Bill Analysis

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Legislative Service Commission

Sub. H.B. 94

124th General Assembly
(As Reported by S. Finance and Financial Institutions)
(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

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BILL SUMMARY

EDUCATION

PRIMARY-SECONDARY EDUCATION FUNDING

- Repeals the temporary cap on school district state aid increases.
- 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 2005 to reexamine the methodology for calculating the cost of an adequate education.
- Requires the General Assembly to recalculate the base cost of an adequate education every six years, after considering the recommendations of the committee.
- Requires the General Assembly, during its biennial budget deliberations, to project the state share percentage of base cost and parity aid funding for each year of the upcoming biennium, and to take action to restrict the variance in the percentage if it projects that the variance will exceed 2.5 percentage points more or less than the percentage it originally projected for the base update year.
- Specifies the General Assembly's determination that the state share percentage of base cost and parity aid funding is 49.0% in FY 2002 and 49.4% in FY 2003.
- 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 wealth 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.

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

- Maintains the $30,000 personnel allowance for the speech services subsidy to school districts in FY 2002 and increases it to $55,652 in FY 2003.

- Requires the Legislative Office of Education Oversight to conduct a statistical sampling of individualized education programs (IEPs) prepared for handicapped children to determine the extent to which certain special education services are utilized.

- Requires the State Board of Education to adopt rules for school districts to report special education spending data.

- Extends the state "catastrophic costs" subsidy to cover most special education students, increases the state's share of the subsidy, and in FY 2003 reduces the payment threshold for services provided to students identified as having Category 3 disabilities (autism, traumatic brain injury, or both hearing and visual disabilities) from $25,000 to $20,000.

- 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.

- 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.

- Requires a one-time "transitional aid" payment in FY 2002 to a school district if necessary to ensure that its "composite state funding" for FY 2002 is no less than a comparable amount it received in FY 2003.

- Beginning in FY 2004, expands the base upon which school districts' DPIA indexes are calculated to include children whose families participate in one of several health or social service programs.

- 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.

- Changes the manner in which a district's base cost amount is recomputed when a significant portion of its revenue is uncollectable because a taxpayer is in bankruptcy reorganization.

- Broadens eligibility for school districts to obtain state solvency assistance funds by qualifying any district declared to be in a fiscal emergency, regardless of the reason for the declaration or the size of the district's operating deficit.

- Requires the Director of Budget and Management to adopt rules governing how the state Superintendent of Public Instruction makes recommendations to the Controlling Board for the award of catastrophic expenditures grants to school districts.

- Limits the distribution of Head Start funds in FY 2002 and FY 2003 to Head Start providers that received funding in FY 2001.

- 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

- 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.

- Ensures the continued levy and collection of a school district income tax or property tax levy that is dedicated to the payment of securities that are issued by the school district to satisfy its local match requirement under the Classroom Facilities 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.

- Permits a school district to use "local donated contributions" (including school district cash on hand) to offset its obligation to levy a tax of one-half mill for the maintenance of classroom facilities constructed under a state-assisted project.

- 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 other miscellaneous and technical changes in the law regarding state-assisted classroom facilities construction programs.

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

- Specifies that the Ohio SchoolNet Commission must appoint its own officers from among its members.

- 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.

- 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 or to an educational service center governing board that serves the district.

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.

- Requires the Department of Education to make prorated reductions from state payments for Internet-based community schools that fail to supply computer hardware and software to students as promised.

OTHER PRIMARY-SECONDARY EDUCATION PROVISIONS

- 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.

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

- Specifies that a homeless child 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 (on a pro-rated basis) to offer "incentives for early retirement and severance" to the district personnel that provide auxiliary services to students at chartered nonpublic schools.

- Permits school districts to lease, as well as purchase, computer hardware and software for use by nonpublic school students.

- Makes changes in the organization of the OhioReads Office.

- Requires the State Employment Relations Board to provide to the State Board of Education an annually updated list of starting teachers' salaries derived from school district collective bargaining agreements.

- Permits noncontiguous school districts to consolidate with approval of any district having territory between them.

- Specifies that the physical examination of a person seeking employment as a school bus or motor van driver may be performed by a physician, certified nurse practitioner, or clinical nurse specialist.

HIGHER EDUCATION

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

- Increases enrollment limitations at the central campuses of Bowling Green, Kent State, Miami, Ohio, and Ohio State universities by 1,000 students each and repeals the requirement that the Board of Regents approve construction of new residence hall facilities.

- 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.

- Provides that title to investments made by a state university or college board of trustees is not vested in the state but is held in trust by the board of trustees presumably for the university or college.

- 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.

- Establishes the Instructional Subsidy and Challenge Review Committee to review the allocation formula for the state share of the instructional subsidy and all of the challenge line items in the Board of Regents budget.

- Provides that the retired teacher member on the State Teachers Retirement Board may not be a person who is employed in a position that requires contributions to the retirement system.

- Repeals the scheduled "sunset" of the Ohio Physician Loan Repayment Program on July 30, 2001.

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]

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

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 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

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

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 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:

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[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.*

$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 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

[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.

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 handicapped, or developmentally handicapped;	(a) **0.60** for students enrolled in job-training and workforce development programs approved by the Department of Education; and
(b) **3.01** for students identified as hearing handicapped, orthopedically	(b) **0.30** for students enrolled in other types of vocational education classes.

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.

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

[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*

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 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.

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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).)

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. Under current law, this "cap" will no longer apply 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 Categor-ical 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 ____ and ____)

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 had met the FY 1996 academic performance standards 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 did *not* also meet the earlier FY 1996 standards. If, however, a school district included in the bill's model *did* also meet the earlier standards, its FY 1996 expenditures were simply inflated to FY 1999

amounts using an annual 2.8% inflation rate, unless the inflated per pupil amount exceeded the district's actual FY 1999 per pupil expenditures. In that case, the district's actual FY 1999 expenditures were analyzed.

The bill explains that this differentiation is intended to "control" for the potential that, in the case of districts that met both FY 1996 and FY 1999 standards for 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.

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[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 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.

The General Assembly must recalculate the base cost every six years

(R.C. 3317.012(D)(2))

The bill directs the General Assembly to recalculate the per pupil base cost of an adequate education every six years, beginning with FY 2008, after considering the recommendations of the committee. The recalculated base cost would apply to the first fiscal year of the six-year period, and the base cost for the following five years would be the recalculated amount inflated by an annual rate of inflation that the General Assembly determines appropriate at the time of the recalculation.

The General Assembly must biennially project and, in some circumstances, adjust the state share percentage of base cost and parity aid funding

(R.C. 3317.012(D)(3) to (5))

The bill requires the General Assembly, during its biennial budget deliberations to estimate the total state share percentage of base cost and parity aid funding for each fiscal year of the upcoming biennium. (See "***Parity aid***," below, for a discussion of the bill's proposed new parity aid subsidy.) This is to be figured as follows:

(statewide base cost + total parity aid funding – total school district charge-off) ÷
(statewide base cost + total parity aid funding)

This estimate must be based on the latest projections and data provided by the Department of Education prior to the enactment of education appropriations for the upcoming biennium. If the biennium begins with an "update year," which is the first year in which a recalculated base-cost is in effect, the General Assembly must include in the budget act a statement of its projection of the state share percentage of base cost and parity aid funding for the update year.[13]

For the five years following the update year, the General Assembly must continue to monitor the projected state share percentage during its biennial budget deliberations. If, during those deliberations and based on the latest projections and

[13] *The first update year is FY 2002 and, because the bill requires recalculations every six years, the next update year is FY 2008.*

data, the General Assembly estimates that the total state share percentage for either or both fiscal years of the upcoming biennium varies more than 2.5 percentage points, more or less, than its previously estimated total state share percentage for the preceding update year, it must determine and enact a method that it considers appropriate to restrict the estimated variance for each year to within 2.5 percentage points. The General Assembly's methods may include, but are not required to include and need not be limited to, re-examining the rate of millage charged off as the local share of base-cost funding. But regardless of any changes in charge-off millage rates in years between update years, the charge-off millage rate for each update year must be 23 mills, unless the General Assembly determines that a different millage rate is more appropriate to share the total calculated base cost between the state and school districts.

Statement of state share percentage for FY 2002 and 2003

(Section ___)

The bill states the General Assembly's determination, based on the most recently available data, that the state share percentage of base cost and parity aid funding is 49.0% in FY 2002 and 49.4% in FY 2003. It characterizes the 49.0% for FY 2002, the update year, as the target percentage for fiscal years 2003 through 2007 that the General Assembly must use to fulfill its obligation to biennially monitor the state share percentage until the next scheduled update and to stay within the 2.5% variance.

The Department of Education must provide data and projections

(R.C. 3317.012(D)(6))

The Department of Education must report its projections for total base cost, total parity aid funding, and the statewide charge-off amount for each year of the upcoming fiscal biennium, and all data it used to make the projections, whenever requested by (1) the chairperson of the standing committee of the House or Senate having primary jurisdiction over appropriations, (2) the Legislative Budget Officer, or (3) the Director of Budget and Management.

