DA) program is a state- and county-funded program that provides cash assistance, limited medical assistance, or both to certain low-income individuals and families that meet categorical requirements (R.C. Chapter 5115., not in the bill). The bill maintains the maximum grant levels for the Disability Assistance program that have existed since the program was created in 1991. The maximum grant levels are the following:

Persons in assistance group	Maximum monthly DA grant
1	$115
2	$159

Persons in assistance group	Maximum monthly DA grant
3	$193
4	$225
5	$251
6	$281
7	$312
8	$361
9	$394
10	$426
11	$458
12	$490
13	$522
14	$554

For each additional person, $40 is added to the maximum monthly DA grant for an assistance group with 14 members.

Medicaid waiver for community mental health services

(Section 62.22)

Current law requires the Medicaid program to include coverage of community mental health services provided by accredited or certified facilities. It requires each board of alcohol, drug addiction, and mental health services to set priorities in its plan for mental health services. The Department of Mental Health is required to allocate funds for community programs after taking into account the boards' recommendations and the priorities of the state mental health plan. (R.C. 340.03(A)(1)(b), 5111.022, and 5119.61(E), not in the bill.)

The bill requires the Department of Job and Family Services, with the assistance of the Department of Mental Health and after consulting with community mental health facilities that provide Medicaid-covered mental health services, to develop and submit an application to the federal government for a Medicaid waiver with respect to coverage of community mental health services. The bill provides that the purpose of the waiver is to override Medicaid statutes and regulations that can be waived to ensure both of the following:

(1) That Medicaid coverage and payment methods for community mental health services are consistent with the service priorities established by the Department of Mental Health and the boards of alcohol, drug addiction, and mental health services;

(2) That Medicaid-covered community mental health services can be provided in a manner that maximizes the effectiveness of resources available to the Department and the boards.

The bill requires the Departments to act in a manner that allows the provisions of the waiver to be implemented not later than July 1, 2002.

ADAMH board interaction with public children services agencies

(R.C. 340.16)

The bill requires the Department of Mental Health and the Department of Job and Family Services to adopt rules that establish requirements and procedures for prior notification and service coordination between public children services agencies and boards of alcohol, drug addiction, and mental health services (ADAMH boards). The rules are to apply when a public children services agency refers a child in its custody to receive services funded by the ADAMH board. The rules must be adopted not later than 90 days after the bill's effective date and must be adopted in accordance with the Administrative Procedure Act (R.C. Chapter 119.).

The bill requires the departments to collaborate in formulating a plan that delineates the funding responsibilities of public children services agencies and ADAMH boards for community mental health services covered by Medicaid and provided to children in the custody of public children services agencies. The departments must complete the plan not later than 90 days after the bill's effective date.

Allocation of funds for alcohol and drug addiction services

(R.C. 3793.04; Section 19)

Under current law, the Ohio Department of Alcohol and Drug Addiction Services (ODADAS) is required to develop a comprehensive statewide alcohol and drug addiction services plan. The plan must provide for the allocation and distribution of state and federal funds for services provided by alcohol and drug addiction programs. A portion of the funds must be allocated on the basis of the ratio of the population of each alcohol, drug addiction, and mental health service district to the total state population. The ratio is determined from either the most

recent federal census or the most recent official United States Census Bureau estimate.

Under the bill, the portion of funds allocated on the basis of the population ratio must at least equal the average amount allocated on that basis for the previous three years. The ratio must be determined from the more recent of the federal census or official estimate, except that for fiscal year 2002, 50% must be determined from the 1990 census and 50% from the 2000 census, and for fiscal year 2003, 25% from the 1990 census and 75% from the 2000 census. The bill requires the Department to establish a plan by June 30, 2002 to evaluate the current per capita formula used in determining how state and federal funds for alcohol and drug addiction services are allocated. The plan must evaluate (1) whether population statistics alone should be used to quantify the need for funding in a county, (2) whether other social and economic indicators should be used, and (3) whether the current formula is appropriate.

Certification and evaluation of community mental health providers

(R.C. 5119.01(G) and 5119.61; 340.03(A)(3), not in the bill)

Current law requires the Director of Mental Health to adopt rules establishing minimum standards for all mental health services. Boards of alcohol, drug addiction, and mental health services (ADAMH boards) are required to review, evaluate, and conduct program audits with respect to community mental health services and determine whether the services meet the Director's minimum standards. In cooperation with ADAMH boards, the Department of Mental Health must visit and evaluate providers of community mental health services and certify providers that meet the Director's minimum standards. Rules have been adopted governing the certification process. Although not included in the standards for certification, ADAMH boards also are required to review and evaluate the quality, effectiveness, and efficiency of community mental health services.

Cost-effectiveness related to certification

The bill requires the Department of Mental Health to reduce the certification requirements it has established through the adoption of rules. It specifies that the purpose of the reduction in requirements is to increase the cost-effectiveness of community mental health services. The reduction must occur not later than 90 days after the bill's effective date.

Prevention of inappropriate service delivery

For purposes of an ADAMH board's review and evaluation of the quality, effectiveness, and efficiency of its community mental health services, the bill

requires the Department of Mental Health to establish criteria for the board's use that includes consideration of whether a provider of mental health services has prevented "inappropriate service delivery." The Department must establish initial criteria not later than 90 days after the bill's effective date. The bill specifies that the ADAMH board's review and evaluation applies to services covered under the Medicaid program.

For purposes of the Department's certification of community mental health providers, as well as the ADAMH board's review, evaluation, and audit of the providers, the bill requires the Director of Mental Health to adopt rules establishing minimum standards that providers must meet in the prevention of "inappropriate service delivery." Initial rules must be adopted not later than 90 days after the bill's effective date.

Health and safety of consumers of mental health services

(R.C. 5119.06)

Current law requires the Department of Mental Health to establish a program to protect and promote the rights of persons receiving mental health services. The bill requires that the program include protection and promotion of the health and safety of such persons. The bill requires the Department to adopt rules as it considers necessary to implement the program, with initial rules regarding health and safety to be adopted not later than 90 days after the bill's effective date. All rules for the program must be adopted in accordance with provisions of the Administration Procedures Act (R.C. Chapter 119.) that require public hearings.

Elimination of certain responsibilities for the certification of mental health facilities held by the Department of Mental Health and its Director

(R.C. 3923.28, 3923.30, and 5119.01)

Section 3923.28 of the Revised Code requires every policy of group sickness and accident insurance providing broad coverage for hospital, surgical, or medical expenses, and providing coverage for the treatment of mental or emotional disorders, to provide benefits on an outpatient basis for the treatment of, and the evaluation of, persons with mental and emotional disorders. These policies must provide coverage for treatment and evaluations of at least $550 for every 12 months. Treatment and evaluations must be performed by, or under the clinical supervision of, a licensed physician or psychologist.

Currently, treatment and evaluations may be performed in an office, or in a hospital or community mental health facility which has either been approved by

the "Joint Commission on Healthcare Organizations" or certified by the Department of Mental Health as being in compliance with established standards authorizing participation in health care plans and insurance policies. The bill ends the authority of the Department of Mental Health to certify compliance for participation in these policies. The bill requires the services for mental or emotional disorders provided under this section to be performed in offices, or in hospitals or community mental health facilities approved by any of the following: the Joint Commission on *Accreditation of* Healthcare Organizations, the Council on Accreditation for Children and Family Services, or the Commission on Accreditation of Rehabilitation Facilities.

Currently, the Department of Mental Health may also certify facilities as outpatient service centers for mental and emotional disorders under section 3923.30 of the Revised Code. Section 3923.30 of the Revised Code is applicable to every person, the state and any of its instrumentalities, any county, township, school district, or other political subdivision and its instrumentalities, which provide payment for health care benefits for any of its employees through self-insurance and not by contract with an insurer or health insuring corporation. These self-insured plans must provide coverage for treatment and evaluations of at least $550 for every 12 months. Treatment and evaluations must be performed by, or under the clinical supervision of, a licensed physician or psychologist, in an office, or in a hospital or community mental health facility approved by the Joint Commission on Accreditation of Hospitals or certified by the Department as being in compliance with established standards authorizing participation in health care plans and insurance policies.

The bill ends the authority of the Department of Mental Health to certify compliance for participation in these plans, and requires the services for mental or emotional disorders provided by this section to be performed in offices, or in hospitals or community mental health facilities approved by any of the same accrediting organizations that the bill identifies in section 3923.28 of the Revised Code.

Section 5119.01 of the Revised Code sets forth the powers and duties of the Director of Mental Health. The bill, in conformance with its changes to sections 3923.28 and 3923.30 of the Revised Code, eliminates the Director's authority under this section to certify the compliance of community mental health facilities with service standards established by the Director for the purpose of authorizing the participation of the facilities in the health care plans of health insuring corporations and sickness and accident insurers. The bill does not eliminate the Director's authority, in general, to certify the compliance of community mental health facilities with the service standards that the Director establishes concerning the adequacy of services provided by these facilities.

Elimination of ODMH oversight and audit duties regarding ODRC mental health programs

(R.C. 5119.06)

Under current law, the Department of Mental Health (ODMH) must provide oversight to the Department of Rehabilitation and Correction (ODRC) for the delivery of mental health services in state correctional institutions. ODMH must also audit mental health programs in state correctional institutions operated by ODRC for compliance with standards that have been jointly developed and promulgated by ODMH and ODRC. The standards must include monitoring mechanisms to provide for quality of services in these programs. The bill eliminates these ODMH duties and the requirement that standards be developed and promulgated.

Medicaid-funded mental retardation and developmental disability services

(R.C. 5111.041, 5111.042, 5111.87, 5111.871, 5111.872, 5111.873, 5111.88 (repealed), 5123.01, 5123.044, 5123.045, 5123.046, 5123.047, 5123.048, 5123.049, 5123.0410, 5123.0411, 5123.0412, 5123.0413, 5126.01, 5126.042, 5126.046, 5126.047, 5126.051, 5126.054 (repealed), 5126.054 (new), 5126.055, 5126.056, 5126.18, 5705.091, 5705.41, and 5705.44; Section 62.29; ancillary sections: 5123.041, 5123.71, 5123.76, 5126.12, and 5126.357)

Medicaid coverage of habilitation services

(R.C. 5111.041 and 5123.041)

The bill requires the Director of ODJFS to adopt rules in accordance with the Administrative Procedure Act governing the Medicaid program's coverage of habilitation center services provided by ODMR/DD-certified habilitation centers. The rules must establish or provide for all of the following:

(1) The requirements a habilitation center must meet to obtain ODMR/DD certification;

(2) Making habilitation center services provided by ODMR/DD-certified habilitation centers available to Medicaid recipients with a medical need for the services;

(3) The amount, duration, and scope of the Medicaid program's coverage of the habilitation center services, including (a) the conditions under which Medicaid covers habilitation center services, (b) the amount Medicaid pays for the habilitation center services or the method by which the amount is determined, and (c) the manner in which Medicaid pays for the habilitation center services.

ODMR/DD is required to do the following pursuant to an interagency agreement with ODJFS:

(1) Accept and process Medicaid reimbursement claims from habilitation centers providing habilitation services to Medicaid recipients;

(2) Pay the Medicaid claims using Medicaid funds that ODJFS provides to ODMR/DD;

(3) Perform the other duties included in the interagency agreement.

The bill eliminates a requirement that a habilitation center verify the availability of matching Medicaid funds for reimbursement of habilitation services.

Home or community-based services waiver request

(R.C. 5111.87. 5111.871, 5111.872, and 5111.873)

The bill authorizes the Director of ODJFS to apply to the United States Secretary of Health and Human Services for one or more Medicaid waivers under which home or community-based services are provided to individuals with mental retardation or other developmental disability as an alternative to placement in an intermediate care facility for the mentally retarded.

The Director is required to adopt rules establishing statewide fee schedules for these home or community-based services. The rules must provide for all of the following:

(1) ODMR/DD arranging for the initial and ongoing collection of cost information from a comprehensive, statistically valid sample of private and public entities providing the services at the time the information is obtained;

(2) The collection of consumer-specific information through an assessment instrument ODMR/DD is required to develop;

(3) With the above information, an analysis of that information, and other information the Director determines relevant, methods and standards for calculating the fee schedules that (a) ensure that the fees are consistent with efficiency, economy, and quality of care, (b) consider the intensity of consumer resource need, (c) recognize variations in different geographic areas regarding the resources necessary to assure the health and welfare of consumers, and (d) recognize variations in environmental supports available to consumers.

Continuing law provides for ODJFS to enter into an interagency agreement with ODMR/DD for ODMR/DD to administer these kinds of home or community-based services. When ODMR/DD allocates enrollment numbers to a county board of mental retardation and developmental disabilities (county MR/DD board) for these home or community-based services, it is required by the bill to consider (1) the number of individuals with mental retardation or other developmental disability who are on a waiting list the county MR/DD board establishes for those services, (2) the implementation component of a plan the county MR/DD board is required by the bill to develop, and (3) anything else ODMR/DD considers appropriate.

Transfer to Medicaid-funded home or community-based services

(R.C. 5126.046)

County MR/DD boards are permitted by the bill to transfer certain individuals with mental retardation or other developmental disability to Medicaid-funded home or community-based services administered by ODMR/DD. The purpose of the transfers is to obtain additional federal Medicaid funds for such home or community-based services and Medicaid-funded habilitation center and case management services.

County board waiting list priorities

(R.C. 5126.042)

A county MR/DD board is required by the bill to give certain individuals with mental retardation or other developmental disability who are eligible for Medicaid-funded home or community-based services that ODMR/DD administers priority over others on waiting lists created for county board services. These individuals are not to receive priority over individuals who have an emergency need for the services.