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 determination 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)

The state makes property tax replacement payments 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 because, 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 base-cost formula and the 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."[14] (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 adjusts the special education weights to reflect other changes

(R.C. 3317.013 and 3317.02(F)(3))

The bill retains the current three-category classification of handicaps for special education payments, but adjusts the two weights used to calculate the 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:

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

Special Education Category	Current Weight	Bill's Weight
Specific learning disabled, Other health handicap, Developmental handicap	0.22	0.21
Hearing handicap, Orthopedic handicap, Vision impairment, Multiple handicaps, Severe behavior handicap	3.01	2.85
Autism, Traumatic brain injury, Both visual and hearing handicaps	3.01	2.85

The bill increases the speech services subsidy in FY 2003

(R.C. 3317.022(C)(5) and 3317.16(D)(2))

The speech services 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. For FY 2003, it raises the personnel allowance to $55,652.

The bill commissions an LOEO special education study

(Section ____)

The bill directs the Legislative Office of Education Oversight to conduct a statistical sampling of individualized education programs (IEPs) developed for handicapped children to determine the following:

(1) The extent to which school districts provide, and handicapped children utilize, (a) attendant services, (b) vocational special education coordinator services, and (c) work-study services;

(2) The handicaps that school districts identify as "other health handicaps" and the services that school districts provide to children identified as having "other health handicaps"; and

(3) How school districts currently serve children identified as having learning disabilities.

The Office must report its findings and any recommendations to the General Assembly no later than January 1, 2003.

State rule for districts to report special education spending data

(Section ___)

The bill requires the State Board of Education to adopt rules in accordance with the Administrative Procedure Act (R.C. Chapter 119.) establishing a method for school districts to report their spending for special education and related services. The State Board must file the rules in proposed form no later than February 1, 2002, and make every effort to file the rules in final form so that they apply first in fiscal year 2003.

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 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 in three ways. First, it qualifies 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

[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.*

vocational school districts, and for community schools, which also are eligible for the subsidy under current law.

Second, it increases the percentage of costs above the $25,000 threshold that the state will reimburse school districts, including joint vocational 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)).

Third, beginning in FY 2003, it reduces the payment threshold for Category 3 students from $25,000 to $20,000 (students with autism, both visual and hearing disabilities, or traumatic brain injuries). All other students remain eligible in FY 2003, but at the original $25,000 threshold.

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

[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.*

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 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.

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

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 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)

As it does with the special education weights, 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	Standard Parity Aid Payment % (Phase In)	Alternative 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%	50%	117	100%	0
FY 2003	489 +	40%	100%	117	75%	0
FY 2004	489 +	60%	100%	117	50%	0
FY 2005	489 +	80%	100%	117	25%	0
FY 2006	489 +	100%	100%	0	0	0
FY 2007	489 +	100%	100%	0	0	0

NOTE: 489 districts will qualify for either standard parity aid or alternative parity aid. But it is possible that another district not qualifying for the standard payment might qualify for the alternative payment.

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 school districts based on combined income and property wealth per pupil.

For most eligible school districts, 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 wealth versus what 9.5 mills would raise in the district where the income-adjusted property wealth ranks as the 123rd highest. The amount of parity aid, therefore, varies based on how far below the 123rd 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.

But the bill provides an alternative calculation for districts experiencing a combination of lower incomes, higher poverty, and higher business costs regardless of whether they are one of 489 districts with lowest income-adjusted property wealth (see "***Alternative calculation***," below).

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 ____)

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.

Alternative calculation

(R.C. 3317.0217(D) and (E))

For school districts that face combinations of lower incomes, higher poverty, and higher business costs, the bill provides an alternative way to calculate

parity aid, if it yields a greater amount than the standard calculation. Specifically, this alternative method is available to districts that have a *combination* of:

(1) An income factor less than 1.0 (meaning its median income is less than the statewide median income);

(2) A DPIA index of 1.0 or greater (meaning its proportion of children living in families that participate in Ohio Works First is equal to or greater than the proportion statewide); *and*

(3) A cost-of-doing-business factor of 1.0375 or greater (meaning the business costs in the district's county are presumed to be 3.75% greater than the lowest-cost county in the state).

A district that meets all three qualifications receives the *greater* of the standard parity aid amount or the alternative calculation. The alternative amount is based on recovering state dollars the district would have received had the consideration of district income wealth not switched from the base-cost formula to parity aid. Essentially, this involves determining how much the district's per pupil 23-mill charge-off amount would have been adjusted downward to reflect the district's income factor, and therefore would have been replaced by state dollars in base-cost funding. The state must pay the district this amount, instead of its standard parity aid amount, if it is greater than the standard parity aid amount.

A district need not qualify for the standard parity aid payment to qualify for the alternative. As long as it meets all of the conditions described in (1) to (3), above, it qualifies.[18]

Phase-in

(R.C. 3317.0217(C)(1), (D)(2), and (E))

The bill calls for parity aid to be phased-in. The standard calculation is phased in over five years, with 20% of the calculated amount to be paid in FY 2002, 40% in FY 2003, 60% in FY 2004, 80% in FY 2005, and 100% after FY 2005. The alternative calculation is phased-in over only two years, with 50% of

[18] *For parity aid, the bill measures income wealth as average income per pupil (total income divided by formula ADM). For base-cost funding, current law uses a district's* median *income* relative to *the state as a whole. It is possible that a district could have a low relative median income that previously qualified it for more state base-cost funding, but have a high average income per pupil that disqualifies it from parity aid. In that case, the district (provided it also had a high DPIA index and a high cost-of-doing-business factor) still would qualify for parity aid using the alternative calculation.*

the calculated amount to be paid in FY 2002 and 100% in FY 2003 and thereafter. In the case of any district eligible for the greater of either calculation, these phase-in percentages are figured into determining which payment is larger. For example, a district qualifying in FY 2002 to be considered under both calculations is eligible for the greater of 20% of the standard calculation or 50% of the alternative calculation. In FY 2003, it would be eligible for the greater of 40% of the standard calculation or 100% of the alternative calculation.

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

(R.C. 3302.041)

Background. Under existing 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 develop a three-year continuous improvement plan (CIP) 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.[19]

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 proposed in the bill. 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 or more 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;

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

(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 the state Superintendent of Public Instruction to authorize a school district to spend parity aid payments for another purpose, upon request of the district, if the state Superintendent considers it appropriate.

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 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.

Schedule. 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 and be submitted to the Department.

Monitoring and enforcement. The bill charges the Department with monitoring school districts' expenditures of parity aid in accordance with their CIPs. The Department must determine whether districts spent their parity aid for the appropriate fiscal year in compliance with the budget contained in their CIPs.

Beginning July 1, 2002, the Department must annually assess a random sampling of the districts that currently have CIPs. 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.

One-time transitional aid payment in FY 2002

(R.C. 3317.0212(C))

In the first fiscal year under the bill's financing system, the bill requires the Department to make a "transitional aid" payment to a school district if necessary to ensure that its "composite state funding" for FY 2002 is no less than a comparable amount it received for FY 2001. "Composite state funding" from year to year breaks down as follows:

FY 2001	FY 2002
Base-cost payment + Special ed. weighted payment + Speech services subsidy + Voc. ed. weighted payment + DPIA payment + Gifted education unit payment + GRADS payment + Teacher experience subsidy + Transportation payment + Equity aid payment + **Power equalization subsidy** + Gap aid payment + FY 1998 guarantee payment + Reappraisal guarantee payment[20]	Base-cost payment + Special ed. weighted payment + Speech services subsidy + Voc. ed. weighted payment + DPIA payment + Gifted education unit payment + GRADS payment + Teacher experience subsidy + Transportation payment + Equity aid payment + **Parity aid payment** + Gap aid payment + FY 1998 guarantee payment + Reappraisal guarantee payment

The composite state funding for FY 2001 is the amount actually paid after application of the state aid cap for that fiscal year, if the cap applied to the district that year. Parity aid is not included in FY 2001 because it is was not paid that year. Conversely, the power equalization payment is not included in FY 2002 because the bill repeals it.

New base for calculating DPIA index beginning in FY 2004

(R.C. 3314.08(A), 3317.029(A), and 3317.10; Sections ___ and ___)

A school district's eligibility for disadvantaged pupil impact aid (DPIA) depends on its "DPIA index," which measures the district's proportion of resident children whose families receive public assistance *relative to* the proportion of those children statewide. For instance, a district with a DPIA index of exactly 1.00 has a proportion of these children that is equal to the statewide proportion. An index of 1.50 would indicate a district proportion of these children that is 150% of the statewide proportion, whereas an index of 0.50 would indicate a district proportion that is 50% of the statewide proportion.

[20] *The reappraisal guarantee essentially ensures that in the first fiscal year following a county auditor's triennial reappraisal or statistical update of property values, a school district will not lose state funding from the previous fiscal year. (R.C. 3317.04(C), not in the bill.)*

Under current law, the DPIA index is based on the number of children ages 5 to 17 who reside in the school district and whose families participate in the Ohio Works First program, as of the month of October preceding the fiscal year. (The Department of Job and Family Services is required to annually report district-by-district numbers to the Department of Education by March 1.) The Department of Education calculates the five-year average of these children in each district and divides that average by the district's three-year average formula ADM, which yields a percentage that approximates the proportion of the district's enrollment that are considered economically at-risk. A similar percentage is calculated for the state as a whole, and the comparison of the district's percentage versus the statewide percentage produces each district's DPIA index.