County MR/DD boards to seek approval of local authority plan

(R.C. 5123.046, 5126.054, and 5126.055)

The bill requires county MR/DD boards to seek approval of a three-calendar year plan from ODMR/DD for the purpose of obtaining local administrative authority for Medicaid-funded home or community-based services that ODMR/DD administers, habilitation center services, and case management services. ODMR/DD is required to approve county MR/DD board plans that include all the required information and conditions. ODMR/DD is to make approvals in consultation with ODJFS and the Office of Budget and Management.

No county MR/DD board may receive payments under the tax equalization program unless its plan is approved.

Payment of nonfederal share of Medicaid services

(R.C. 5111.041, 5123.047, 5126.056, 5705.41, and 5705.44)

The bill specifies when ODMR/DD or a county MR/DD board is required to pay the nonfederal share of Medicaid expenditures for home or community-based services that ODMR/DD administers, habilitation center services, and case management services. The bill also specifies when a school district must pay the nonfederal share of Medicaid expenditures for habilitation center services.

A county MR/DD board that has local administrative authority for Medicaid-funded, ODMR/DD–administered home or community-based services must pay the nonfederal share for the services when they are provided to an individual with mental retardation or other developmental disability who the county MR/DD board determines is eligible for county board services. A county MR/DD board that has local administrative authority for Medicaid case management services must pay the nonfederal share for such services provided to an individual with mental retardation or other developmental disability who the county MR/DD board determines is eligible for county board services unless the services are provided by a public or private agency with which ODMR/DD has contracted to provide protective services to the individual.

A county MR/DD board that has local administrative authority for habilitation center services is responsible for the nonfederal share of the services if all of the following apply:

(1) The habilitation center services are provided to a Medicaid recipient who is a current resident of the county that the county MR/DD board serves;

(2) The county MR/DD board has determined that the Medicaid recipient is eligible for county board services;

(3) The habilitation center services are provided by a habilitation center with a Medicaid provider agreement and the habilitation center is operated by the county MR/DD board or has contracted with the county MR/DD board or ODMR/DD to provide the habilitation center services;

(4) No school district is required to pay the nonfederal share.

A school district is required to pay the nonfederal share if all of the following apply to the habilitation center services:

(1) They are provided to a Medicaid recipient who is a student enrolled in a school of the district;

(2) They are included in the student's individualized education program;

(3) They are provided by a habilitation center with a Medicaid provider agreement and the habilitation center is operated by the school district or has contracted with the school district to provide the habilitation center services.

ODMR/DD is responsible for the nonfederal share of Medicaid expenditures for habilitation center services provided to an individual with mental retardation or other developmental disability unless a county MR/DD board or school district is responsible for it. ODMR/DD must pay the nonfederal share for Medicaid case management services if the services are provided to an individual with mental retardation or other developmental disability (1) who a county board has determined is not eligible for county board services or (2) by a public or private agency with which ODMR/DD has contracted to provide residential services to the individual. ODMR/DD is responsible for the nonfederal share of Medicaid expenditures for home or community-based services it administers when they are provided to an individual with mental retardation or other developmental disability who a county MR/DD board has determined is not eligible for county board services.

ODMR/DD to charge county MR/DD boards a fee

(R.C. 5123.0412)

ODMR/DD is required by the bill to charge county MR/DD boards a fee for the purpose of generating funds to be used by ODMR/DD and ODJFS for (1) the administration and oversight of Medicaid-funded home or community-based services, habilitation center services, and case management services that a county MR/DD board develops and monitors and (2) the provision of technical support to county MR/DD boards for their local administrative authority for the services.

Plan for paying for extraordinary costs and ensuring availability of funds

(R.C. 5123.0413 and 5705.091)

Under the bill, ODMR/DD, in consultation with ODJFS and county MR/DD boards, must plan for the establishment, funding, and management of one or more of the following to pay for extraordinary costs, including extraordinary costs for services to individuals with mental retardation or other developmental disability, and ensure the availability of adequate funds in the event a county property tax levy for services for individuals with mental retardation or other developmental disability fails:

(1) County MR/DD Medicaid reserve funds;

(2) A state MR/DD risk fund;

(3) A state insurance against MR/DD risk fund.

Rules governing the authorization and payment of Medicaid services

(R.C. 5123.049)

ODMR/DD is required to adopt rules in accordance with the Administrative Procedure Act governing the authorization and payment of Medicaid-funded home or community-based services that ODMR/DD administers, habilitation center services, and case management services.

Certification of Medicaid-funded home or community-based services

(R.C. 5123.045)

ODMR/DD is required by the bill to certify providers of Medicaid-funded, ODMR/DD-administered home or community-based services that satisfy certification requirements ODMR/DD is to establish by rule. The bill makes certification a requirement for obtaining payment for providing such services.

Certification of habilitation centers

(R.C. 5111.041 and 5123.041)

Under current law, the Director of ODMR/DD is required to certify habilitation centers that meet standards specified in rules the Director is required to adopt. The Director is also required to adopt rules defining habilitation services and programs, other than services provided by the Ohio Department of Education.

The bill eliminates the requirement that the Director of ODMR/DD adopt rules specifying habilitation center certification requirements and defining habilitation services and programs. Instead, ODMR/DD is to certify habilitation centers that meet certification requirements established by ODJFS rules. ODMR/DD is required to perform the certifications pursuant to an interagency agreement with ODJFS.

ODMR/DD continues to be required to establish by rule a fee that it may assess against a habilitation center for performance of ODMR/DD's habilitation center services duties.

Approval, reduction, denial, and termination of services

(R.C. 5111.87, 5111.042, and 5111.871)

ODMR/DD and ODJFS are authorized to approve, reduce, deny, or terminate a service included in the individualized service plan developed for a Medicaid recipient with mental retardation or other developmental disability who is eligible for habilitation center, case management, or ODMR/DD-administered home or community-based services. They are required to consider the recommendations a county MR/DD board makes. If either department reduces, denies, or terminates a service, that department must timely notify the Medicaid recipient that the recipient may request a hearing.

Elimination of obsolete home or community-based services law

(R.C. 5111.88 (repealed))

The bill eliminates law that requires ODJFS to enter into an interagency agreement with ODMR/DD with regard to a Medicaid component under which home or community-based services are provided to an individual with mental retardation or other developmental disability as an alternative to placement in a nursing facility. According to officials at ODJFS and ODMR/DD, this law concerns the defunct OBRA Medicaid waiver program.

Comparable services for individuals who move to a new county

(R.C. 5123.0410)

The bill provides that an individual with mental retardation or other developmental disability who moves from one county in this state to another county in this state is to receive ODMR/DD-administered, Medicaid-funded home or community-based services that are comparable in scope to the services the individual receives before moving. If the county MR/DD board serving the county to which the individual moves determines that the individual is eligible for county board services, it must ensure that the individual receives the comparable services. If the county MR/DD board does not make that determination, ODMR/DD is required to ensure that the individual receives the comparable services.

Freedom to choose provider

(R.C. 5126.047)

An individual with mental retardation or other developmental disability who is eligible for supported living, residential, habilitation, vocational, or

community employment services has the right under the bill to choose the provider of the services.

Arranging residential services and supported living

(R.C. 5126.051)

Current law provides that a county MR/DD board is permitted, to the extent that resources are available, to provide for or arrange residential services and supported living for individuals with mental retardation or other developmental disability. The bill requires a county MR/DD board to provide for or arrange those services to the extent that resources are available.

Certification of supported living providers

(R.C. 5126.431)

The bill requires that ODMR/DD rules governing the certification of supported living providers allow a private or government entity that holds a residential facility license to automatically satisfy a standard for certification that the entity had to meet to obtain the residential facility license.

Help Me Grow

(R.C. 3701.61)

The bill requires the Department of Health to create the Help Me Grow program for the purpose of encouraging early prenatal and well-baby care.[84] The program is to include distributing subsidies to counties to provide (1) home-visiting services to newborn infants and their families and (2) services to infants and toddlers under three years of age who are at risk for, or who have, a developmental delay or disability and their families. The bill prohibits the Department from providing home-visiting services under the program unless requested in writing by the infant or toddler's parent. The Department is granted rulemaking authority under the Administrative Procedure Act (Chapter 119. of the Revised Code) to implement the program.

---

[84] The Department has operated the Help Me Grow program since 1995 under existing administrative authority. The bill establishes the program in permanent law.

BILL SUMMARY

AGRICULTURE, ENERGY, ENVIRONMENT, AND NATURAL RESOURCES

- Extends the Family Farm Loan Program until July 1, 2003.
- Requires financial institutions to forward applications for loans under that program directly to the Department of Agriculture for review and analysis instead of to the Department of Development for those purposes.
- Expands the uses of the moneys in the Animal Industry Laboratory Fund by requiring the Director of Agriculture to use those moneys to pay the operating expenses of the animal industry laboratory rather than just to purchase supplies and equipment for the laboratory.
- Eliminates the Dairy Fund and requires all moneys collected under the Dairies Law to be deposited into the Dairy Industry Fund.
- Requires the Director of Agriculture to create a task force to study the threat of bio-terrorism to the state, and requires the task force to report its findings and recommendations to the General Assembly.
- Prohibits the Ohio State Fair from being open to the public for more than 15 days in a calendar year, beginning in 2002, but allows specified activities to occur outside the 15-day limit.
- As a result of the transfer of ownership of the Burr Oak water system, eliminates the state's statutory responsibility for the operation of that system.
- Eliminates a requirement that the Chief Engineer of the Department of Natural Resources coordinate the Department's emergency response activities with the state's Emergency Management Agency.
- Eliminates the Forestry Development Trust Fund and the Forestry Development Fund.
- Removes the requirement that the Controlling Board approve certain oil or gas well restoration, plugging, or injection projects for which the Chief

of the Division of Mineral Resources Management expends moneys from the Oil and Gas Well Fund.

- Requires excess permit fees paid by an operator of a coal mining operation to be refunded to the operator, and creates the Reclamation Fee Fund for that purpose.

- Authorizes the Chief of the Division of Mineral Resources Management in the Department of Natural Resources to assess a fee for safety and first aid classes that are provided to miners through the Division.

- Creates the Ohio water resources council for the purpose of providing a forum for policy development, collaboration, and coordination among state agencies, and strategic direction with respect to state water resource programs.

- Establishes the State Agency Coordinating Group and an Advisory Group to assist and advise the Council.

- Creates the Ohio Water Resources Council Fund.

- Revises the purposes for which the Wildlife Boater Angler Fund is to be used.

- Eliminates the self-insured blanket fidelity bond program for the Division of Wildlife.

- Authorizes the Chief of the Division of Watercraft to revise, by rule, the fees and charges for watercraft registration, livery registration, and dealer or manufacturer registration.

- Increases from $30,000 to $35,000 the amount in a calendar year that the Division of Watercraft may grant to a political subdivision, conservancy district, or state department for enforcement and emergency response purposes, and excludes the Department of Natural Resources from that cap.

- Prohibits the renewal of all existing contracts for the motor vehicle inspection and maintenance program, and prohibits the entrance of the state into any new contracts for automobile emissions inspection programs upon the expiration of the existing contracts for that program.

- Creates the E-Check New Car Exemption Working Group to determine the costs associated with expanding the motor vehicle inspection and maintenance program's new car exemption from two years to five years.

- Extends through June 30, 2004, the 75¢ per-ton fee on the disposal of solid wastes that is used to fund the solid and infectious waste and construction and demolition debris management programs.

- Establishes a fee on tire sales of 50¢ per tire in addition to the current 50¢ fee that is used to fund the scrap tire management program, and requires moneys from the additional fee to be used for scrap tire cleanups.

- Provides that certain moneys in the Scrap Tire Management Fund must be used to conduct scrap tire removal actions and to make grants to boards of health for the purpose of addressing accumulations of scrap tires, and repeals certain current required uses of moneys in the Fund.

- Eliminates the Scrap Tire Loans and Grants Fund, which is administered by the Department of Development, and replaces it with the Scrap Tire Recycling Fund to be administered by the Chief of the Division of Recycling and Litter Prevention in the Department of Natural Resources.

- Allows the Director of Environmental Protection to assess any operating funds from which the EPA receives appropriations (not just funds within the General Services Fund Group and the State Special Revenue Fund Group) for a share of the administrative costs of the EPA.

- Requires the rate of assessments to be determined by the EPA Director with the approval of the Director of Budget and Management (rather than by the EPA Director at a rate that does not exceed 12% unless the Controlling Board approves a higher rate).

- Increases from $40 to $60 the filing fee for appeals to the Environmental Review Appeals Commission.

- Requires the Director of Environmental Protection, within 10 days after receipt of an application for a permit under specified environmental laws, to provide written notice to the applicant either that the application contains all of the necessary information or that the application is incomplete, and requires the Director to waive the application fee if the Director fails to do so.

- Requires the Director of Environmental Protection to issue or deny a permit under the Air Pollution Control Law, the Solid, Infectious, and Hazardous Waste Law, the Voluntary Action Program Law, and the Water Pollution Control Law within 90 days after receipt of an application for the permit.

- Specifies that Title V air contaminant emissions fees for certain electric generating units must be assessed each calendar year, and extends the fee schedule for the discharge of air pollutants from synthetic minor facilities through June 30, 2004.

- Extends the higher plan approval fees for wastewater treatment works through June 30, 2004; extends the annual discharge fees for public and industrial dischargers holding a NPDES permit to January 30, 2003; extends a $7,500 annual surcharge for major industrial dischargers to January 30, 2003; establishes a $100 per square mile discharge fee, with a maximum fee of $10,000, for persons obtaining a general or individual NPDES permit for municipal storm water payable on or before January 30, 2004 and January 30 of each year thereafter; retains at their currently established levels through June 30, 2004, the fee for a public water system license, license renewal, and plan approval, the fee for certification as an operator of a water supply or wastewater system, the fee for an industrial water pollution control certificate, and other miscellaneous fees; establishes a $20 per acre application fee for NPDES general storm water construction permits with a maximum fee of $300; and establishes a $150 application fee for persons applying for a NPDES general storm water industrial permit.