The bill expands the measurement of at-risk children that serves as the base of the index calculation. Beginning in FY 2004, the index is to be based on the number of children ages 5 to 17 who reside in the school district and whose families (1) have income at or below the federal poverty guidelines and (2) participate in one of the following programs:

(a) Ohio Works First;

(b) The food stamp program;

(c) Medicaid (including Healthy Start);

(d) Part I of the Children's Health Insurance Program ("CHIP"); or

(e) The state Disability Assistance program.[21]

As under current law, the index is to be calculated by dividing the five-year average number of these children residing in each district by the district's three-year average formula ADM. The bill therefore requires the Department of Job and Family Services to report, by March 1, 2003, the number of these children in each school district for the month of October in 1998, 1999, 2000, 2001, and 2002, and annually thereafter by March 1 for the preceding October.[22] Until FY 2004, the

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[21] These new criteria were recommended by the Legislative Office of Education Oversight in its recent report, "A New Poverty Indicator for Disadvantage Pupil Impact Aid (DPIA)." LOEO was required to issue this report by Am. Sub. H.B. 650 of the 122nd General Assembly.

[22] The bill expresses the General Assembly's intent that the Department of Job and Family Services use the same, or substantially similar, computer programming to generate this information as it used to assist LOEO in making this report.

Department of Education must continue to base the DPIA index on Ohio Works First participation only.

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.

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.[23]

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

[23] *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)).*

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.

Recomputation of base cost aid for uncollectable taxes from a bankrupt taxpayer

(R.C. 3317.0210)

A school district's base cost amount is recomputed if at least 1/2% of its property taxes are uncollectable and 1% of its taxable property valuation is effectively untaxable because a single company is protected from creditors while the company is reorganizing under bankruptcy. The recomputation subtracts the company's "untaxable" property valuation from the computation of the school district's "charge-off" amount, which has the effect of increasing the district's base cost amount. (For districts receiving base cost computed under the formula, there is an inverse relationship between the district's property valuation and the amount of aid.) In effect, the district is compensated for the equivalent of about 2.3% (23 mills per dollar) of the company's taxable property valuation on which it has not paid taxes.

Currently, the recomputation is performed near the end of the second year after the year in which the taxes were charged, meaning that base cost payments are not adjusted to reflect the recomputation until up to two years after the taxes would have been collected from the company. Once the base cost payments are adjusted, they are adjusted to reflect the effect of the untaxable property on the *preceding* fiscal year's base cost amount.

The bill accelerates the recomputation so that a school district's base cost amount would be recomputed sooner than it is under current law. Under the bill, school districts seeking a recomputation must notify the Department of Education between January 1 and February 1 of taxes that were charged for the preceding year that are uncollectable (as long as they represent at least 1/2% of total taxes charged). The Department's recomputation is to be based on the district's untaxable property valuation for the preceding year, rather than the second preceding year, and the district's base cost amount for the current fiscal year is to be adjusted to reflect the effect of the untaxable property for the *current* fiscal year's base cost payment.

Because of the acceleration of the recomputation relative to the time when taxes are discovered to be uncollectable, the bill prescribes a special transition rule for taxes that are uncollectable for tax years 1999 and 2000. School districts must notify the Department of Education of any such uncollectable taxes by August 1, 2001, and, if the district qualifies for the recomputation, the Department must recompute the base cost amount for fiscal year 2001 (for tax year 1999 taxes) and for fiscal year 2002 (for tax year 2000 taxes) and pay the additional base cost amount so computed before the end of fiscal year 2002.

Finally, the certifications that the Department of Education must request regarding a school district's taxable values are to be requested from the Tax Commissioner, rather than from county auditors as prescribed under current law.

Expansion of eligibility for money from Solvency Assistance Fund

(R.C. 3316.20)

Current law

The state School District Solvency Fund consists of money appropriated to it by the General Assembly and provides two forms of emergency assistance to school districts:

(1) **Solvency assistance** to school districts experiencing serious financial difficulties. Under current law (as amended by S.B. 345 of the 123rd General Assembly, effective April 10, 2001), the only districts eligible for solvency assistance are those that have been declared by the Auditor of State to be in a fiscal emergency because of an operating deficit exceeding 10%. Districts placed under fiscal emergency for other reasons, districts remaining in fiscal emergency although they have since reduced their operating deficit, and districts that are not under a declaration of fiscal emergency do not qualify. A district must reimburse state solvency assistance within two fiscal years.

(2) **Grants** to school districts facing "unforeseen catastrophic events that severely deplete the districts' financial resources." The grants are recommended by the state Superintendent of Public Instruction and awarded by the Controlling Board. The grants do not have to be repaid unless the district is reimbursed by a third party, such as an insurer or a federal disaster relief program.

The bill's changes

The bill broadens eligibility for school districts to obtain solvency assistance funds by qualifying *any* district declared to be in a fiscal emergency, regardless of the reason for the declaration or the size of the district's operating deficit. As under current law, the assistance is to be awarded and administered in

accordance with rules adopted by the Director of Budget and Management. Districts *not* under a declared fiscal emergency remain ineligible.

The bill also adds a new rule-making condition, requiring the Director of Budget and Management to adopt rules governing how the state Superintendent of Public Instruction makes recommendations to the Controlling Board for the award of catastrophic expenditure grants.

Restriction on distribution of Head Start funds

(Section 44.02)

For FY 2002 and FY 2003, the Department of Education may distribute funding for the operation of Head Start programs only to those providers that received funding in FY 2001. No new recipients of Head Start funds may be established in 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.[24]

[24] *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.)*

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.[25] The bill specifically permits an ESC 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.[26] (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

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[25] *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).*

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

debt charges on those securities.[27] (See also '***Right of first refusal on sale of school district real property for community schools and educational service centers***," below.)

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.[28] (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.[29])

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 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.[30]

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

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

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

[29] *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).*

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

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.[31]

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.[32] The bill specifically states that no ESC may be charged at any time for any additional amounts for office space not included in the bill's provisions, or in a contract superseding the bill's provisions.

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.

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

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

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.[33] 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, new kindergarten classes would replace the ones that advances to first grade, and the program would serve students in grades K to 8.[34]

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

[34] *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.*

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.

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.[35] With funding from the Department of

[35] *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.*

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.[36] 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.[37] 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 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.

Current law does not specify the presiding officer of the Commission. The bill specifies that the Commission must appoint officers from among its members.

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

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

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.[38] 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.[39] 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.[40] 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.

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.

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

[39] R.C. 3318.37.

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

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).[41] 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 assistance to five pre-S.B. 102 districts per year until all eligible districts have received similar service under the program.[42]

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.[43]

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.[44]

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

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

[43] *R.C. 3318.041.*

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

"Local donated contribution" may be used for maintenance requirement

(R.C. 3318.084)

Ordinarily, a district raises its portion of the cost of acquiring facilities under a state-assisted project with a voter-approved bond issue. However, current law also permits a district to generate some or all of its portion by dedicating for that purpose donations made to the district or other district-owned nonstate revenues.[45] In addition to the requirement to raise its portion of the project cost, a district must levy a 23-year half-mill property tax or earmark the equivalent of certain other district taxes to pay for maintenance on the facilities constructed under any state-assisted project. The bill permits a district to also apply any "local donated contribution" toward a total or partial offset of its obligation to raise moneys for the maintenance of the facilities constructed with state assistance.

Bidding for classroom facilities projects

(R.C. 3318.10)

The bill provides that bidding of any classroom facilities construction project that a school district undertakes with state assistance (including the expenditure of local resources under the Expedited Local Partnership Program) must be in accordance with the procedures that apply to regular school district bidding for permanent improvements valued over $25,000.[46] That procedure requires advertised requests for competitive bids and award of contracts to the lowest responsible bidders. A similar procedure is currently in place for state-assisted classroom facilities projects, and the bill's provisions appear to simply specify more uniformity in procedures used for all school district permanent improvement bidding. Under current law, however, a district must advertise a request for bids for a state-assisted classroom facilities project once a week for *three* consecutive weeks. Under the bill, a district would be required to advertise its request once a week for *only two* weeks.

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[45] *The law defines this "local donated contribution" as either "moneys irrevocably donated or granted to a school district board by a source other than the state . . . [or any] irrevocable letter of credit issued on behalf of a school district or any cash a school district has on hand, including any year-end operating fund balances, that can be spent for classroom facilities."*

[46] *R.C. 9.312 and 3313.46, neither section in the bill.*

Contingency reserve requirement

(R.C. 3318.01(L), 3318.08(R), and 3318.086)

The bill codifies SFC policy of requiring a contingency reserve as part of any CFAP project construction budget. The bill also specifies that, absent special approval of SFC, the contingency reserve can be used *only* to pay costs resulting from unforeseen job conditions, to comply with rulings regarding building and other codes, to pay costs related to design clarifications or corrections to contract documents, and to pay the costs of settlements or judgments related to the project.

Dedicating taxes toward local share of project cost

(R.C. 3318.052)

Currently, school districts are permitted to cover their local share of CFAP project costs by pledging revenue from an income tax that the school district already levies or from a property tax it already levies for general, ongoing permanent improvements. The revenue is dedicated to paying debt charges on securities issued by the district to cover its local share of the project costs.

The bill further formalizes how these taxes are to be dedicated and specifies that if such a tax is so dedicated the tax must continue to be collected for as long as the securities remain outstanding. To dedicate the revenue from an existing income tax or permanent improvements levy (or from both taxes), the school board must enter into an agreement with the SFC within one year after the school district receives conditional approval for its project. (The agreement may be incorporated into the general classroom facilities agreement.) The school board also must agree to transfer the dedicated tax revenue from the fund in which it was deposited to the bond retirement fund established to pay the securities' debt charges (including financing costs). In exchange for its dedication of those taxes, the school district receives a credit against its required local contribution toward the basic project cost; the credit is for the amount dedicated. But no state CFAP money may be released for the district's project until the dedicated taxes begin to be deposited into the district's project construction fund.

The securities issued by the school district may be general obligation securities or anticipatory securities. (General obligation securities pledge the full faith and credit of the issuer to the repayment of the bonds; bondholders are legally entitled to enforce this pledge by compelling the school board to levy sufficient taxes to satisfy the pledge; therefore, general obligation securities are the most secure form of public debt, allowing debt to be issued on more favorable terms, such as lower interest payments, than less secure debt obligations. Anticipatory securities are notes that are issued before the first tax collection may

be made; they are repaid as the taxes are collected.) The securities must be issued under the appropriate provisions of the Uniform Public Securities Law (Chapter 133.). The maximum term of the securities is 23 years. The securities are not to be included in the computation of a school district's maximum legal debt limit (generally nine per cent of taxable property valuation) as long as the resolution authorizing their issuance includes a covenant to annually appropriate revenue from the dedicated taxes sufficient to cover the annual debt charges and to continue to levy and collect the dedicated taxes for as long as the debt charges remain outstanding. The bill prohibits a tax dedicated under the agreement from being repealed by electors, and mandates that sufficient taxes continue to be collected in the event that electors approve a referendum to reduce or repeal such a tax. (Under current law, electors, via a referendum called for by an initiative petition, may repeal or reduce a property tax levied permanently or may repeal a school district income tax levied for more than five years).

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 property of an electric company as a result of recent changes in the tax law relating to deregulation of the electric utility industry.[47]

[47] *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.*

Miscellaneous and technical changes in the Expedited Local Partnership Program

(R.C. 3318.36(B)(2)-(5))

To participate in the Expedited Local Partnership Program, a district board must adopt a resolution certifying its intention to do so and submit it to SFC. Current law provides that the resolution may not specify an election for voter approval of any necessary bond or tax measures sooner that 12 months after the date of the resolution. The bill eliminates the 12-month requirement. The bill further specifies that a district board may proceed with a discrete part of its district-wide project as soon as SFC and the Controlling Board approve the cost of the district's needs; however, it also clarifies that only local expenditures for approved costs may be applied to the district's required local portion of the district-wide project. In addition, the bill provides that if a district has not begun a project under the Expedited Program prior to the time that the district becomes eligible for state assistance under CFAP, all assessment and agreement documents are void and presumably would have to be re-executed.

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.

Right of first refusal on sale of school district real property for community schools and educational service centers

(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 and to the governing board of any educational service center that serves the district at a price not higher than the appraised fair market value of the property. If no community school governing authority or the ESC governing board 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.

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.[48] Such schools may be sponsored by the 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.

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

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.[49] 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 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

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[49] *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.*

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.

In considering an application for a loan guarantee, the Commission must apply "all usual commercial lending standards" to determine the creditworthiness of the members of the community school's governing authority. It may not make any loan guarantee unless it determines (1) that the members of the community school's governing authority are creditworthy, (2) that the community school has the ability to repay the loan, and (3) that the facilities meet the Commission's specifications.

The bill also requires that the loan guarantee agreement between SFC and a school's governing authority contain a stipulation holding each member of that governing authority (at the time the agreement is executed) personally liable for any payments the state may have to make to repay the guaranteed loan. This liability would extend to the time that any default on the guaranteed loan occurs, whether or not the person is still a member of the governing authority at the time of the default. This agreement also must require each member of the governing authority to execute a bond, or provide other means satisfactory to the Commission, to indemnify the state for any payment made by the state for any default on the guaranteed loan.

The bill prohibits the Commission from exceeding, at any one time, an aggregate liability of $10 million to repay guaranteed loans.

Finally, the bill requires SFC in fiscal year 2002 to set aside no more than $10 million of its capital appropriations for this program and to deposit that amount into a special fund established by the bill.

Deductions from state payments for Internet community schools that fail to supply computer hardware and software to students

(R.C. 3314.08(N))

As noted above, community schools often provide a particularized educational service for certain students seeking that service. Some schools offer an Internet-based environment where most or all of the student's academic work is performed by computer connected to the Internet. The bill requires that state payments to any such Internet or computer-based school be reduced if the school fails to deliver, install, and activate computer hardware and software for all students enrolled in the school by the end of the first full week of school. The amount of reduction is to be prorated based on the amount of lost instructional time resulting from the lack of hardware or software items for each student. The Department of Education is required to continue to make the reductions as long as the promised hardware or software is not provided.

The bill also requires the Superintendent of Public Instruction and the Auditor of State to jointly establish a method for auditing Internet or computer-based community schools to ensure compliance with their promises to provide computer equipment and materials.

Finally, it requires the Superintendent and the Auditor to consult with the Governor, sponsors of Internet-based community schools, and others at their discretion to develop recommendations to the General Assembly for legislative changes to ensure future fiscal and academic accountability for such schools.

OTHER PRIMARY-SECONDARY EDUCATION PROVISIONS

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.[50] 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

[50] *R.C. 3317.13.*

if the calculated increase in their FY 2002 state aid does not cover the cost of that compliance.[51] The bill does not affect the cost of state-funded units for special education, vocational education, and gifted education, 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 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.

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.

[51] *Section 44.11 of the bill.*

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.[52] 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 states that all school districts must comply with the federal law and specifically 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.[53] In either case, the school is obligated to accept the child as a student and cannot charge any tuition for enrollment.

Changes in the organization of the OhioReads

(R.C. 3301.85)

The OhioReads Office, which is within the Department of Education, was established in 1999 as an agency to award and oversee grants to school districts and community organizations for providing assistance to students in developing their reading skills. The Office is under the supervision of the OhioReads Council, which consists of five voting members appointed by the Governor, two ex officio voting members (the Director of Budget and Management and the Superintendent of Public Instruction, or their designees), and four nonvoting legislative members. The grants awarded by the Office are generally used to pay administrative costs in securing and directing volunteer tutors and to reimburse the cost of conducting background checks for the volunteers.

Under current law, the Office is under the supervision of an "executive director" appointed by the Superintendent of Public Instruction with the advice

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[52] *McKinney-Vento Homeless Assistance Act, 42 U.S.C. 11421 et seq.*

[53] *The bill refers to the school which the student attended before becoming homeless as the student's "school of origin." (See 42 U.S.C. 11432(g)(3)(C).)*

and consent of the OhioReads Council. The bill changes the name of this position to "executive administrator."

Current law also authorizes the Superintendent to hire additional staff for the Office. The bill specifies that these additional staff members serve at the pleasure of the Superintendent and are not subject to any provision of the Collective Bargaining Law. But it also provides that any person employed in the Office prior to the effective date of this bill who is in a bargaining unit will continue to be in that unit. When such a person vacates the person's OhioReads Office position for any reason, the position will cease to be subject to the Collective Bargaining Law.

SERB teacher salary information

(R.C. 4117.102)

Copies of all school district collective bargaining agreements must be filed with the State Employment Relations Board (SERB), the state agency that oversees all collective bargaining activity at the state and local level. The bill requires the SERB to maintain a list of all school districts that have collective bargaining agreements with teacher organizations and to annually update, for each district on the list, the starting teacher salary for that district (for teachers with Bachelors degrees and no prior experience). Under the bill, the SERB must annually furnish a copy of the updated list to the State Board of Education.

Consolidation of noncontiguous school districts

(R.C. 3311.062)

Current law specifies that school district territory is to be contiguous.[54] Generally, this means that only school districts that abut each other may consolidate. The bill permits districts who do not share a common border to form a new school district from their respective territories if the board of education of any district with territory between the noncontiguous portions of the districts wishing to consolidate adopts a resolution approving of the consolidation.

[54] *R.C. 3311.06 and 3311.37, not in the bill.*

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.[55] 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 for early retirement and severance" to the district personnel that provide those auxiliary services.[56] However, the provision limits the percentage of the costs of providing early retirement to an employee that can be paid from this fund to the percentage of the employee's total service credit formed by the employee's service to nonpublic school students.

Leasing of computers and software

(R.C. 3317.06)

School districts may use auxiliary services funds to purchase instructional equipment (including computer hardware), and secular, neutral, nonideological computer software and other technological instructional materials for use by nonpublic school students. The bill permits school districts to "lease" as well as purchase such instructional equipment and materials.

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

[56] *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).*

School bus driver physical examinations

(R.C. 3327.01)

Current law requires the driver of a school bus or motor van to have an annual physical exam that conforms to rules of the State Highway Patrol to assess the driver's physical fitness. The bill specifies that the examination may be performed by a physician, a certified nurse practitioner, or clinical nurse specialist.