- With respect to public notice of a permit action related to a general NPDES permit, requires the publishing of a summary of the permit action and instructions on how to obtain a copy of the full text of the permit action in lieu of publishing the full text of the permit action.

- Renames the Public Utilities Commission's Biofuels/Municipal Waste Technology Fund the Biomass Energy Program Fund, and provides that subject to available funding, the Commission is to maintain a program to promote the development and use of biomass energy.

- Allows the board of directors of a conservancy district to levy special assessments on all taxable property in the district to pay for recreational facilities on public land in the district.

- Provides that a backflow prevention device is not required for a connection between a public water system and a private, auxiliary, or emergency water system when a physical separation exists between the two systems.

CONTENT AND OPERATION

AGRICULTURE, ENERGY, ENVIRONMENT, AND NATURAL RESOURCES

Family Farm Loan Program

(R.C. 122.011, 166.03, 901.63, 901.81, and 901.82; Sections 149 and 150)

Under current law, the Family Farm Loan Program is scheduled to expire on July 1, 2001. The bill extends the expiration date to July 1, 2003, and changes all statutory dates with regard to that program accordingly.

Currently, a financial institution that wishes to participate in the program must accept and review applications for loans from eligible applicants. The institution must forward all completed applications and specified information to the Department of Development, which is authorized to review, analyze, and summarize the applications and information and forward the applications, information, analyses, and summaries to the Director of Agriculture. The bill instead requires participating financial institutions to forward applications and information directly to the Department of Agriculture and requires the Director of Agriculture to review, analyze, and summarize the applications.

Animal industry laboratory

(R.C. 901.43)

Under current law, all moneys collected by the Director of Agriculture from fees generated for laboratory services performed by the Department of Agriculture and related to the diseases of animals and for the inspection and accreditation of laboratories and laboratory services related to the diseases of animals must be deposited in the Animal Industry Laboratory Fund. The Director must use moneys in the Fund to purchase supplies and equipment for the animal industry laboratory. The bill expands the uses of the moneys in the Fund by requiring the Director to use the moneys to pay the expenses necessary to operate the laboratory, including the purchase of supplies and equipment.

Dairy Industry Fund and Dairy Fund

(R.C. 917.07 and 917.99)

Current law establishes both the Dairy Industry Fund and the Dairy Fund. All inspection and license fees collected under the Dairies Law must be deposited into the Dairy Industry Fund. All fine moneys and any other moneys collected under the Dairies Law, except the inspection fees and license fees, must be deposited into the Dairy Fund. Moneys from both funds are used to operate and pay the expenses of the Division of Dairy in the Department of Agriculture. The bill eliminates the Dairy Fund and requires all moneys collected under the Dairies Law, including fine moneys, to be deposited into the Dairy Industry Fund.

Task force on bio-terrorism

(Section 165)

The bill requires the Director of Agriculture to create a task force to study and make recommendations on methods to avert bio-terrorism, including actions by foreign countries against the state. The task force must submit its findings and recommendations to the Speaker of the House of Representatives, the President of the Senate, and the chairpersons of the standing committees in the House and Senate that are primarily responsible for considering agricultural matters.

Ohio State Fair

(R.C. 991.20)

The bill prohibits the Ohio State Fair from being open to the public for more than 15 days in a calendar year, beginning in 2002. However, it specifies that the 15-day period cannot include any day on which livestock exhibits or other attractions or concessions are being set up or taken down, provided that the Fair is not open to the public on any such day.

Elimination of state's responsibility for the Burr Oak water system

(R.C. 1501.01, 1507.01, 1507.12, and 1521.04)

Current law requires the Chief Engineer of the Department of Natural Resources, as long as the state retains ownership of the Burr Oak water system, to administer, operate, and maintain the Burr Oak water system and, with the approval of the Director of Natural Resources, act as contracting agent in matters concerning that system. In addition, the Chief Engineer is required to adopt rules specifying requirements and procedures for the provision of water service to water users and establishing a rate schedule, including related water service fees and late

payment penalties, for the sale of water from the Burr Oak water system sufficient to meet the capital improvement and operating expenses of the system. "Burr Oak water system" includes the Burr Oak water treatment plant and its transmission lines, storage tanks, and other appurtenances.

Current law requires the revenue that is derived from the sale of water to be deposited into the Burr Oak Water System Fund. All investment earnings of the Fund are credited to it. Money in the Fund must be used to pay the capital improvement and operating expenses of the Burr Oak water system. The Chief Engineer may enter into contracts with the Ohio Water Development Authority to meet the capital improvement expenses of the Burr Oak water system.

Current law specifies that the above provisions apply only as long as the state retains ownership of the Burr Oak water system and cease to apply if ownership of the Burr Oak water system is transferred from the state. Am. Sub. H.B. 283 of the 123rd General Assembly required the Department of Natural Resources, upon the creation of a regional water district, to transfer ownership of the system to the district, which was required to serve portions of Athens, Morgan, Hocking, and Perry counties or surrounding areas. On October 15, 2000, ownership of the system was transferred to the new Burr Oak Water District. Thus, because the state no longer owns the system, the bill eliminates all of the provisions that are discussed above together with all other statutory references to the Burr Oak water system.

Elimination of Chief Engineer's duty to coordinate emergency response activities

(R.C. 1507.01)

Under current law, the Chief Engineer of the Department of Natural Resources must coordinate the Department's emergency response activities with the state's Emergency Management Agency. The bill eliminates this requirement.

Elimination of Forestry Development Trust Fund and Forestry Development Fund

(R.C. 1503.11, 1503.35, and 1503.351)

Current law creates the Forestry Development Trust Fund, which is in the custody of the Treasurer of State, but is not a part of the state treasury. The Fund is administered by the Division of Forestry in the Department of Natural Resources. The purpose of the Fund is to facilitate the development, management, and maintenance of rural and urban forests and trees in the state. The Fund consists of moneys contributed to the Division for those purposes. All investment

earnings of the Fund must be credited to it until the investment earnings are transferred to the Forestry Development Fund.

Current law also creates in the state treasury the Forestry Development Fund, which consists of the investment earnings of the Forestry Development Trust Fund and of money received from gifts, grants, and other contributions made to the Department of Natural Resources for the purposes of the Fund. All investment earnings of the Fund are credited to it. The Chief of the Division of Forestry, with the approval of the Director of Natural Resources, must use the Fund to make grants for urban and rural forest resource improvement and development projects. The Chief must adopt rules in accordance with the Administrative Procedure Act establishing guidelines and procedures for making the grants.

The bill eliminates the Forestry Development Trust Fund and the Forestry Development Fund together with all statutory provisions and references concerning them.

Expenditure of forfeiture moneys from oil and gas well surety bonds

(R.C. 1509.071)

When the Chief of the Division of Mineral Resources Management in the Department of Natural Resources finds that an owner of an oil or gas well has failed to comply with restoration requirements, plugging requirements, or permit provisions, or rules and orders relating to them, the Chief must make a finding of that fact and declare any surety bond filed to ensure compliance with those requirements forfeited. Current law requires that all moneys collected because of forfeitures of bonds be deposited to the credit of the Oil and Gas Well Fund. The Chief must expend the moneys in the Fund for specific purposes. Three of the purposes are the plugging of the wells or restoration of the land surface properly for which the bonds have been forfeited, the plugging of abandoned wells for which no funds are available, and the injection of oil or gas production wastes in abandoned wells. Current law requires the Chief to periodically submit project proposals for those activities to the Controlling Board together with benefit and cost data and other pertinent data. In addition, expenditures from the Fund for those purposes may be made only for restoration, plugging, or injection projects that are approved by the Controlling Board, and expenditures for a particular project may not exceed any limits set by the Board.

The bill removes the requirements that the Chief submit project proposals to the Controlling Board and that expenditures from the Fund for restoration, plugging, or injection projects as described above be approved by the Controlling Board.

Refunds of excess permit fees paid by a coal mine operator

(R.C. 1513.10)

The bill provides that if, at the end of a coal mining operation's permit or renewal period, the number of acres of land affected by the operation proves to be smaller than the number of acres of land for which the operator paid a permit fee for the operation, the operator is entitled to a refund of the excess permit fee. The refund must be in an amount equal to the amount paid per acre as a permit fee multiplied by the difference between the number of acres in the area of land affected as verified by the Division of Mineral Resources Management and the number of acres of land for which the operator paid a permit fee.

The bill requires refunds to be paid out of the Reclamation Fee Fund, which the bill creates. The Treasurer of State must place in the Fund $40,000 from the fees collected for coal mining and reclamation permits under existing law. As moneys are spent from the Fund, the Treasurer of State must credit to it the amount that is needed to keep the balance of the Fund at $40,000. The remainder of the fees collected for coal mining and reclamation permits must be deposited with the Treasurer of State to the credit of the existing Coal Mining Administration and Reclamation Reserve Fund.

Fees for safety and first aid classes for miners

(R.C. 1514.11 and 1561.26)

Current law requires certain employees of the Division of Mineral Resources Management in the Department of Natural Resources to provide for and conduct safety, first aid, and rescue classes at any mine or for any group of miners who apply for the classes. The bill authorizes the Chief of the Division of Mineral Resources Management to assess a fee for safety and first aid classes for the purpose of covering the costs associated with providing those classes. The Chief must establish a fee schedule for the classes by rules adopted under the Administrative Procedure Act. The bill requires fees collected for the classes to be deposited in the Surface Mining Fund created under existing law and specifies that moneys in the Fund may be used for the classes. In addition, the bill requires the Chief, with the approval of the Director of Natural Resources, to determine annually the amounts to be expended for the classes.

Ohio Water Resources Council

(R.C. 1521.19)

The bill creates the Ohio Water Resources Council consisting of the Directors of Agriculture, Development, Environmental Protection, Health, Natural

Resources, Transportation, and the Ohio Public Works Commission, the Chairperson of the Public Utilities Commission of Ohio, the Executive Directors of the State and Local Government Commission of Ohio and the Ohio Water Development Authority, and an executive assistant in the office of the Governor appointed by the Governor. The Council is charged with providing a forum for policy development, collaboration and coordination among state agencies, and strategic direction with respect to state water resource programs.

The Governor is required to appoint one of the members of the Council to serve as its chairperson. The Council may adopt bylaws that are necessary for the implementation of the bill's provisions related to the Council. The Council is to be assisted in its functions by a state agency coordinating group and an advisory group.

Under the bill, a state agency coordinating group is to provide assistance to and perform duties on behalf of the Ohio Water Resources Council. The state agency coordinating group consists of the Executive Director of the Ohio Lake Erie Commission and a member or members from each state agency, commission, and authority represented on the Council, to be appointed by the applicable Director, Chairperson, or Executive Director. However, the bill provides that the Environmental Protection Agency must be represented on the group by the chiefs of the divisions within that agency having responsibility for surface water programs and drinking and ground water programs. Further, the Department of Natural Resources must be represented on the group by the Chief of the Division of Water and the Chief of the Division of Soil and Water Conservation. The chairperson of the Ohio Water Resources Council must appoint a leader of the sate agency coordinating group.

Additionally, the bill creates an advisory group to advise the Council on water resources issues. The advisory group consists of not more than 20 members, each representing an organization or entity with an interest in water resource issues. The Council must appoint the members of the advisory group to staggered two-year terms in accordance with standard appointment procedures. The Council must appoint a chairperson of the advisory group. The Council may remove a member of the advisory group for misfeasance, nonfeasance, or malfeasance in office.

The bill creates the Ohio Water Resources Council Fund and requires the Department of Natural Resources to serve as its fiscal agent. Moneys in the Fund are required to be contributed in equal amounts via interstate transfer voucher by the Departments of Agriculture, Development, Environmental Protection, Health, Natural Resources, and Transportation. In addition, the Public Utilities Commission of Ohio, Ohio Public Works Commission, State and Local Government Commission of Ohio, and Ohio Water Development Authority may

transfer moneys to the Fund. If a voluntary transfer of moneys is made to the Fund, the portion that is required to be transferred by the above departments may be equally reduced. Moneys in the Fund must be used to pay the operating expenses of the Ohio Water Resources Council.

The Council may hire staff to support its activities and may enter into contracts and agreements with state agencies, political subdivisions, and private entities to assist in accomplishing its objectives. The bill requires advisory group members to be reimbursed for expenses necessarily incurred in the performance of their duties pursuant to current law and any applicable rules pertaining to travel reimbursement adopted by the Office of Budget and Management.

Wildlife Boater Angler Fund

(R.C. 1531.35)

Current law creates the Wildlife Boater Angler Fund consisting of a percentage of revenues collected from motor fuel taxes that are attributable to the operation of motor vehicles on waters within this state together with other money contributed to the Division of Wildlife in the Department of Natural Resources for the purposes of the Fund. Currently, the Fund may be used for boating, capital improvements, grant programs for boating and fishing access, maintenance, and development. The bill revises the purposes for which the Fund is to be used by requiring it to be used for boating access construction, improvements, and maintenance on lakes on which the operation of gasoline-powered watercraft is permissible.