HIGHER EDUCATION

Elimination of fee caps for state universities

(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 allows this provision to expire, removing all limitations on fee increases for all state universities beginning in FY 2002.

Increase of state university enrollment limitations

(R.C. 3345.19)

Current law limits enrollment at the central campuses of five state universities. Bowling Green University is limited to 16,000 students, Kent State University is limited to 21,000 students, Miami University is limited to 16,000 students, Ohio University is limited to 21,000 students, and the Ohio State University is limited to 42,000 students. This amendment increases the enrollment limitation of each of these universities by 1,000 students and repeals the mandate that student housing facilities only be authorized within these limitations. In addition, the amendment removes the requirement that the Board of Regents approve contracts for construction of new residence hall facilities.

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.

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 1,000 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. 151.04 and 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. 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 provides that only the Board of Regents is 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. The bill also corrects (1) an outdated reference to the lease payments being made to the Treasurer of State rather than the Public Facilities Commission, and (2) a reference to a nonexistent Revised Code section in the higher education general obligation bond law.

Investments by state university or college boards of trustees

(R.C. 3345.05)

Ordinarily, the title to investments made by a state university or college board of trustees partially or totally with revenues other than donations (such as state moneys and student tuition and fees) is owned by the state but held in trust by the board. The bill appears to provide instead that title to any investments made by a board of trustees is not vested in the state but still is held in trust by the board of trustees, presumably on behalf of the college or university.[57] The bill also requires that these investments be made in accordance with the board's investment plan and be among the securities or obligations listed as eligible for investment under the Uniform Depository Law.[58]

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

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[57] The bill uses largely the same language as used in current law regarding the title of investments made from donations made to a state university or college and held by its board of trustees for the institution's investment portfolio (R.C. 3345.16, not in the bill).

[58] R.C. 135.35, not in the bill. That section lists such investments as treasury bills, bonds, notes, time certificates, and money market funds.

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.

Instructional subsidy and challenge review committee

(Section ___)

The bill establishes the Instructional Subsidy and Challenge Review Committee. Members of the committee consist of: two senators from the majority party and one senator from the minority party (all appointed by the President of the Senate), two representatives from the majority party and one representative from the minority party (all appointed by the Speaker of the House of Representatives), the Chancellor of the Ohio Board of Regents or his designee, one representative of two-year colleges, and two representatives of the 13 state universities. The representatives of the state universities and the two-year colleges will be appointed jointly by the President of the Senate and the Speaker of the House of Representatives. The committee will review the allocation formula for the state share of the instructional subsidy and all of the challenge line items in the Board of Regents budget. The committee will make recommendations and issue a report to the General Assembly no later than December 30, 2001, after which time it will cease to exist.

Retired teacher member on STRS board

(R.C. 3307.05)

Under current law, the retired teacher member on the State Teachers Retirement Board is required only to be a superannuate (a person receiving retirement benefits from the system). The bill would also prohibit the Board's retired member from being a person employed in a position that requires contributions to the retirement system.

Continuation of the Ohio Physician Loan Repayment Program

(Section 171)

Currently, the statutory authority for the Ohio Physician Loan Repayment Program is scheduled to be repealed effective July 30, 2001. The bill removes the scheduled repeal of this authority, thus permitting the Program to continue in existence on and after that date. The Program permits the Ohio Board of Regents, through contracts with primary care physicians and the Department of Health, to repay all or part of the principal and interest of student loans taken by certain

primary care physicians who agree to provide primary care services in health resource shortage areas.

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.

- While retaining the General Assembly Open Meetings Law's requirement that legislative committees establish a reasonable method for persons to determine the time and place of committee meetings, removes the requirement that that method be established by rule.

- Clarifies the persons who qualify to receive a deceased General Assembly member's unpaid salary.

- Modifies the travel expenses payment requirement for General Assembly members to authorized reimbursement rather than an allowance for those expenses, and to specify that the reimbursement is for travel incurred by a member not more than once a week to and from one's residence.

- Provides that members of the General Assembly, General Assembly staff, and legislative staff are not liable in a civil action for any legislative act or duty.

- Prevents legislative staff from being compelled to testify or to produce tangible evidence concerning communications with or advice or assistance given to General Assembly members or staff.

- Insulates legislative documents that are not public records from subpoena.

- Requires the Joint Legislative Ethics Committee to act as an advisory body to the General Assembly and to individual members, candidates, and employees on questions relating to ethics or financial disclosure.

- Imposes a late filing fee of $12.50 per day (up to $100 maximum) on legislative agents and their employers who fail to timely file a complete registration statement.

- Exempts persons required to file specified financial disclosure statements from being required to report payments of certain expenses in connection with meetings or conventions of a national or state organization if any state agency or state institution of higher education pays membership dues to the organization and the expenses are incurred in connection with the person's official duties.

- Exempts legislative agents from being required to report certain expenditures made for members of the General Assembly relative to a meeting or convention of a national organization to which any state agency or state institution of higher education pays membership dues.

- Exempts executive agency lobbyists from being required to report certain expenditures made for specified state officials or their staff members relative to a meeting or convention of a national organization to which any state agency or state institution of higher education pays membership dues.

- 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 Joint Legislative Committee on Federal Funds.

- 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.

- Transfers the operation of the Ohio Government Telecommunications System from the Capitol Square Review and Advisory Board to the Ohio Educational Telecommunications Network Commission.

- Provides that investment earnings of the Governmental Television/Telecommunications Operating Fund are to be credited to the fund.

- Regarding each agency or entity that appoints or employs any "peace officer," as defined in the Ohio Peace Officer Training Commission Law: (1) requires it on or after January 1, 2002, to report to the Commission within ten days the appointment, employment, termination, resignation, felony conviction, or death of any of the officers that occurs on or after that date, (2) requires it to annually provide a roster to the Commission of all peace officers serving it in any capacity, and (3) specifies that failure to comply with the requirements makes the agency or entity ineligible to have its peace officers receive any basic training certified by the Commission or advanced training conducted by the Ohio Peace Officer Training Academy, until it attains compliance.

- 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.

- Relocates the Secretary of State fee provisions relating to the filing and indexing of specified secured transactions records and to responses to certain related information requests, contingent upon the enactment of S.B. 74 of the 124th General Assembly and the repeal of R.C. 1309.40 by that act.

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

- Provides that any program the Secretary of State implements to allow payment of fees by credit card must be operated through the state's central credit card payment program overseen by the State Board of Deposit.

- 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.

- Transfers authority to issue notary public commissions from the Governor to the Secretary of State.

- Removes authority for the clerks of courts of common pleas to record and index the commissions of notaries public who reside in a clerk's county.

- Increases the fee charged for recording and indexing a notary public commission from $5 to $10, which fee will be paid to the Secretary of State's office.

- 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.

- Establishes the Capital Access Loan Program in the Department of Development to assist participating financial institutions in making capital access loans to eligible businesses that face barriers in accessing working capital and obtaining fixed asset financing.

- Creates the Capital Access Loan Program Fund in the state treasury.

- Secures, in accordance with a specified procedure, a financial institution's risk associated with a capital access loan to an eligible business by a deposit of money from the Capital Access Loan Program Fund in the institution's program reserve account.

- 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.

- Allows members of state boards and commissions who are members of the Public Employees Retirement System to be covered by state health policies, contracts, or plans if they pay both the employer and employee amounts of the premiums, costs, or charges for that coverage.

- 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.

- Authorizes disbursement of lease rental payment appropriations.

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

- Requires the Director of Budget and Management to select one large agency and one small agency to prepare zero-base budgets for the biennium beginning July 1, 2003 and ending June 30, 2005.

- 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.

- Authorizes counties and municipal corporations to establish linked deposit programs, involving "eligible governments," to provide financial assistance to steel companies; and authorizes the Treasurer of State, under the Depressed Economic Area Linked Deposit Program, to provide financial assistance to steel companies directly or through "eligible governments."

- 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.

- Increases membership of the Ohio Housing Finance Agency from nine to eleven and establishes the terms of office for the additional members.

- Requires that the Ohio Housing Finance Agency include at least one member who represents the interests of nonprofit multifamily housing development organizations and at least one member representing the interests of for-profit multifamily housing development corporations.

- Modifies the Low- and Moderate-Income Housing Trust Fund by changing the definition of rural areas to be consistent with the federal "Home" program definition and increases the rural setaside from at least 35% to at least 45% of the funds awarded.

- Stipulates that there will be no minimum project size for Housing Trust Fund awards to a project that is being developed to serve a special needs population and that has the support of a local social service agency.

- Requires the Department of Development to report to the legislature on a fiscal instead of calendar year basis and specifies that setasides be calculated on the amount of funds awarded per fiscal year.

- Limits the administrative costs of the Housing Trust Fund to 6% of the money in the fund instead of 5%.

- 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.

- Requires that money in the Education Technology Trust Fund be used for costs of the Ohio SchoolNet Commission, instead of innovative technology for primary and secondary education and higher education.

- Suspends for fiscal years 2001 and 2002 the 5% limitation on administrative spending of the Tobacco Use Prevention and Control Foundation, Southern Ohio Agricultural and Community Development Foundation, and Biomedical Research and Technology Transfer Commission.