Elimination of the self-insured blanket fidelity bond program for the Division of Wildlife

(R.C. 9.821, 9.822, 9.832, and 1533.13)

Current law authorizes the Department of Administrative Services to establish a self-insured blanket fidelity bond program on behalf of the Division of Wildlife in the Department of Natural Resources in the amount and manner provided by the Chief of the Division of Wildlife. "Fidelity bond" is defined as a contract whereby one party agrees to indemnify another party against losses arising for any of the following: (1) embezzlement or theft by, or the negligence or lack of integrity of, persons holding positions of trust with the indemnified party, (2) the default of debtors or losses in trade of the indemnified party, or (3) breaches of contract.

Under current law, the form of the blanket fidelity bond must be prescribed by the Chief. The Chief may pay the premium of any bond that the Chief

prescribes. In consideration of payment of a premium, subject to the conditions and limitations agreed upon, the Department of Administrative Services, as surety agent, must indemnify the Division against any losses incurred as a result of sales of hunting and fishing licenses, deer and wild turkey permits, and fur taker permits.

The bill eliminates the self-insured blanket fidelity bond program together with all of the above provisions and all other statutory references to the program.

Enforcement and emergency response grants from the Division of Watercraft

(R.C. 1547.67)

Current law authorizes the Division of Watercraft, with the approval of the Director of Natural Resources, to make grants to political subdivisions, conservancy districts, and state departments for the purpose of operating a marine patrol to enforce the laws governing watercraft and to provide emergency response to boating accidents on the water. In no case can a grant to a political subdivision, conservancy district, or state department total more than $30,000 in a calendar year. The bill increases that cap to $35,000 in a calendar year and excludes the Department of Natural Resources from the cap.

Prohibition against renewing existing E-Check contracts and entering into new contracts

(R.C. 3704.143)

The bill prohibits the Director of Administrative Services or the Director of Environmental Protection, as applicable, from renewing any contract for the motor vehicle inspection and maintenance program (E-Check) that is in existence on the effective date of the bill. Further, it prohibits the Director of Administrative Services or the Director of Environmental Protection from entering into a new contract upon the expiration or termination of any contract for the program that is in existence on that date.

The bill also provides that notwithstanding provisions of law that require motor vehicle emissions inspections to be conducted and proof of the inspections to be provided prior to registration, upon the expiration or termination of all contracts for the program that are in existence on the effective date of the bill, the Director of Environmental Protection must terminate all emissions inspections programs in this state and cannot implement a new program unless the bill's applicable provisions are repealed and such a program is authorized by the General Assembly.

E-Check New Car Exemption Working Group

The bill creates the E-Check New Car Exemption Working Group consisting of a representative of the Governor's office appointed by the Governor, the Director of Environmental Protection or the Director's designee, a member of the House of Representatives appointed by the Speaker of the House of Representatives, and a member of the Senate appointed by the President of the Senate. The member from the House and the member from the Senate must be from different political parties. Appointments must be made not later than five days after the effective date of these provisions, and the Working Group is required to begin meeting not later than two weeks after that date.

The bill requires the Working Group to enter into communications with the contractor hired to conduct emissions inspections under the motor vehicle inspection and maintenance program. The purpose of the communications is to determine all implementing and contract-related costs associated with expanding the program's new car exemption from two years to five years through a three-year phase-in process. The bill also requires the Working Group to submit a report of its findings to the Speaker and the President not later than four weeks after the provisions' effective date. The Working Group ceases to exist after submittal of the report.

Solid waste disposal fee

(R.C. 3734.57)

Current law levies a fee on the disposal of solid wastes to fund the Environmental Protection Agency's solid and infectious waste and construction and demolition debris management programs. The fee is set at 75¢ per ton and is levied from July 1, 1999, through June 30, 2001. The bill continues the fee through June 30, 2004.

Scrap tire management program

Additional fee on tire sales

(R.C. 3734.901 and 3734.9010, not in the bill; Section 50.01)

Current law establishes a 50¢ per tire fee on the sale of tires. The fee provides revenue to defray the cost of administering and enforcing the law governing scrap tires, rules adopted under that law, and terms and conditions of orders, variances, and licenses issued under that law; to abate accumulations of scrap tires; to make grants to promote research regarding alternative methods of recycling scrap tires and loans to promote the recycling or recovery of energy from scrap tires; and to defray the costs of administering the collection of the fee.

Of the moneys generated from that collection, 96% must be deposited into the Scrap Tire Management Fund (see below). The remaining 4% is generally used for administrative purposes and deposited in the Tire Fee Administrative Fund.

The bill adds an additional 50¢ fee per tire. The proceeds from the fee must be used solely for scrap tire clean-up and removal actions and grants to boards of health for certain nuisance issues related to accumulations of scrap tires. The bill also specifies that for fiscal years 2002 and 2003, 80% of the moneys generated from the additional fee must be used for clean-up and removal actions at the Kirby Tire site.

Use of Scrap Tire Management Fund

(R.C. 3734.82(G))

Current law outlines the purposes for which moneys in the Scrap Tire Management Fund are required to be spent and how much money may be spent for each stated purpose. Those purposes include:

(1) Expending not more than $750,000 during each fiscal year to implement, administer, and enforce the law governing scrap tires;

(2) Providing grants of not more than $150,000 to the Polymer Institute at the University of Akron in each of fiscal years 1998 and 1999;

(3) Transferring $1,000,000 per fiscal year to the Scrap Tire Loans and Grants Fund; and

(4) Transferring moneys equal to not more than 12% of each fiscal year's appropriation to the Scrap Tire Management Fund to the Environmental Protection Agency's Central Support Indirect Fund, which is used to pay certain administrative expenses of the Agency.[85]

The bill repeals the requirements that moneys in the Scrap Tire Management Fund be used to provide grants to the Polymer Institute at the University of Akron and to provide moneys to the Central Support Indirect Fund.[86] Instead, the bill requires the Director of Environmental Protection to expend not more than $3,000,000 per year during fiscal years 2002 and 2003 to conduct scrap tire removal actions and to make grants to boards of health for the purpose of

---

[85] *The bill replaces the Scrap Tire Loans and Grants Fund with the Scrap Tire Recycling Fund (see below).*

[86] *The funding authorization for the Polymer Institute expired after fiscal year 1999.*

addressing accumulations of scrap tires. However, more than $3,000,000 may be expended in fiscal years 2002 and 2003 for those purposes if more moneys are collected from the additional 50¢ fee on the sale of scrap tires levied under the bill (see above). During each subsequent fiscal year, the Director must expend not more than $4,500,000 to conduct scrap tire removal actions and to make grants to boards of health. Again, more than that amount may be expended in each fiscal year for those purposes if more moneys are collected from the additional 50¢ fee on the sale of scrap tires levied under the bill (see above).

The Director must request the approval of the Controlling Board prior to the use of moneys to conduct removal actions. The request must be accompanied by a plan describing the removal actions to be conducted during the fiscal year and an estimate of the costs of conducting them. The Controlling Board must approve the plan only if it finds that the proposed removal actions comply with priorities for removal actions established in current law and that the costs of conducting them are reasonable. Controlling Board approval is not required for grants made to boards of health.

Excess moneys in Scrap Tire Management Fund

(R.C. 3734.82(H) and (I))

Current law specifies that if more than $3,500,000 are credited to the Scrap Tire Management Fund during a fiscal year, at the conclusion of the fiscal year, the Director of Environmental Protection must request the Director of Budget and Management to transfer to the Scrap Tire Loans and Grants Fund one-half of the moneys credited to the Scrap Tire Management Fund in excess of $3,500,000(see below). In addition, current law provides that in each fiscal year, if more than $3,500,000 are credited to the Scrap Tire Management Fund during the preceding fiscal year, the Director of Environmental Protection must expend during the current fiscal year one-half of that excess amount to conduct removal operations.

The bill clarifies and amends the requirements related to excess moneys in the Scrap Tire Management Fund. The bill provides that if, during a fiscal year, more than $7,000,000 are credited to the Scrap Tire Management Fund, the Director of Environmental Protection, at the conclusion of the fiscal year, must request the Director of Budget and Management to transfer one-half of those excess moneys to the Scrap Tire Loans and Grants Fund (see below). The Director of Environmental Protection is required to expend the remaining excess moneys in the Scrap Tire Management Fund to conduct removal actions. Such removal actions must comply with procedures pertaining to Controlling Board approval established in current law.

Additionally, current law provides that all other excess moneys in the Scrap Tire Management Fund may be expended to conduct removal actions after the moneys in the Fund are expended as discussed above during each fiscal year. The bill clarifies that all other excess moneys may be expended after the moneys in the Fund are expended during each prior fiscal year.

Replacement of Scrap Tire Loans and Grants Fund with Scrap Tire Recycling Fund

(R.C. 166.032, 1502.12, and 3734.82(G))

Current law establishes the Scrap Tire Loans and Grants Fund and requires it to be used, generally, to provide grants and loans for eligible projects that recover, use, or recycle energy from scrap tires. Moneys are generated for the Fund from license fees collected from scrap tire monocell or monofill facilities. The Director of Development is required to adopt rules governing the administration of the Fund.

The bill eliminates the Scrap Tire Loans and Grants Fund and establishes instead the Scrap Tire Recycling Fund to be funded in the same manner as the Scrap Tire Loans and Grants Fund from scrap tire monocell or monofill facility license fees. The Chief of the Division of Recycling and Litter Prevention, with the approval of the Director of Natural Resources, is authorized to make grants from the Fund for the purpose of supporting market development activities for recycled scrap tires. The Chief, with the Director's approval, must require any eligible applicant that is certified by the Recycling and Litter Prevention Advisory Council to provide a matching contribution as provided in current law for recycling and litter prevention grants.

Assessments for the EPA Central Support Indirect Fund

(R.C. 3745.014)

The Central Support Indirect Fund is used by the Director of Environmental Protection to pay administrative costs of the Environmental Protection Agency that are related to expenditures from funds included within the General Services Fund Group and the State Special Revenue Fund Group. At present money for the Central Support Indirect Fund comes from assessments of funds of the agency (except the Central Support Indirect Fund) within those two funds groups. The bill allows the Director to assess any funds from which the EPA receives operating appropriations (except the Central Support Indirect Fund) for a share of the administrative costs of the agency. These include not only the fund groups currently assessed, but also the General Revenue Fund and funds included within the Federal Special Revenue Fund Group.

The Director determines the rate of assessments, which at present may not exceed 12% unless the Controlling Board approves a request from the Director for a higher rate. The bill removes this restriction, requiring instead that the EPA Director is to determine the rate with the approval of the Director of Budget and Management.

Fees for appeals to the Environmental Review Appeals Commission

(R.C. 3745.04)

Under current law, any person who is a party to a proceeding before the Director of Environmental Protection may appeal the Director's action or an action of a local board of health to the Environmental Review Appeals Commission for an order vacating or modifying the action or ordering the Director or board to perform an act. The appeal must be accompanied by a filing fee of $40. The bill increases the filing fee to $60.

Written acknowledgement by the Director of Environmental Protection of receipt of an application for a permit

(R.C. 3745.10)

The bill requires the Director of Environmental Protection, not later than 10 days after receipt of an application for a permit under the Air Pollution Control Law, the Solid, Infectious, and Hazardous Waste Law, the Voluntary Action Program Law, or the Water Pollution Control Law, to send to the applicant written acknowledgement of receipt of the application. The written acknowledgement must contain a statement indicating either that the application contains all of the necessary information or the application is incomplete. If the application is incomplete, the written acknowledgement also must provide a description of the information that is missing from the application. If the Director fails to comply with these requirements, the Director must waive the applicant's application fee.

Time period for issuance of certain environmental permits

(R.C. 3745.15)

The Air Pollution Control Law, the Solid, Infectious, and Hazardous Waste Law, the Voluntary Action Program Law, and the Water Pollution Control Law establish various time periods within which the Director of Environmental Protection must make determinations on applications for permits. The bill instead requires the Director to either issue or deny a permit under any of those laws within 90 days after receipt of an application for the permit. The Director must send written notification to the applicant of the issuance or denial. If the Director

fails to issue or deny the permit by the end of the 90-day period, the application is deemed approved, and the Director must issue the permit and send written notification to the applicant of the issuance.

Title V air contaminant source fees and synthetic minor facility fees

(R.C. 3745.11(C) and (D))

Under current law, each person who owns or operates an air contaminant source and who is required to apply for and obtain a Title V air pollution control permit must pay certain fees based on the total actual emissions of each regulated pollutant emitted. Those fees apply in part to emissions from any electric generating unit designated as a Phase I unit under Title IV of the Clean Air Act commencing in calendar year 2001 based on emissions during calendar year 2000. The bill specifies that the fees on those electric generating units must continue to be assessed each subsequent calendar year based on the total actual emissions from the generating unit during the preceding calendar year.

Under current law, beginning January 1, 2000, through June 30, 2001, each person who owns or operates a synthetic minor facility must pay an annual fee based on the sum of the actual annual emissions from the facility of particulate matter, sulfur dioxide, nitrogen dioxide, organic compounds, and lead in accordance with a fee schedule.[87] The bill extends the fee through June 30, 2004.

Water pollution control fees and safe drinking water fees

(R.C. 3745.11(L), (M), (N), (O), (P), and (S) and 6109.21)

Under current law, a person applying for a plan approval for a wastewater treatment works must pay a fee of $100 plus .65 of 1% of the estimated project cost, up to a maximum of $15,000, when submitting an application through June 30, 2002, and a fee of $100 plus .2 of 1% of the estimated project cost, up to a maximum of $5,000, on and after July 1, 2002. Under the bill, the first tier fee is extended through June 30, 2004, and the second tier applies to applications submitted on or after July 1, 2004.

Current law establishes two schedules of annual discharge fees to be paid by holders of national pollutant discharge elimination system (NPDES) permits

---

[87] *Under current law "synthetic minor facility" means a facility for which one or more permits to install or permits to operate have been issued for the air contaminant sources 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 current law.*

with an average daily discharge flow of 5,000 or more gallons per day. Under each of the schedules, one of which is for public dischargers and one of which is for industrial dischargers, the fees are based on the average daily discharge flow and increase as the flow increases. Current law establishes fee schedules for fees that are due by January 30, 2000, and higher fee schedules for fees that are due by January 30, 2001. The bill repeals the fee schedules for fees due January 30, 2000, and extends the fee schedules for fees due January 30, 2001, to January 30, 2002, and January 30, 2003.

In addition to the fee schedules described above, current law also imposes a $6,750 surcharge to the annual discharge fee applicable to industrial dischargers that is required to be paid by January 30, 2000, and a $7,500 surcharge that is required to be paid by January 30, 2001. The bill repeals the $6,750 surcharge and extends the $7,500 surcharge to be paid annually not later than January 30, 2002, and January 30, 2003.

Under current law, 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 is due annually not later than January 30, 2000, and January 30, 2001. The bill continues the fee and requires it to be paid annually by January 30, 2002, and January 30, 2003.

The bill also provides that each person obtaining a NPDES general or individual permit for municipal storm water discharge must pay a nonrefundable storm water discharge fee of $100 per square mile of area permitted. The fee cannot exceed $10,000, and is payable on or before January 30, 2004, and January 30 of each year thereafter. Any person who fails to pay the fee by those dates must pay an additional amount per year equal to 10% of the annual fee that is unpaid.

The Safe Drinking Water Law prohibits anyone from operating or maintaining a public water system without an annual license from the Director of Environmental Protection. Applications for initial licenses or license renewals must be accompanied by a fee, which is calculated using schedules for the three basic categories of public water systems established in current law. The license and license renewal fee is required in statute through June 30, 2002. The fee for initial licenses and license renewals must be paid annually prior to January 31, 2002. The bill extends the initial license and license renewal fee through June 30, 2004, and requires the fees to be paid annually prior to January 31, 2004.

The Safe Drinking Water Law also requires anyone who intends to construct, install, or modify a public water system to obtain approval of the plans from the Director. Current law establishes a fee for such plan approval of $100

plus .2 of 1% of the estimated project cost. The fee cannot exceed $15,000 through June 30, 2002, and $5,000 on and after July 1, 2002. The bill specifies that the $15,000 limit applies to persons applying for plan approval through June 30, 2004, and the $5,000 limit applies to persons applying for plan approval on and after July 1, 2004.

Current law establishes two schedules of fees that the Environmental Protection Agency charges for evaluating laboratories for compliance with accepted analytical techniques and procedures established under the Safe Drinking Water Law. A schedule with higher fees is applicable through June 30, 2002, and a schedule with lower fees is applicable on and after July 1, 2002. The bill continues the higher fee schedule through June 30, 2004, and applies the lower fee schedule to evaluations conducted after that date. The bill also continues through June 30, 2004, a provision that an individual laboratory cannot be assessed a fee more than once during a three-year period.

Current law establishes a $25 application fee to take the examination for certification as an operator of a water supply system or wastewater system through June 30, 2002, and a $10 application fee on and after July 1, 2002. The bill requires the $25 fee to be paid through June 30, 2004, and the $10 fee to be paid on and after July 1, 2004. Upon approval from the Director that an applicant is eligible to take the examination, the applicant must pay a fee in accordance with a schedule established in current law. A higher schedule is established through June 30, 2002, and a lower schedule applies on and after July 1, 2002. The bill extends the higher fee schedule through June 30, 2004.

Under current law, any person submitting an application for an industrial water pollution control certificate must pay a nonrefundable fee of $500 at the time the application is submitted. The fee is applicable through June 30, 2002. The bill extends the fee through June 30, 2004.

Under current law, any person applying for a permit other than a NPDES permit, variance, or plan approval under the Safe Drinking Water Law or the Water Pollution Control Law must pay a nonrefundable fee of $100 at the time the application is submitted through June 30, 2002, and a nonrefundable $15 fee if the application is submitted on or after July 1, 2002. The bill extends the $100 fee through June 30, 2004, and applies the $15 fee on and after July 1, 2004.

Similarly, under current law, a person applying for a NPDES permit through June 30, 2002 must pay a nonrefundable fee of $200 at the time of application. On and after July 1, 2002, the nonrefundable application fee is $15. The bill extends the $200 fee through June 30, 2004 and applies the $15 fee on and after July 1, 2004.

The bill provides that in addition to the application fees for permits, variances, and plan approvals discussed above, any person applying for a NPDES general storm water construction permit must pay a nonrefundable fee of $20 per acre for each acre that is permitted above five acres at the time the application is submitted. However, the per acreage fee cannot exceed $300. In addition, any person applying for a NPDES general storm water industrial permit must pay a nonrefundable fee of $150 at the time the application is submitted.

Public notice of general national pollutant discharge elimination system permits

(R.C. 6111.035)

Current law requires the Director of Environmental Protection to provide public notice of the issuance, modification, revocation, or termination of a general national pollutant discharge elimination system permit. The notice must be published in the newspapers of general circulation determined by the Director to provide reasonable notice to persons affected by the permit action in the applicable geographic area. The notice must include the full text of the permit action. The bill requires, instead, that the public notice include a summary of the permit action and instructions on how to obtain a copy of the full text of the permit action.

Modifications to the Biofuels and Municipal Waste Technology Program

(R.C. 4905.87; Section 89)

Since 1988, the Public Utilities Commission has operated the Biofuels and Municipal Waste Technology Program to promote the use of biofuels and municipal waste for energy development and as substitutes for fossil fuels. The program is funded through grants received from the Council of Great Lake Governors under a program the Council administers for the U.S. Department of Energy. The grants are deposited into the Biofuels/Municipal Waste Technology Fund, which was created by the Controlling Board.

The bill codifies the creation of the fund in the state treasury, and renames it the Biomass Energy Program Fund. To the extent funding remains available, the Commission is to use the fund to maintain a program to promote the development and use of biomass energy.

Levy of special assessments by conservancy districts for recreational facilities

(R.C. 6101.25)

Under current law, the board of directors of a conservancy district may construct, improve, operate, maintain, and protect parks, parkways, forest preserves, bathing beaches, playgrounds, and other recreational facilities on the

lands owned or controlled by the district or on lands located within the district that are owned or controlled by the United States government or any department of it, by this state or any department or division of it, or by any political subdivision, if authorized by lease, contract, or other arrangements with the appropriate agency of government having ownership or control. Current law authorizes a board to impose and collect charges for the use of the recreational facilities.

In addition, current law provides that if the revenues derived or to be derived from the recreational facilities are not sufficient to pay for and maintain them, a board, with the approval of the court that incorporated the district, may provide for the payment of obligations incurred with respect to those facilities by the levy of special assessments on public corporations having lands within the district. The bill also authorizes a board to provide for the payment of the obligations by the levy of special assessments on all the taxable property of the district. Under the bill, the levy of special assessments on all the taxable property of the district is to be accomplished using the same procedures that currently govern the levy of special assessments on public corporations having lands within the district.

Under current law, a board annually may levy a maintenance assessment on those public corporations for the purposes of maintaining the district's recreational facilities. The bill also authorizes a board to levy a maintenance assessment on the taxable property within the district for those purposes.

Connections to a public water system

(R.C. 6109.13)

Current law prohibits the establishment or the authorization for the establishment of any connection whereby water from a private, auxiliary, or emergency water system may enter a public water system unless the private, auxiliary, or emergency water system and the method of connection and use of the system have been approved by the Environmental Protection Agency. The bill provides, however, that a backflow prevention device is not required when a physical separation exists between the public water system and the private, auxiliary, or emergency water system. "Backflow prevention device" is defined to mean any device, method, or type of construction that is intended to prevent backflow into a potable water system. "Physical separation" is defined to mean that there is no direct or indirect connection between a public water system and a private, auxiliary, or emergency water system.

BILL SUMMARY

COURTS AND CORRECTIONS

- Authorizes employee organizations that represent employees at state correctional institutions to bid on state prison privatization contracts.

- Updates references to the Supreme Court Rule of Superintendence pertaining to the appointment of counsel for indigent defendants in capital cases.

- Exempts from the requirement that purchases that exceed specified amounts generally be made by competitive selection or with the approval of the Controlling Board payments by the Attorney General from the Reparations Fund to hospitals and other emergency medical facilities for performing a medical examination of a victim of specified sex offenses for the purpose of gathering physical evidence for a possible prosecution.

- Permits use of Law Enforcement Improvements Trust Fund to modernize the Attorney General's law enforcement technology and laboratory equipment.

- Continues after December 31, 2002, the current additional filing fee in civil cases that is used for legal aid societies and eliminates the reduction in those filing fees scheduled for that date.

- Repeals the Department of Youth Services's authority to provide financial assistance for the cost of operating and maintaining detention homes and district detention homes.

- Transfers most of the Office of Criminal Justice Services's duties regarding the juvenile justice system to the Department of Youth Services (DYS).

- Imposes on the Department of Youth Services additional duties regarding oversight and coordination of juvenile justice services that parallel existing duties of the Office of Criminal Justice Services.

- Authorizes the Office of Criminal Justice Services to gather and provide information and provide assistance regarding the juvenile justice system upon the request of the Governor.

- Requires a metropolitan county criminal justice services agency to administer federal juvenile justice acts that DYS administers within Ohio.

- Limits the duty of the Office of Criminal Justice Services to discharge the Office's duties by limiting the duty to duties that the Governor requires it to administer by establishing administrative planning districts for criminal justice programs.

- Requires the Department of Youth Services, in counties in which a metropolitan county criminal justice services agency does not exist, to discharge the Department's duties by establishing administrative planning districts for juvenile justice programs.

- Authorizes any county or any combination of contiguous counties within an administrative planning district to form a juvenile justice coordinating council, if the county or the group of counties has a total population in excess of 250,000.

- Revises the definition of "comprehensive plan" as used in the Office of Criminal Justice Services Laws.

- Increases by $2 the court costs in criminal, delinquent child, and juvenile traffic offender cases and earmarks this additional money for the reimbursement of counties for the operation of county public defender offices, joint county public defender offices, and county appointed counsel systems.

- Prohibits the Legal Rights Service's administrator from pursuing certain types of legal action until any vacancies on the associated Legal Rights Service Commission have been filled.

CONTENT AND OPERATION

COURTS AND CORRECTIONS

Prison privatization contracts

(R.C. 9.06)

Current law (1) requires the Department of Rehabilitation and Correction to contract for the private operation and management of the initial intensive program prison (a prison for prisoners sentenced to a mandatory prison term for a third or

fourth degree felony OMVI offense) and (2) authorizes the Department to contract for the private operation and management of any other state correctional institution. These contracts must be for an initial term of not more than two years, with an option to renew for additional periods of two years, and no out-of-state prisoners may be housed in an institution subject to these contracts. Before the Department enters into any of these contracts, the contractor involved must convincingly demonstrate that it can operate the correctional institution involved with the inmate capacity required and can provide the services required and *realize at least a 5% savings* over the projected cost to the Department of providing the same services to operate the correctional institution. Any contractor who applies to operate and manage a correctional institution generally must be accredited by the American Correctional Association, must retain that accreditation throughout the contract term, and, at the time of application, must operate and manage one or more facilities accredited by the Association. The contractor also must seek, obtain, and maintain accreditation from the Association during the contract term for the correctional institution involved. (R.C. 9.06(A)(1), (3), and (4) and (B)(1) and (2).)

The bill specifically designates employee organizations that represent employees at state correctional institutions as "persons or entities" that may bid on privatization contracts to operate and manage those institutions and that may become "contractors" with respect to that operation and management (R.C. 9.06(J)(6)).

Updated reference to Rule of Superintendence for the courts of Ohio

(R.C. 120.06(F), 120.16(G), 120.26(G), 120.33(C), 2953.21(I)(2))

Under current statutory law, if a court appoints the State Public Defender, the county public defender, the joint county public defender, or a private attorney to represent a petitioner in a postconviction relief proceeding under R.C. 2953.21, the petitioner has received a sentence of death, and the proceeding relates to that sentence, all of the attorneys who represent the petitioner in the proceeding pursuant to the appointment must be certified under Rule 65 of the Rules of Superintendence for Courts of Common Pleas to represent indigent defendants charged with or convicted of an offense for which the death penalty can be or has been imposed.

The bill changes the reference to Rule 65 of the Rules of Superintendence for Courts of Common Pleas in the above-described requirements to a reference to Rule 20 of the Rules of Superintendence for the Courts of Ohio. Rule 20 of the Rules of Superintendence is identical to former Rule 65.

Certain payments by the Attorney General from the Reparations Fund exempt from Controlling Board approval

(R.C. 127.16(D)(32) and, by reference, R.C. 2907.28(A))

Existing law

Generally, no state agency, using money that has been appropriated to it directly, may make any purchase from a particular supplier, that would amount to $50,000 or more when combined with both the amount of all disbursements to the supplier during the fiscal year for purchases made by the agency and the amount of all outstanding encumbrances for purchases made by the agency from the supplier, unless the purchase is made by competitive selection or with the approval of the Controlling Board. Existing law expressly provides that this requirement must not be construed as applying to or limiting certain types of purchases, contracts, and payments. (R.C. 127.16(B)(1) and (D).)

Operation of the bill

The bill additionally provides that this requirement must not be construed as applying to payments by the Attorney General from the Reparations Fund to hospitals and other emergency medical facilities for performing a medical examination of a victim of specified sex offenses for the purpose of gathering physical evidence for a possible prosecution, including the cost of any antibiotics administered as part of the examination, subject to the certain conditions.