- Extends the reporting deadline for the Tobacco Oversight Accountability Panel by six months, to December 31, 2001.

- Exempts from county competitive bidding requirements criminal justice services, social services programs, family services, or workforce development activities purchased by a board of county commissioners from nonprofit corporations or associations under programs funded by the federal government or by state grants.

- Permits specified mental health agencies and facilities to release medical and psychiatric records to a coroner, deputy coroner, or representative of either in accordance with a specified procedure, without the necessity of a court order, without having to follow another disclosure of records procedure, and without violating an otherwise applicable rule of confidentiality owed to patients or former patients.

- 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 a board of county hospital trustees to adopt its own bidding procedures and purchasing policies for services provided through a joint

purchasing arrangement sponsored by a nonprofit organization, that are routinely used in the hospital's operation.

- 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.

- Increases from $10,000 to $15,000 the statutory dollar limit above which a director of public safety cannot make an expenditure unless first authorized and directed by municipal ordinance.

- Requires that the Ohio Athletic Commission deposit athlete agent registration fees in the Athlete Agents Registration Fund (which the bill creates in the state treasury).

- 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.

- Permits the Ohio Ballot Board to prepare arguments for or against a proposed constitutional amendment when the General Assembly adopts a resolution proposing a constitutional amendment and chooses not to designate a group of its members to prepare either type or both types of those arguments.

- Replaces the "Physical Fitness and Sports Advisory Board" in the Department of Health with the "Governor's Advisory Council on Physical Fitness and Sports."

- Expands the authority of the Director of Health, permitting the Director to solicit, hold, and administer grants, gifts, contributions, devises, and bequests on behalf of the state.

- Establishes the 1990 federal census as the population measure for a metropolitan housing authority district.

- 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.

- Clarifies that the Liquor Control Fund is part of the state treasury.

- Increases from four to eight in any one county, and from eight to 16 in the entire state, the number of liquor agency stores that the same person may own or operate.

- Allows a manufacturer of beer or intoxicating liquor to give financial assistance to the holder of a B permit (wholesale permit for the sale of beer or intoxicating liquor) for the purpose of the holder purchasing an ownership interest in the business, the existing inventory and equipment, or the property of another B permit holder.

- Generally increases transaction fees charged by a deputy registrar, and by the Registrar of Motor Vehicles for corresponding services performed

centrally, to $3.00 commencing July 1, 2001, $3.25 commencing January 1, 2003, and $3.50 commencing January 1, 2004.

- Requires the Registrar of Motor Vehicles to consider prescribing certain characteristics to distinguish a driver's license issued to a person under 21 years of age.

- 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.

- Clarifies that the Ohio Optical Dispensers Board has the authority to contract with a third party testing service to administer examinations for optical dispensing license applicants.

- Separates the examination process from the newly created license application process for licensed dispensing opticians and makes existing examination application requirements the requirements that an applicant must meet to apply for licensure.

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

- Eliminates the residency requirement for sanitarian registration.

Occupational therapists

- Provides that the practice of occupational therapy includes the administration of prescribed topical drugs.

- 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.

- Specifies circumstances under which personal information obtained by the Public Utilities Commission is not a public record.

- Requires the Consumers' Counsel Governing Board to meet at least every third month and to select a chairperson and vice-chairperson at its first meeting each year; and allows the Board's chairperson to designate the vice-chairperson to perform the duties of the chairperson.

- Continues the Technology Action Board; requires the Board to adopt rules under the Administrative Procedure Act governing its grant award program, including rules specifying application procedures for and standards for grant awards and rules prescribing the form of the application for a grant award; and requires the Board to adopt rules directing grant awards to be used by only the applicant to whom a grant is awarded and only for the specific purposes stated by the applicant in the approved application for the grant.

- 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 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.

- Requires the Director of Job and Family Services to continue operations through each of the existing local public employment offices until 30 days after the Director submits the required transfer plan report, 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.

- Extends the report deadline for the joint legislative committee to study the impact of high technology start-up businesses on economic development and small businesses in Ohio from August 1, 2001 to March 1, 2002.

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.

Notice of legislative meetings

(R.C. 101.15)

Current law requires committees and subcommittees of either house of the General Assembly and joint committees or subcommittees, including conference committees, to establish *by rule* a reasonable method whereby any person may determine the time and place of all regularly scheduled meetings and the time, place, and purpose of all special meetings. A meeting may not be held unless at least 24 hours' advance notice is given to the news media that request notification. The bill continues to require all committees and subcommittees to establish a reasonable method for providing this notice, but no longer requires that the committees and subcommittees establish the method by adopting a rule.

Clarification of persons eligible to receive a deceased General Assembly member's unpaid salary

(R.C. 101.27)

Current law requires that, upon the death of a General Assembly member, any unpaid salary due the member for the remainder of the member's term must be paid, in monthly installments, to the member's "*dependent*, surviving spouse, children, mother, or father," in that order. The bill removes "dependent" from this provision, thereby (1) eliminating an *ambiguity* whether (a) it is a *noun* describing a person who was financially dependent upon the deceased member or (b) it is an *adjective* modifying a deceased member's "surviving spouse" or modifying a deceased member's "surviving spouse, children, mother and father," and (2) specifying that the deceased member's unpaid salary will be paid in monthly installments to a surviving spouse, children, mother, or father, in that order.

Travel reimbursement of General Assembly members

(R.C. 101.27(A)(2))

Current law requires that each General Assembly member receive a travel *allowance* per mile each way, at the same mileage rate allowed for the reimbursement of travel expenses of state agents, for mileage once a week during session from and to the member's place of residence by the most direct highway route to and from Columbus. The amendment changes the payment requirement from an allowance to a *reimbursement* and specifies that the reimbursement is to be paid for mileage *not more than once* a week during session for *travel incurred by a member* from and to the member's place of residence by such a route to and from Columbus.

General Assembly; legislative staff; legislative documents

(R.C. 101.30, 101.302, and 101.303)

The bill provides that members of the General Assembly, General Assembly staff, and legislative staff are not liable in a civil action for any legislative act or duty. Such persons, in relation to a legislative act or duty, are not subject to subpoena or subpoena duces tecum in a civil action, may not be made party to a civil action, and may not be compelled to testify or to produce tangible evidence in a civil action. The bill states that this provision is cumulative to Ohio Constitution, Article II, Section 12 (legislative privilege from arrest; right of free debate).

Additionally, the bill prevents any member of the legislative staff from being compelled to testify or to produce tangible evidence concerning any communication with or any advice or assistance given to a member of the General Assembly or General Assembly staff in relation to any legislative act or duty. It also states that legislative documents that are not public records under current law are not subject to subpoena duces tecum. A member of the General Assembly, General Assembly staff, or legislative staff is not subject to subpoena or subpoena duces tecum, and cannot be compelled to testify, with respect to legislative documents that are not public records.

(Under current law, "legislative staff" is defined as the staff of the Legislative Service Commission, Legislative Budget Office of the Legislative Service Commission, or any other legislative agency included in the Legislative Service Commission budget group. The bill removes the reference to "Legislative Budget Office [LBO] of the Legislative Service Commission [LSC]." The removal of this reference responds to the merger of LBO within LSC.)

Duties of the Joint Legislative Ethics Committee

(R.C. 101.34)

Existing law requires the Joint Legislative Ethics Committee (JLEC), among other duties, to act as an advisory body to the General Assembly and to individual members, candidates, and employees on questions relating to possible conflicts of interest. The bill expands the topics regarding which JLEC must act as an advisory body to the General Assembly and the other specified persons to include questions relating to ethics and questions relating to financial disclosure.

Late filing fee for legislative agents and their employers who fail to timely file a complete registration statement

(R.C. 101.34 and 101.72)

Current law requires that a legislative agent and employer pay a registration fee of $10 for filing an initial registration statement. The bill continues that law and additionally requires that, when a legislative agent and employer (1) fail to file an initial registration statement or (2) an amended registration statement (because of deficiencies in the content of the information in a filed statement), within 15 days after receiving a specified notice from the Joint Legislative Ethics Committee (JLEC), JLEC must assess a late filing fee of $12.50 per day, up to a maximum late filing fee of $100. The bill allows JLEC to waive the late filing fee for good cause shown. The bill's assessment of the late filing fee replaces a provision of existing law that requires JLEC to notify the Attorney General, the Governor, and each General Assembly member regarding "the pending investigation" when a person who receives a notice from JLEC fails to file an initial or amended registration statement within the 15-day period.

The bill requires that these late filing fees are to be deposited into the existing Joint Legislative Ethics Committee Fund. The Fund currently receives deposits of the previously mentioned initial registration fees of legislative agents and their employers.

Reporting specified expenditures in connection with meetings or conventions

(R.C. 101.73, 102.02, 102.03, 102.031, and 121.63)

Legislative agents and executive agency lobbyists

Existing law generally requires legislative agents and their employers, and executive agency lobbyists and their employers, to file, with their updated registration statements, in the office of the Joint Legislative Ethics Committee a specified statement of expenditures made by the agent or lobbyist. If a legislative agent makes an expenditure as payment "for meals and other food and beverages" provided to a member of the General Assembly at a meeting or convention of a national organization to which either house of the General Assembly, a legislative agency, or any other state agency pays membership dues, the legislative agent is *not required* to report that expenditure. Similarly, an executive agency lobbyist is not required to report expenditures made as payment "for meals and other food and beverages" provided to an elected executive official, a state department director, an executive agency official, or a staff member of any of these public officers or employees at a meeting or convention of a national organization to

which either house of the General Assembly, a legislative agency, or any other state agency pays membership dues. (R.C. 101.73(B)(3) and 121.63(B)(3).)