Modernization of law enforcement technology and laboratory equipment

(R.C. 183.10)

The Law Enforcement Improvements Trust Fund, into which a portion of the state's tobacco settlement money is credited, may currently be used to maintain, upgrade, and modernize the law enforcement training and laboratory facilities of the Office of the Attorney General. The amendment allows the fund also to be used to maintain, upgrade, and modernize law enforcement technology and refers to laboratory equipment rather than facilities.

Maintenance of filing fee amount for legal aid societies

(R.C. 1901.26(C), 1907.24(C), and 2303.201(C))

Under current law, municipal courts, county courts, and courts of common pleas are required to collect an additional filing fee in each new civil action or proceeding for the purpose of providing financial assistance to legal aid societies. Currently, the additional filing fee is $15 for all courts other than small claims

divisions and $7 for small claims division of municipal and county courts. On and after January 1, 2003, the fee will be $4.

The bill eliminates the reduction to $4 in the additional filing fee that is scheduled on January 1, 2003. Therefore, under the bill, municipal courts, county courts, and courts of common pleas will continue on and after January 1, 2003, to be required to collect $15 in all divisions except the small claims division and $7 in small claims divisions as additional filing fees in each new civil action or proceeding for the charitable public purpose of providing financial assistance to legal aid societies.

Department of Youth Services financial assistance to detention homes and district detention homes

(R.C. 2151.341 and 5139.281 (repealed) and R.C. 2151.34, 2152.43, and 5139.31)

Operation of the bill

The bill repeals the authority of the Department of Youth Services (DYS) to provide financial assistance for the cost of operating and maintaining detention homes and district detention homes.

Existing law

Existing law authorizes a board of county commissioners that provides a detention home and the board of trustees of a district detention home to apply to the Department of Youth Services (DYS) for financial assistance in defraying the cost of operating and maintaining the home. The application must be made on forms DYS prescribes and furnishes. The joint boards of county commissioners of district detention homes must make annual assessments of taxes sufficient to support and defray all necessary expenses of such home not paid from the DYS funds. (R.C. 2151.341.)

DYS must adopt rules prescribing minimum standards of operation with which a home must comply as a condition of eligibility for assistance. If the board of county commissioners providing a detention home or the board of trustees of a district detention home applies for DYS assistance and if DYS finds that the application is in good order and that the home meets the minimum standards, DYS may grant assistance to the applicant board for the operation and maintenance of each home in an amount not to exceed 50% of the approved annual operating cost. The board must make a separate application for each year for which assistance is requested.

DYS must adopt any necessary rules for the care, treatment, and training in a district detention home of children found to be delinquent children and

committed to the home by the juvenile court and may approve for this purpose any home that is found to be in compliance with the rules it adopts.

DYS also must provide, at least once every six months, in-service training programs for staff members of detention homes or district detention homes and must pay all travel and other necessary expenses incurred by participating staff members. (R.C. 2151.34 and 5139.281.)

Existing law also permits DYS to inspect a district detention home that has applied to DYS for this financial assistance or to which this financial assistance has been granted (R.C. 5139.31).

Duties of the Department of Youth Services and the Office of Criminal Justice Services

Transfer of duties from the Office of Criminal Justice Services to the Department of Youth Services

The bill transfers from the Office of Criminal Justice Services to the Department of Youth Services (DYS) the duty to do the following (R.C. 181.52(B)(1) to (5), (8), and (9) and 5139.11(K)(1)(a) to (e), (h), and (i)):[88]

(1) Perform juvenile justice system planning in Ohio, including any planning that is required by any federal law;

(2) Collect, analyze, and correlate information and data concerning the juvenile justice system in Ohio;

(3) Cooperate with and provide technical assistance to state departments, administrative planning districts, metropolitan county criminal justice services agencies, criminal justice coordinating councils, agencies, offices, and departments of the juvenile justice system in Ohio, and other appropriate organizations and persons;

(4) Encourage and assist agencies, offices, and departments of the juvenile justice systems in Ohio and other appropriate organizations and persons to solve problems that relate to the duties of the Office (DYS under the bill);

---

[88] *"Juvenile justice system" includes all of the functions of the juvenile courts, the Department of Youth Services, any public or private agency whose purposes include the prevention of delinquency or the diversion, adjudication, detention, or rehabilitation of delinquent children, and any of the functions of the criminal justice system that are applicable to children (R.C. 181.51(C) and 5139.01(A)(29)).*

(5) Administer within the state any federal juvenile justice acts that the Governor requires it to administer;

(6) Monitor or evaluate the performance of juvenile justice system projects and programs in Ohio that are financed in whole or in part by funds granted through the Office (DYS under the bill);

(7) Apply for, allocate, disburse, and account for grants that are made available pursuant to federal juvenile justice acts, or made available from other federal, state, or private sources, to improve the (criminal and) juvenile justice system in Ohio. Under the bill, all money from such federal grants must, if the terms under which the money is received require that the money be deposited into an interest-bearing fund or account, be deposited in the State Treasury to the credit of the Federal Juvenile Justice Program Purposes Fund, which the bill creates. All investment earnings must be credited to the Fund.

Additional duties of DYS

Under the bill, DYS additionally must do all of the following, which parallel existing duties of the Office of Criminal Justice Services (R.C. 181.52(B)(6), (7), and (10) to (14) and 5139.11(K)(1)(f), (g), and (j) to (n).):

(1) Implement the state comprehensive plans;[89]

(2) Audit grant activities of agencies, offices, organizations, and persons that are financed in whole or in part by funds granted through DYS;

(3) Contract with federal, state, and local agencies, foundations, corporations, businesses, and persons when necessary to carry out DYS's duties;

(4) Oversee the activities of metropolitan county criminal justice services agencies, administrative planning districts, and juvenile justice coordinating councils in Ohio;

(5) Advise the General Assembly and Governor on legislation and other significant matters that pertain to the improvement and reform of the juvenile justice system in Ohio;

---

[89] *"Comprehensive plan" means a document that coordinates, evaluates, and otherwise assists, on an annual or multi-year basis, any of the functions of the criminal and juvenile justice systems of Ohio or a specified area of Ohio, that conforms to the priorities of the state with respect to criminal and juvenile justice systems, and that conforms with the requirements of all federal criminal justice acts (R.C. 181.51(D) and 5139.01(A)(29)).*

(6) Preparing and recommending legislation to the General Assembly and Governor for the improvement of juvenile justice system in Ohio;

(7) Assist, advise, and make any reports that are required by the Governor, Attorney General, or General Assembly.

Deference to the Attorney General

Similar to existing law relating to the duties of the Office of Criminal Justice Services regarding the criminal and juvenile justice systems, the bill provides that the duties described above do not limit the discretion or authority of the Attorney General with respect to crime victim assistance and criminal and juvenile justice programs and that nothing in these duties is intended to diminish or alter the status of the office of the Attorney General as a criminal justice services agency (R.C. 5139.11(K)(2) and (3)).

Additional duties of the Office of Criminal Justice Services

The bill additionally authorizes the Office of Criminal Justice Services to do any of the following upon the request of the Governor (R.C. 181.52(C)):

(1) Collect, analyze, or correlate information and data concerning the juvenile justice system in Ohio;

(2) Cooperate with and provide technical assistance to state departments, administrative planning districts, metropolitan county criminal justice service agencies, criminal justice coordinating councils, agency offices, and the departments of the juvenile justice system in Ohio and other appropriate organizations and persons;

(3) Encourage and assist agencies, offices, and departments of the juvenile justice systems in Ohio and other appropriate organizations and persons to solve problems that relate to the duties of the Office.

Metropolitan county criminal justice services agencies, administrative planning districts, and juvenile justice coordinating councils

Metropolitan county criminal justice services agencies. Under existing law, a county may enter into an agreement with the largest city within the county to establish a metropolitan county criminal justice services agency, if the population of the county exceeds 500,000 or the population of the city exceeds 250,000. Among other things, a metropolitan county criminal justice services agency must administer within its services area any federal criminal justice acts or juvenile justice acts that the Office of Criminal Justice Services administers within Ohio.

The bill expands this provision to also require the agency to administer within its services area any federal criminal justice acts or juvenile justice acts that DYS administers within Ohio. (R.C. 181.54(A) and (B)(5).)

Administrative planning districts. In counties in which a metropolitan county criminal justice services agency does not exist, existing law requires the Office of Criminal Justice Services to discharge the Office's duties by establishing administrative planning districts.

The bill limits this provision by requiring the Office of Criminal Justice Services to discharge the Office's duties *that the Governor requires it to administer* by establishing administrative planning districts *for criminal justice programs*. The bill then requires DYS, in counties in which a metropolitan county criminal justice services agency does not exist, to discharge DYS's duties by establishing administrative planning districts for juvenile justice programs. As under existing law, all administrative planning districts must contain a group of contiguous counties in which no county has a metropolitan county criminal justice services agency. The definition of "administrative planning district" is expanded to include districts established by DYS under the bill. (R.C. 181.51(F), 181.56(A) to (C), and 5139.01(A)(29).)

Juvenile justice coordinating councils. Existing law authorizes any county or any combination of contiguous counties within an administrative planning district to form a criminal justice coordinating council, if the county or the group of counties has a total population in excess of 250,000. The council must comply with specified conditions and exercise within its jurisdiction the powers and duties set forth for a metropolitan county criminal justice services agency. (Existing R.C. 181.56(B).)

The bill expands this authority to permit that county or those counties to also form a juvenile justice coordinating council. The juvenile justice coordinating council must comply with specified conditions and exercise within its jurisdiction the powers and duties set forth for a metropolitan county criminal justice services agency. (R.C. 181.51(I), 181.56(D), and 5139.01(A)(29).)

Definition of "comprehensive plan"

Existing law. Under existing law, "comprehensive plan" means a document that coordinates, evaluates, and otherwise assists, on an annual or multi-year basis, *all* of the functions of the criminal and juvenile justice systems of the state or a specified area of the state, that conforms to the priorities of the state with respect to criminal and juvenile justice systems, and that conforms with the requirements of all federal criminal justice acts. These functions include, but are not limited to, *all* of a list of specified functions. (R.C. 181.51(D).)

Operation of the bill. Under the bill, for the Office of Criminal Justice Services, "comprehensive plan" means a document that coordinates, evaluates, and otherwise assists, on an annual or multi-year basis, *any* of the functions of the criminal and juvenile justice systems of the state or a specified area of the state, that conforms to the priorities of the state with respect to criminal and juvenile justice systems, and that conforms with the requirements of all federal criminal justice acts. These functions *may* include, but are not limited to, *any* of a list of specified functions. (R.C. 181.51(D).)

The bill retains the existing definition of "comprehensive plan" for the Department of Youth Services. (R.C. 5139.01(A)(29).)

Additional costs to be used for county public defender reimbursement

(R.C. 2949.091)

The bill increases by $2 (from $11 to $13) the additional court costs the court must impose in a case in which a person is convicted of or pleads guilty to any offense other than a traffic offense that is not a moving violation and in a case in which a child is found to be a delinquent child or a juvenile traffic offender for an act which, if committed by an adult, would be this type of offense. The additional court costs must be collected in all cases unless the court determines the offender or child is indigent and waives the payment of all court costs. The court clerk must transmit all such moneys to the Treasurer of State. The Treasurer of State then must deposit the additional $2 into the state treasury to the credit of the County Public Defender Reimbursement Fund, which the bill creates, and continue to deposit the $11 into the General Revenue Fund. The State Public Defender must use all moneys in the County Public Defender Reimbursement Fund to reimburse counties for the operation of county public defender offices, joint county public defender systems, and county appointed counsel systems.

The bill also increases by $2 (from $11 to $13) the additional amount that the court must add to a person's bail. The court clerk must retain the additional amount of bail until the person is convicted, pleads guilty, forfeits bail, is found not guilty, or has the charges dismissed. If the person is convicted, pleads guilty, or forfeits bail, the clerk must transmit the additional amount of bail to the Treasurer of State. The Treasurer of State must deposit the additional bail in the same manner as the additional court costs. If the person is found not guilty or the charges are dismissed, the clerk must return the $11 to the person. (R.C. 2949.091.)

The state currently reimburses counties up to 50% of the counties' cost of operating county public defender offices, joint county public defender offices, and county appointed counsel systems. If the amount of money in any fiscal year is

insufficient to pay the full 50%, the available money is distributed so that each county is paid an equal percentage of these costs. The Client Payment Fund also pays for this type of reimbursement but may be used for other purposes. (R.C. 120.04, 120.18, 120.28, 120.33, 120.34, and 2941.51.)

Restriction on administrator taking legal action if vacancy exists on the Legal Rights Service Commission

(R.C. 5123.60)

Under current law, a Legal Rights Service is established to protect and advocate the rights of mentally ill persons, mentally retarded persons, developmentally disabled persons, and other disabled persons. In addition, the Legal Rights Service Commission has been created to appoint an administrator of the Legal Rights Service, advise the administrator, assist the administrator in developing a budget, and establish general policy guidelines for the Legal Rights Service. The Commission consists of seven members who serve for three-year terms. Each member is required to serve subsequent to the expiration of the member's term until a successor is appointed and qualifies, or until 60 days has elapsed, whichever first occurs.

Among the administrator's other duties, the administrator is authorized to pursue legal, administrative, and other appropriate remedies or approaches when administrative resolution of complaints proves unsatisfactory. The Legal Rights Service, on the order of the administrator and with the Commission's approval, may compel by subpoena the appearance and sworn testimony of any person the administrator reasonably believes may be able to provide information or to produce any documents, books, records, papers, or other information necessary to carry out its duties.

The bill provides that the administrator shall not pursue any legal action under these provisions of law until any vacancies existing in the Commission's membership have been filled.