The bill changes the list of state entities whose payment of membership dues to a national organization will exempt legislative agents and executive agency lobbyists from being required to report expenditures as payment "for meals and other food and beverages" provided to a member of the General Assembly at a meeting or convention of that organization. The bill exempts legislative agents and executive agency lobbyists from reporting the payment of those expenditures relative to a meeting or convention of a national organization to which *any state agency* or any state institution of higher education pays membership dues. (R.C. 101.73(B)(3) and 121.63(B)(3).)

Public officials and employees

Public officials and specified public employees are generally required to file with the appropriate ethics commission financial disclosure statements identifying sources of income, sources of gifts, and sources of payments for travel expenses they receive. They are not required to include in those statements sources of payment of travel expenses to, or of payment of expenses for meals and other food and beverages provided at, a meeting or convention of a national or state organization to which either house of the General Assembly, any legislative agency, a state institution of higher education, any other state agency, or any political subdivision or office or agency of a political subdivision pays memberships dues, provided that the expenses are incurred in connection with official duties. (R.C. 102.02(A)(8) and (9).)

The bill changes the list of entities whose payment of membership dues to a national or state organization will exempt the public officials and specified public employees from being required to report the sources of payment of travel expenses to, or of payment of expenses for meals and other food and beverages provided at, a meeting or convention of that organization. The bill exempts those officials and employees from reporting the sources of the payment of those expenses relative to a meeting or convention of a national or state organization to which *any state agency* or any state institution of higher education pays membership dues, or (as under current law) any political subdivision or agency of a political subdivision pays membership dues, provided that the expenses are incurred in connection with official duties. (R.C. 102.02(A)(8) and (9), 102.03(H), and 102.031(C)(2).)

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[59]	$50

Abolition of the Joint Legislative Committee on Federal Funds

(R.C. 103.31 and 103.32)

The bill abolishes the Joint Legislative Committee on Federal Funds. The Joint Committee consists of members from the Senate and House and conducts public hearings, reviews block grant plans proposed by state agencies, makes recommendations and submits reports to the General Assembly and state and federal agencies, and takes any other actions that are necessary or appropriate to participation by Ohio and its political subdivisions in federal block grant programs.

[59] *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.*

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, 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.

Transfer of the Ohio Government Telecommunications System

(R.C. 105.41 and 3353.07)

The Capitol Square Review and Advisory Board operates and maintains, and has sole authority to regulate the uses of, 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.

The bill transfers, beginning on its effective date, the operation of the Ohio Government Telecommunications System currently operated by the Board from the Board to the Ohio Educational Telecommunications Network Commission. The bill correspondingly removes a provision of current law that prohibits the Commission from charging to or collecting from the Board broadcasting fees relative to the System.

Crediting interest earnings of the Governmental Television/Telecommunications Operating Fund

(R.C. 3353.11)

The bill creates the Governmental Television/Telecommunications Operating Fund in codified law and provides that the fund is to retain its investment earnings. The fund consists of money received from contract productions of the Ohio Government Telecommunications Studio and is used for operations or equipment breakdowns related to the Studio.

Reports and rosters of agencies and entities that employ peace officers

(R.C. 109.761)

Report of peace officer appointment, employment, termination, resignation, felony conviction, or death

The bill requires each agency or entity that appoints or employs one or more "peace officers" (see "***Definition of peace officer***," below) to report to the Ohio Peace Officer Training Commission (OPOTC) on or after January 1, 2002, all of the following that occur on or after that date: (1) the appointment or employment of any person to serve the agency or entity as a peace officer in any

full-time, part-time, reserve, auxiliary, or other capacity, and (2) the termination, resignation, felony conviction, or death of any person who has been appointed or employed by the agency or entity as described in (1) and who is serving the agency or entity in any of those peace officer capacities. The agency or entity must make the report within ten days of the occurrence of the event that is being reported, in the manner and format prescribed by the OPOTC's executive director. (R.C. 109.761(A) and (D).)

Annual roster of peace officers

The bill requires each agency or entity that appoints or employs one or more "peace officers" to annually provide to the OPOTC a roster of all persons who have been appointed to or employed by the agency or entity as a peace officer in any full-time, part-time, reserve, auxiliary, or other capacity, and who are serving or during the year covered by the report have served the agency or entity in any of those peace officer capacities. The agency or entity must provide the roster in the manner and format, and by the date, prescribed by OPOTC's executive director. (R.C. 109.761(B) and (D).)

Agency's or entity's failure to provide required report or roster--sanction

Under the bill, if an agency or entity that appoints or employs one or more "peace officers" fails to comply with either of the above-described requirements, the agency or entity is ineligible to have any of its peace officers participate in any basic training certified by the OPOTC or any advanced training conducted by the Ohio Peace Officer Training Academy. The agency or entity remains ineligible until it attains compliance with those requirements. Upon the agency's or entity's compliance with those requirements, the ineligibility imposed under this provision terminates. (R.C. 109.761(C).)

Definition of peace officer

The definition of "peace officer" in the existing Peace Officer Training Commission Law applies to these provisions. Under that existing definition, "peace officer" means (R.C. 109.71(A)--not in the bill):

(1) A deputy sheriff, marshal, deputy marshal, member of a township or municipal corporation organized police department, member of a township police district or joint township police district police force, member of a metropolitan housing authority police force, or township constable, who is commissioned and employed as a peace officer by an Ohio political subdivision or by a metropolitan housing authority, and whose primary duties are to preserve the peace, to protect life and property, and to enforce the laws of Ohio, ordinances of a municipal corporation, resolutions of a township, or regulations of a board of county

commissioners or board of township trustees, or any of those laws, ordinances, resolutions, or regulations;

(2) A railroad company police officer appointed under R.C. 4973.17 to 4973.22;

(3) Department of Taxation employees designated by the Tax Commissioner for peace officer training under R.C. 5743.45;

(4) An "undercover drug agent";

(5) Department of Public Safety enforcement agents designated under R.C. 5502.14;

(6) A Department of Natural Resources employee who is a natural resources law enforcement staff officer, park officer, forest officer, preserve officer, wildlife officer, or state watercraft officer designated under R.C. 1501.013, 1541.10, 1503.29, 1517.10, 1531.13, or 1547.521;

(7) A park district employee designated under R.C. 511.232 or 1545.13;

(8) A conservancy district employee designated under R.C. 6101.75;

(9) A police officer of a hospital proprietary police department or security department appointed under R.C. 4973.17 to 4973.22;

(10) An Ohio veterans' home police officer;

(11) A police officer of a qualified nonprofit corporation police department;

(12) A state university law enforcement officer or certain other persons serving as state university law enforcement officers under specified circumstances;

(13) A Department of Mental Health or Department of Mental Retardation and Developmental Disabilities special police officer;

(14) A campus police department member;

(15) A regional transit authority police force member;

(16) Investigators appointed by the Auditor of State under R.C. 117.091 and engaged in the enforcement of R.C. Chapter 117.;

(17) A special police officer designated by the State Highway Patrol Superintendent under R.C. 5503.09 or a person serving as a special police officer under that section in other specified circumstances;

(18) A port authority special police officer or a person serving as a port authority special police officer in other specified circumstances.

Secretary of State provisions

Fees

(R.C. 111.16, 111.23, 1309.40, 1309.402, 1309.42, 1309.525, 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; Section 204 of the bill)

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. [60]

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	No change in language	$25	$125

[60] *For many of its amended sections, the bill does not provide a new numerical amount for a fee in the same 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 second and fourth 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 first column.*

Fee description under current law	Fee description under the bill	Fee under current law	Fee under the bill
shares of capital stock (R.C. 111.16(A)(1))			
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 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))	No change in language	Generally, $35	Generally, $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.	For filing and recording a certificate of amendment to or amended articles of incorporation of a savings and loan association (R.C.	$25	$50

Fee description under current law	Fee description under the bill	Fee under current law	Fee under the bill
111.16(C))	111.16(C))		
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 the Secretary of State of a certificate* setting forth related, specified information (R.C.1702.43(D))	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 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

Fee description under current law	Fee description under the bill	Fee under current law	Fee under the bill
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 domestic limited liability partnership, or for filing and recording an application to become a registered foreign limited liability partnership (R.C. 111.16(F))[61]	$85	$125
For filing and recording a certificate of limited partnership or an application for registration as a foreign limited partnership, if	For filing and recording a certificate of limited partnership or an application for registration as a foreign	No fee	$125

[61] *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
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))	limited partnership (R.C. 111.16(G))		
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 business in Ohio (R.C. 1703.27)	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
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	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	$10	$25