BILL SUMMARY

TAXATION

- Removes the $2.5 million limit on the amount of money that the State Racing Commission Operating Fund may receive in a calendar year from allocations of the horse racing tax.

- Removes the September 19, 1996, deadline for State Racing Commission approval of tax reductions for capital improvement projects that cost at least $100,000.

- Modifies the length of the tax reduction period for those projects when the State Racing Commission approves the construction of a new race track or capital improvement after the bill's effective date--until the total tax reduction equals 100% of the project's approved cost.

- Requires the Tax Commissioner, rather than the Director of Budget and Management, to distribute amounts from the Horse Racing Tax Fund to county agricultural societies.

- Extends the extra 2¢ earmark of wine tax revenue credited to the Ohio Grape Industries Fund until July 1, 2003.

- Allows a board of county commissioners, upon request from a board of township trustees or on its own motion, to increase the allocation of the second additional county motor vehicle license tax levied under section 4504.16 of the Revised Code to a percentage greater than the 30% required by current law to be distributed to a township.

- Exempts from taxation certain tangible personal property held by the federally chartered Corporation for the Promotion of Rifle Practice and Firearms Safety.

- Reduces the population threshold for determining whether a county treasurer may sell tax certificates through negotiation rather than public auction.

- Delays for two years the tax credit for job training expenses.

- Clarifies aspects of the excise tax on electricity as paid by large electricity users that self-assess the tax.

- Specifies a new beginning date for the excise tax on natural gas ("Mcf" tax).

- Modifies how certain transferor/transferee corporations are taxed when all of their assets are transferred to another corporation during 2001.

- Disallows the exclusion of net management fees from an investment pass-through entity's withholding tax base if they exceed 5% of the entity's net income.

- Clarifies that income items received by a nonresident taxpayer are not excluded for the purpose of computing the nonresident credit if they are received indirectly through an investment pass-through entity on account of its ownership of another pass-through entity if that entity's income items do not represent excludable investment pass-through entity income.

- Extends through 2003 the availability of an alternative method of determining the corporation franchise tax base of qualified financial institutions.

- Delays commencement of the corporation franchise tax credit for qualified research expenses until January 1, 2003.

- Revises the procedures for transferring moneys into the Recycling and Litter Prevention Fund from certain proceeds of corporate franchise taxes and surcharges.

- Exempts from the sales tax local telephone calls made from coin-operated telephones and paid for with coin.

- Permits counties, townships, and municipal corporations to extend their lodging taxes to establishments having fewer than five rooms.

- Limits the penalty and interest that counties, townships, and municipal corporations may charge for late or unpaid lodging taxes.

- Freezes amounts deposited into and distributed from local government distribution funds at fiscal year 2001 levels.

- Grants an amnesty for certain delinquent state taxes, whereby outstanding tax delinquencies may be paid without payment of associated penalties and without payment of one-half of the accrued interest.

- Creates the Motor Fuel Tax Task Force to study the motor fuel tax and funding of the State Highway Patrol.

CONTENT AND OPERATION

TAXATION

State Racing Commission Operating Fund

(R.C. 3769.08(M))

Current law requires that 25% of the taxes levied on thoroughbred, harness, and quarter horse racing permit holders be paid into the PASSPORT Fund, a fund that is used to support the PASSPORT program that provides home- and community-based services under the Medicaid program as an alternative to nursing facility placement for aged and disabled persons. The Tax Commissioner then must pay, after the payments into the PASSPORT Fund and after the tax reductions granted to permit holders for undertaking capital improvements at their racing facilities, any money remaining into the Ohio Fairs Fund, Ohio Thoroughbred Race Fund, Ohio Standardbred Development Fund, Ohio Quarter Horse Fund, and the State Racing Commission Operating (SRCO) Fund in the amounts existing law requires. Existing law prohibits the SRCO Fund from receiving more than $2.5 million in any calendar year. If, after the payments into the PASSPORT Fund, sufficient funds are unavailable to pay the amounts existing law requires to be paid into the five funds listed above, the Tax Commissioner must prorate on a proportional basis the amount paid to each of the funds.

The bill removes the $2.5 million limit on the amount that the SRCO Fund may receive in any calendar year from allocations of the horse racing tax.

Tax reduction program for capital improvements at racing facilities

Changes in the capital improvements program for improvements costing at least $100,000

(R.C. 3769.08(J))

First set of changes. Under existing law, the taxes paid to the state by a horse racing permit holder must be reduced by ¾ of 1% of the total amount wagered for those permit holders who make capital improvements to existing race tracks, or construct new race tracks, that cost at least $100,000. A tax reduction continues for a period of 25 years for new race tracks and for 15 years for capital improvements if the construction of the new race track or improvement commenced prior to March 29, 1988, and for a period of ten years for new race tracks or capital improvements if the construction of the new race track or improvement commenced on or after that date, or until the total tax reduction

reaches 70% of the cost of the new race track or capital improvement, whichever occurs first.

Under the bill, the "ten-year or 70% of the cost" tax reduction period applies only to the construction of new race tracks or capital improvements that commenced on or after March 29, 1988, *but before the bill's effective date*. With respect to the construction of new race tracks or capital improvements *approved* by the State Racing Commission *after* the bill's effective date, the tax reduction period will continue under the bill until the total tax reduction reaches 100% of the "approved cost" of the new race track or capital improvement, as allocated to each permit holder.

In order to qualify for the tax reduction for any capital improvement that costs at least $100,000, existing law requires that the State Racing Commission "certify" the construction cost, but does not define what "certified cost" means. The bill substitutes a requirement that the Commission "approve" the construction cost and defines "approved cost" to include all debt service and interest costs that are associated with a capital improvement or new race track and that the Commission approves for the tax reduction and also adds one conforming reference to such "approved cost."

Second change. Existing law provides that the tax reductions described above apply only if they were approved by the State Racing Commission prior to September 19, 1996. The bill removes this provision.

Third set of changes. Existing law also designates the leveling of a *race track* as one of the capital improvements for which a tax reduction may be taken. The bill instead allows a tax reduction for the leveling of a *racing surface*. It also specifically allows a tax reduction for a roof replacement or restoration, and for construction of buildings located on a permit holder's premises.

Changes in the major capital improvement program

(R.C. 3769.20)

Background. Existing law creates a second tax reduction program for the benefit of horse racing permit holders who undertake a "major capital improvement project" that costs at least $6 million. Under this tax reduction program, the taxes a permit holder pays to the state, in excess of the amounts required to be paid into the PASSPORT Fund, are reduced by 1% of the total amount wagered. The percentage of the reduction that may be taken each racing day must equal 75% of the horse racing tax levied, divided by (1) the calculated amount that existing law requires each of the various horse racing funds to receive and (2) a reduction that existing law provides.

First change. Existing law provides that the tax reduction granted for a major capital improvement project is in addition to any tax reductions granted for capital improvements and new race tracks under the Capital Improvements Program Law described above for improvements costing at least $100,000, which were approved by the State Racing Commission *prior to March 29, 1988*. The bill removes this March 29, 1988 reference, but it is unclear whether the removal has any substantive effect. At first glance, the removal appears to provide that the tax reduction granted for a major capital improvement project could be in addition to a tax reduction for any so-called minor capital improvement project approved by the State Racing Commission prior to, on, or after March 29, 1988. However, the removal may not have that consequence, because the bill does not change the Capital Improvements Program Law's provision that states that a permit holder cannot "receive a tax reduction for a capital improvement approved by the racing commission on or after March 29, 1988, at a race track *until all reductions have ended* for all prior capital improvements approved by the racing commission under . . . section [3769.08] or *section 3769.20* of the Revised Code at that race track."

Second change. Existing law designates the leveling of a *race track* as one of the major capital improvement projects for which a tax reduction may be taken. The bill instead specially refers to a tax reduction being for the leveling of a *racing surface*.

Official responsible for distributing amounts in the Horse Racing Tax Fund

(R.C. 3769.08(K))

Existing law creates the Horse Racing Tax Fund in the state treasury for the use of the agricultural societies of the several counties in which the taxes originate that are deposited into the Fund. Existing law requires that on the first day of any month in which there is money in the Fund, the Director of Budget and Management must provide for payment to the treasurer of each agricultural society the amount of taxes collected when racing was conducted during any fair or exposition the society conducted. The bill instead requires the *Tax Commissioner*, rather than the Director of Budget and Management, to distribute those payments.

Extension of extra 2¢ earmark to the Ohio Grape Industries Fund

(R.C. 4301.43)

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, 3¢ are credited to the Ohio Grape Industries Fund for the encouragement of the state's grape industry, and the

remainder is credited to the General Revenue Fund. The amount credited to the Ohio Grape Industries Fund is scheduled to drop to 1¢ on July 1, 2001. The bill extends the 3¢ earmarking until July 1, 2003.

Second additional county motor vehicle license tax

(R.C. 4504.05)

Current law generally grants counties, municipal corporations, and townships authority to levy various local motor vehicle license taxes. Counties may levy three different local motor vehicle license taxes. The first such tax is authorized by R.C. 4504.02; the tax rate is $5 per motor vehicle on all motor vehicles that are located in the county for purposes of registration. R.C. 4504.15 and R.C. 4504.16 authorize a county to levy, respectively, an additional annual license tax and a second additional annual license tax at the rate of $5 each. R.C. 4504.05 provides for the allocation and distribution of the county tax proceeds.

With respect to the two additional county motor vehicle license taxes, for both taxes, current law specifies that the portion of the taxes arising from motor vehicles that are registered in an unincorporated area of the county be allocated 70% to the county and 30% to the township of the owners' residence. The bill generally allows a board of county commissioners, upon request from a board of township trustees or on its own motion, to increase the allocation of the second additional county motor vehicle license tax levied under section 4504.16 of the Revised Code to a percentage greater than the 30% required by current law to be distributed to a township. The bill affects only the allocation of the second additional county motor vehicle license tax.

Specifically, the bill allows a board of township trustees to pass a resolution requesting an increase in the percentage of moneys from the second additional county motor vehicle license tax allocated to the township. After a township passes a resolution, it must forward it to the board of county commissioners. Within 90 days after the county commissioners receive a township resolution requesting an increase in the percentage of moneys allocated to it, they must consider and may pass a resolution increasing the percentage of moneys from the second additional county motor vehicle license tax allocated to a township. The bill also authorizes a board of county commissioners to initiate and pass a resolution increasing the percentage of such moneys allocated to a township. If a board of county commissioners passes a resolution to increase the township's share of the second additional county motor vehicle license tax, it must forward the resolution to the county treasurer. The bill specifies that the resolution continues until revoked by the board of county commissioners. The county treasurer must make the first distribution under any new allocation in the second month after receiving the resolution.

Tax exemption for certain personal property held by the Corporation for the Promotion of Rifle Practice and Firearms Safety

(R.C. 5709.17(C))

The bill exempts from taxation tangible personal property held by the Corporation for the Promotion of Rifle Practice and Firearms Safety, a federally chartered corporation, if the property is surplus property obtained by the Corporation without cost from the Defense Revitalization Marketing Service to carry out the Civilian Marksmanship Program.

Negotiated Sale of Tax Certificates

(R.C. 5721.30)

Under current law, the county treasurer of a county having a population of at least 1,400,000 may sell tax certificates for delinquent property through negotiations with one or more persons rather than by public auction. The bill reduces the population threshold for negotiated sales to 1,300,000.

Job training tax credit

(R.C. 5725.31, 5729.07, 5733.42, and 5747.39)

Under continuing law, corporations, financial institutions, partnerships, S corporations, limited liability companies, other pass-through entities, domestic or foreign insurance companies, and dealers in intangibles may apply to the Director of Job and Family Services for a tax credit certificate under which they may claim a tax credit for training costs paid or incurred for eligible employees, up to $100,000. The tax credit originally could be claimed only by C corporations, including financial institutions, for training costs paid or incurred on or after January 1, 2000, but before December 31, 2003. Beginning in 2001, the tax credit was extended to the other forms of businesses, for training costs paid or incurred on or before December 31, 2003.

The bill delays the job training tax credit for two years. Basically, if a tax credit certificate is issued, the credit may be claimed by a dealer in intangibles or a domestic or foreign insurance company for credit periods beginning on or after January 1, 2003, and ending on or before December 31, 2005. Taxpayers that are investors in pass-through entities may claim the credit against income tax liability for taxable years beginning after December 31, 2002, but ending before December 31, 2005. Businesses that are subject to the corporation franchise tax may claim the credit for tax years 2004, 2005, and 2006, but cannot claim it for tax years 2002 and 2003 (although C corporations may claim the credit for the first part of 2001, under the original tax credit provision). The bill provides that the Director

cannot authorize the credit for eligible training costs paid or incurred after December 31, 2005.

The bill also changes the years for which the Director is required to prepare a job training program report. Rather than submitting the report on or before September 30, 2001, 2002, 2003, and 2004, the bill requires that the Director submit the report on or before September 30, 2003, 2004, 2005, and 2006.

Electricity and natural gas excise taxes--clarification

(R.C. 5727.81 and 5727.811; Sections 155 and 156)

Two new excise taxes recently have been enacted in Ohio to offset the revenue losses from certain property tax reductions for electric companies and natural gas companies. The tax on electricity, or kilowatt-hour tax, is imposed on electricity distributed to a location in this state, and generally is paid by the company distributing the electricity. The tax is paid monthly on the basis of thirty-day distribution periods. Some large electricity users are permitted to pay the tax directly to the state. The tax on these users--called "self-assessing purchasers" or "self-assessors"--is imposed at a lower rate than applies to other users. Electricity users must apply to the state annually in order to be registered as self-assessors.

The bill clarifies how the kilowatt-hour tax is computed for self-assessors, but does not change the tax rate. The tax currently is computed on the basis of two components—the number of kilowatt-hours of electricity distributed to the self-assessor and the price paid for that electricity. The rate on the number of kilowatt hours is $.00075 per kilowatt-hour (kWh), but this rate applies only to 504 million kWhs; the rate on the price is 4%. The bill clarifies that the per-kWh rate applies only to the *first* 504 million kWhs distributed to the user's location during the registration year. The bill defines a registration year as the 12-month period beginning each May 1. The bill also specifies that an electricity user may apply for self-assessor status at any time during the registration year in order to be taxed as a self-assessor for the remainder of the year.

The excise tax on natural gas, or the so-called "Mcf" tax (Mcf is an abbreviation for 1,000 cubic feet), is imposed on companies that distribute natural gas to a location in Ohio. Enacted in recent legislation (S.B. 287 of the 123rd General Assembly), the tax is scheduled to begin July 1, 2001. It is levied on the basis of the volume of natural gas distributed during one-month-long measurement periods. The bill specifies that the tax will apply to all gas distributed during the measurement period that includes July 1, 2001. Thus, the tax will apply to gas distributed before July 1, 2001, if the gas is distributed during a measurement period that includes July 1, 2001.

Corporation franchise tax corporate transfers

(R.C. 5733.053(A)(1) and (F) and 5733.06(H)(7))

Two continuing law provisions ensure that a corporation does not avoid the corporation franchise tax by reorganizing itself as a new corporation by transferring all of its assets to another corporation, or by ceasing to do business in Ohio, before a new tax year begins. To accomplish this, one provision requires that the corporation that results from a transfer add to its own income the income on which the transferor corporation would have paid taxes if it was still subject to the tax. The other provision requires that a corporation pay an "exit" tax on net income that it had for any part of its fiscal year that ended before the new tax year begins.

The bill modifies the transfer and exit tax provisions by providing that changes made to those provisions by Am. Sub. S.B. 287 of the 123rd General Assembly do not apply to a transfer commenced in and completed during calendar year 2001, pursuant to negotiations that commenced prior to January 1, 2001, unless the corporation that results from the transfer makes an election prior to December 31, 2001, to apply either provision. Instead, the taxpayer would pay the corporation franchise tax on the basis of the pre-S.B. 287 law (i.e., the law as it existed prior to December 21, 2000).

The bill also clarifies that transferring assets to another corporation is a "transfer" under the transfer tax provision only if it qualifies for nonrecognition of gain or loss under the Internal Revenue Code.

Investment pass-through entity's management fee exclusion

(R.C. 5733.401)

Continuing corporation franchise tax law imposes a "withholding" tax on pass-through entities, which does not apply to most of the income from an investment pass-though entity (a mutual fund or finance company organized as a pass-through entity). Currently, net management fees are excluded from this tax because they are not included in the investment pass-through entity's withholding tax base. The bill disallows the exclusion of net management fees from an investment pass-through entity's withholding tax base if the fees exceed 5% of its net income.

Personal income tax--nonresident credit

(R.C. 5747.221)

Under continuing law, a "withholding" or "qualifying entity" tax is imposed on pass-through entities, such as S corporations, partnerships, some limited liability companies, and certain trusts, to ensure payment of Ohio income taxes by nonresident owners of the entity. The withholding tax does not apply to most of the income (or a deduction item) from an investment pass-through entity. Any income that is not subject to the withholding tax also is not considered Ohio income for the purposes of computing the nonresident income tax credit, which, in effect, increases the amount of the nonresident credit.

The bill provides that, for the purpose of computing a nonresident owner's tax credit, if a taxpayer has an investment in an investment pass-through entity and that entity, in turn, has an investment in any other pass-through entity, the existing exclusion of income items (income, gain, deduction, or loss) received by the nonresident taxpayer does not apply to income items received directly or indirectly through (1) a distributive share of income or gain from a pass-through entity that does not qualify as an investment pass-through entity, or (2) a pass-through entity's income or gain that is not a fee excluded from taxation under existing law.

Qualifying pass-through entity effective date change

(Section 155)

The bill clarifies the effective date, originally set by Am. Sub. S.B. 287 of the 123rd General Assembly, for changes made by that act regarding which investors in a qualifying pass-through entity the entity must withhold taxes on behalf of. The changes made by that act apply to taxable years beginning in 2001 and thereafter.

Corporation franchise tax apportionment formula

(R.C. 5733.056)

Under current law, the formula to be used by most financial institutions to determine the base upon which their corporation franchise tax is levied is based on an apportionment of sales, property, and payroll factors. An alternative formula, based on deposits, is available to "qualified institutions" (multistate financial institutions that have at least 10% of their deposits in Ohio and have been involved in certain types of mergers) for tax years 1998-2001. The bill makes the alternative formula available through tax year 2003.

Tax credit for qualified research expenses

(Sections 157 and 158)

Continuing law (R.C. 5733.351) grants a nonrefundable corporation franchise tax credit for qualified research expenses equal to 7% of the amount by which a corporation's expenses for the taxable year exceed its three-year average qualified research expenses. The credit was to first apply to such expenses paid or incurred on or after January 1, 2001. The bill delays commencement of the credit by providing that it first applies to qualified research expenses paid or incurred on or after January 1, 2003.

Recycling and Litter Prevention Fund

(R.C. 5733.122)

Current law establishes the Recycling and Litter Prevention Fund, which is used by the Division of Recycling and Litter Prevention in the Department of Natural Resources to implement certain initiatives pertaining to recycling and litter prevention, including a grant program. Moneys in the Fund are generated from taxes levied under the Corporation Franchise Tax Law. Those taxes include an additional tax on corporations that manufacture or sell litter stream products. Current law provides that during each of the consecutive six-month periods beginning January 1, 1982, $5 million received by the Treasurer of State under the Corporation Franchise Tax Law must be credited to the Recycling and Litter Prevention Fund.

In lieu of transferring $5 million semiannually as discussed above, the bill provides that between the 1st and 15th days of July each year, the Tax Commissioner must certify to the Director of Budget and Management the total reported liability in the second preceding year of the taxes levied on companies that manufacture or sell litter stream products and certain other surcharges levied under the Corporation Franchise Tax Law. The total amount certified in each year less an amount to be retained by the Department of Taxation for expenses related to administration of the taxes or surcharges must be credited to the Recycling and Litter Prevention Fund.

Sales tax exemption for calls made from a coin-operated telephone

(R.C. 5739.02(B)(3)(f))

Continuing law imposes the sales tax on telecommunications service that originates or terminates in Ohio and is charged in the vendor's records to a consumer's telephone number or account in Ohio, or on telecommunications service that both originates and terminates in Ohio. The bill excludes from the

sales tax transactions by which local telecommunications service is obtained from a coin-operated telephone and paid for by using coin.

Extension of lodging tax to smaller lodging establishments

(R.C. 5739.01(M) and 5739.024(G))

Counties, townships, and municipal corporations may levy taxes on lodging. The tax only applies to lodging at establishments, defined as "hotels," in which there are five or more rooms held out to the public as a place where sleeping accommodations are offered to guests.

The bill permits counties, townships, and municipal corporations to extend lodging taxes to lodging establishments having fewer than five rooms. To extend the lodging tax to the smaller establishments, the board of county commissioners, board of township trustees, or legislative authority of a municipal corporation would have to adopt a resolution or ordinance specifying that "hotel," for purposes of the tax, includes establishments in which fewer than five rooms are used for the accommodation of guests.

A resolution or ordinance may be adopted at any time, so that either a new lodging tax could apply to smaller hotels on enactment of the tax, or an existing tax could be modified to apply to smaller hotels. The bill specifies that the resolution or ordinance may apply to a lodging tax imposed prior to adoption of the resolution or ordinance if it so states, but the tax cannot be applied retroactively to transactions whereby lodging is provided to guests prior to adoption of the resolution or ordinance.

Limit on lodging tax penalty and interest charges

(R.C. 5739.024)

Counties, townships, and municipal corporations imposing a lodging tax are required to establish regulations to administer and allocate the tax. The specific nature of the regulations is left to the discretion of the subdivision imposing the tax, and, by implication, may include imposing penalties or interest for late or unpaid lodging taxes.

The bill expressly permits a subdivision levying the tax to prescribe in its regulations the time for payment of the tax and to impose a penalty or interest (or both) for late payments, as long as the penalty does not exceed 10% of the amount of tax due and the interest rate does not exceed the statutory interest rate charged for late or unpaid state and local property taxes (for 2001, 9%).

Freeze on tax receipts credited to local government funds

(Section 138)

The bill freezes amounts of state tax receipts that are deposited into and distributed from the Local Government Fund and the Local Government Revenue Assistance Fund at the levels of fiscal year 2001. Although June 2001 deposits and July 2001 distributions will be made under existing law (amounts credited one month are distributed the next), the bill makes adjustments to the July 2001 deposits and August 2001 distributions so that the freeze effectively begins with the June 2001 deposits and July 2001 distributions.

The same freeze applies to amounts deposited into and distributed from the Library and Local Government Support Fund, except that distributions to each county undivided library and local government support fund will be further reduced by the county's pro-rata share of any transfers made from the Library and Local Government Support Fund to the OPLIN (Ohio Public Library Information Network) Technology Fund.

The freezes affect deposits of receipts from the public utilities excise tax, the corporate franchise tax, the sales tax, the use tax, the personal income tax, and the kilowatt hour tax. Tax receipts that would otherwise have been credited to local funds will instead be credited to the General Revenue Fund (an adjustment is made to capture for the General Revenue Fund the June 2001 deposit of kilowatt hour taxes. Similarly, amounts that would have been transferred from the Income Tax Reduction Fund to the local government funds will also be transferred to the General Revenue Fund.

Penalty and interest amnesty for unpaid, unremitted taxes

(Section 176)

The bill grants a temporary amnesty to some individuals, businesses, and utilities that have outstanding tax liabilities. The amnesty allows delinquent taxpayers to pay an outstanding liability without paying any of the associated penalties and without paying one-half of the accrued interest. The amnesty applies to liabilities for the following state taxes: personal income, corporation franchise, sales and use, and public utility excise (gross receipts). It includes liabilities for income taxes withheld by employers but never reported or remitted to the state, and for sales or use taxes that have been collected by a vendor but not reported or remitted to the state.

In order to qualify for the amnesty, a delinquent taxpayer must apply to the Tax Commissioner and pay the entire liability and one-half of the accrued interest

between October 15, 2001, and January 15, 2002. Amnesty must be applied for in the manner prescribed by the Tax Commissioner. A delinquent taxpayer may not apply for amnesty for an outstanding liability if, by October 15, 2001, the Department of Taxation has issued a notice of assessment, a bill, or an audit notice with respect to that liability, or if an audit is under way. The Tax Commissioner may require a taxpayer applying for amnesty to file any reports or returns that otherwise are required to be filed. Once amnesty is granted for a taxpayer, the state may not proceed with any prosecution or other legal action against the taxpayer, or issue an assessment, with respect to the delinquent liability for which the amnesty is granted.

All proceeds arising from the amnesty are to be credited to the GRF.

Motor Fuel Tax Task Force

(Section 177)

The bill creates the Motor Fuel Tax Task Force to study the adequacy and distribution of the motor fuel tax and the method of funding the State Highway Patrol. The Task Force is to consist of three members of the House of Representatives (not more than two from the majority party) appointed by the Speaker; three members of the Senate (not more than two from the majority party) appointed by the President; the Tax Commissioner and the Directors of Public Safety, Transportation, and Budget and Management; two persons representing the general public, one appointed by the Speaker and one by the President; and eight members jointly appointed by the Speaker and the President from lists provided by the County Commissioners Association, the Ohio Municipal League, the Ohio Township Association, the County Engineers Association, the Ohio Public Expenditure Council, the State Highway Patrol troopers' collective bargaining unit, the Ohio Contractors Association, and the Ohio Petroleum Council. (The Tax Commissioner and Directors may name designees to serve in their place.) Staffing is to be provided by the Legislative Service Commission. The Task Force is required to report its findings, including a recommendation for a direct funding source for the Highway Patrol, to the General Assembly and the Governor on December 2, 2002, after which it shall cease to exist.

NOTE ON EFFECTIVE DATES

(Sections 178 to 194)

Section 1d of Article II of the Ohio Constitution states that "laws providing for *** appropriations for the current expenses of the state government and state institutions *** shall go into immediate effect," and "shall not be subject to the

referendum." R.C. 1.471 implements this provision, providing that a codified or uncodified section of law contained in an act that contains an appropriation for current expenses is not subject to the referendum and goes into immediate effect if (1) it is an appropriation for current expenses, (2) it is an earmarking of the whole or part of an appropriation for current expenses, or (3) its implementation depends upon an appropriation for current expenses that is contained in the act. The statute states that the General Assembly shall determine which sections go into immediate effect.

The act includes a default provision stating that except as otherwise specifically provided, the amendment, enactment, or repeal of a codified section in the act 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 act also includes many exceptions to the default provision, that provide that specified codified provisions are not subject to the referendum and go into immediate effect.

The act provides that its uncodified sections are not subject to the referendum and take effect immediately, except as otherwise specifically provided. The uncodified sections that are subject to the referendum are identified with an asterisk in the act, and take effect on the 91st day after the act is filed with the Secretary of State (barring the filing of a referendum petition).

The act also specifies that an item that composes the whole or part of an uncodified section contained in the act (other than an amending, enacting, or repealing clause) has no effect after June 30, 2003, unless its context clearly indicates otherwise.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	02-14-01	pp. 157-158
Reported, H. Finance & Appropriations	05-01-01	pp. 327-328
Passed House (59-40)	05-02-01	pp. 332-393

h0094-ph.124/kl