Fee description under current law	Fee description under the bill	Fee under current law	Fee under the bill
fee description."	Code with the Secretary of State (R.C. 111.16(I)(3))		
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 *certificate of dissolution* provision relative to corporations (R.C. 111.16(B)(1) and (2) and (I)(3))	For filing and recording a certificate of dissolution and accompanying documents, or 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))	$10 or $25 or $35	$50
For filing by a foreign corporation of a certificate of surrender of its license to transact business in	For filing and recording a notice of dissolution of a foreign licensed corporation or a certificate of surrender of	$25	$50

Fee description under current law	Fee description under the bill	Fee under current law	Fee under the bill
Ohio (R.C. 1703.17(F))	license by a foreign licensed corporation (R.C. 111.16(N)(2) and 1703.17(F))		
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 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	$10	$50

Fee description under current law	Fee description under the bill	Fee under current law	Fee under the bill
	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. 1702.59(F))	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 1702.59(F))	$10	$25
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	For filing for reinstatement of an entity cancelled by operation of law, by the Secretary of State, by order	$10	$25

Fee description under current law	Fee description under the bill	Fee under current law	Fee under the bill
partnership (R.C. 1775.63(C))	of the Department of Taxation, or by order of a court (R.C. 111.16(Q) and 1775.63(C))		
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 corporation (R.C. 1702.06(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) and 1702.06(L))	$3	$25
For filing by a foreign nonprofit corporation of a change of agent or a statement of change of	For filing a change of agent, resignation of agent, or change of agent's address	$50	$25

Fee description under current law	Fee description under the bill	Fee under current law	Fee under the bill
address of an agent (R.C. 1703.27)	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)		
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 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))	$15	$25
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	$10	$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 1747.03(B))		
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 Liability Company Law, or Business Trust Law (R.C. 111.16(S)(1))[62]	$5	$50
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.	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	$5	$50

[62] *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
1746.06(D) and (E))	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))		
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 fictitious name registration or report (R.C. 111.16(S)(3) and 1703.31(B))	$25	$25
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

Fee description under current law	Fee description under the bill	Fee under current law	Fee under the bill
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 domestic (R.C. 111.16(T) and 1746.04(C))	$75	$125
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	$75	$50

Fee description under current law	Fee description under the bill	Fee under current law	Fee under the bill
	(R.C. 111.16(T) and 1746.04(C))		
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, mark, or device (R.C. 1329.42)	For filing and recording the registration of a trademark, service mark, or a mark of ownership (R.C. 111.16(U)(1) and 1329.42)	$20	$125
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	$10	$25

Fee description under current law	Fee description under the bill	Fee under current law	Fee under the bill
	the cancellation of a registration associated with a trademark, service mark, or mark of ownership (R.C. 111.16(U)(2) and 1329.42)		
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. 1329.58)	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 1329.58)	$10	$25
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	$10	$25

Fee description under current law	Fee description under the bill	Fee under current law	Fee under the bill
	registration associated with a trademark, service mark, or mark of ownership (R.C. 111.16(U)(2) and 1329.60)		
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 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))	No changes in fee language R.C. 1309.40(E))	$9	$12 But see "**Caveat**" below.
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	No substantive changes to language (R.C. 1309.40(H)(1))	$9 plus one dollar for each financing statement and for each statement	$20 total But see "**Caveat**" below.

Fee description under current law	Fee description under the bill	Fee under current law	Fee under the bill
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))		of assignment reported therein	
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 But see "**Caveat**" below.
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 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))	No changes made to language (R.C. 1309.42(B))	$9	$12
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	For filing and recording an amendment to a foreign license application (R.C. 111.16(B)(3) or (4) and 1703.27)	$50	$50

Fee description under current law	Fee description under the bill	Fee under current law	Fee under the bill
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)			

Caveat: Contingent upon the enactment of S.B. 74 of the 124th General Assembly (a bill proposing to change the Secured Transactions Law that is a part of the Uniform Commercial Code) and the repeal of R.C. 1309.40 by that act, the bill also relocates the Secretary of State fee provisions relating to (1) the filing and indexing of specified secured transactions records and (2) responses to certain related information requests. Under that contingent provision, the fees that the bill increases in R.C. 1309.40 for the filing and indexing of secured transactions records and for responding to certain related information requests (discussed in the table above) are relocated to another section of the Revised Code (R.C. 1309.525) at the same increased rate provided for in R.C. 1309.40.

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(B))

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. The credit card program can be operated in-house by the Secretary's office, or as part of the state's central credit card payment program overseen by the State Board of Deposit (R.C. 113.40, not in the bill).

The bill eliminates the Secretary of State's authority to operate an in-house credit card payment program. But the Secretary remains authorized to allow payment of fees by credit card through the State Board of Deposit program.

The bill also 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. Fees paid under an alternative payment program are to be deposited in the Secretary of State Alternative Payment Program Fund, which the bill creates as a custodial fund of the Treasurer of State (the fund is not in the state treasury). Within two working days after any such deposits, the Secretary must allocate the payment to the CUCCF Fund or as otherwise provided by law. The bill provides that any investment income of the fund must be used to operate the alternative payment program, and requires the Secretary to adopt rules necessary to carry out the alternative payment program provisions.

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)).

Shift of notary public administration to the Secretary of State's office

(R.C. 107.10, 147.01, 147.02, 147.03, 147.05, 147.06, 147.13, 147.14, 147.37, 147.371, and 2303.20)

Current law provides that the Governor may appoint and commission individuals who meet particular qualifications as notaries public. The Governor also may revoke a notary commission upon presentation of evidence of official misconduct or incapacity, and may or must perform certain other functions relative to notary commissions. Before an individual may act as a notary public, the individual's commission must be recorded in the office of the clerk of the court of common pleas of the county in which the individual resides, for which there is a $5 charge. And, when needed, the clerks of courts of common pleas also may provide certified copies of notary commissions, for which there is a $2 charge. Finally, the Governor also must keep a specified record of all Ohio notaries public.

The bill changes the law so that the Secretary of State, not the Governor, appoints and commissions individuals as notaries public, may revoke those

commissions, and may or must perform certain other functions relative to notary commissions. It requires the Governor's office to transfer the specified record of notaries that office currently maintains to the Secretary of State's office, and that record is to be maintained along with the Secretary of State's notary records. The clerks of courts of common pleas no longer will record and index the commission of notaries who reside in their county. Instead, only the Secretary of State will record and index notary commissions, and, for doing so, must charge a recording indexing fee, which the bill increases from $5 to $10. Certified copies of notary commissions can be obtained from the Secretary of State under the bill, upon the payment of a $2 fee (similar to the clerk's fee under current law).

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.

Capital Access Loan Program

In general

(R.C. 122.60(A), (B), (C), (D), (E), (F), (I), and (J) and 122.602(A))

The bill establishes the Capital Access Loan (CAL) Program in the Department of Development (DOD). The CAL Program is to assist participating *financial institutions* in making Program loans to *eligible businesses* that face barriers in accessing working capital and obtaining fixed asset financing. The aim of the CAL Program appears to be the creation of new jobs or the preservation of existing jobs and employment opportunities and the improvement of the economic welfare of the people of the state. Under the CAL Program, a participating financial institution's risk in making a *capital access loan* to an eligible business is secured, in accordance with a specified procedure, by a deposit of money from the DOD's Capital Access Loan Program Fund into the financial institution's *program reserve account*.

Capital Access Loan Program Fund

(R.C. 122.60(E), 122.601, and 122.602(A)(1))

The bill establishes the Capital Access Loan Program (CALP) Fund in the state treasury. This fund is to consist of money deposited into it from two sources: (1) from the Facilities Establishment Fund and (2) from grants, gifts, and contributions of money, property, labor, and other things of value received by the Director of Development from individuals, private and public corporations, the United States or any agency of the United States, the state or any agency of the state, or any political subdivision of the state. The total amount of money deposited into the CALP Fund from the Facilities Establishment Fund cannot exceed $3 million during any particular fiscal year of the DOD.

The DOD must disburse money from the CALP Fund only to pay the CAL Program's operating costs and only in keeping with the CAL Program's statutorily

specified purposes. A primary purpose is securing, in accordance with a specified procedure, by a deposit of money from the CALP Fund a financial institution's risk in the making of a capital access loan to an eligible business.

Director of Development functions: in general

(R.C. 122.602(A))

The Director of Development must administer the CAL Program and has certain related powers. The Director may receive and accept the aforementioned grants, gifts, and contributions of money, property, labor, and other things of value and must cause them to be held, used, and applied only for the purpose they were made. The Director also may adopt rules under the Administrative Procedure Act, engage in all other acts, and enter into necessary contracts and execute all necessary instruments, to carry out the purposes of the CAL Program.

Qualification as an "eligible business"

(R.C. 122.60(C))

Under the bill, a business may participate in the CAL Program by obtaining a capital access loan if certain requirements are met. To be an "*eligible business*," a business must satisfy the following:

(1) It is a for-profit business entity.

(2) It had a total annual sales in its most recently completed fiscal year of less than $10 million.

(3) It has a principal place of business within Ohio.

(4) The operation of the business in the state, alone or in conjunction with other facilities, will create new jobs or preserve existing jobs and employment opportunities and will improve the economic welfare of the people of Ohio. *New jobs* do not include existing jobs transferred from another facility within Ohio, and *existing jobs* means only existing jobs at facilities within the same municipal corporation or township in which the project, activity, or enterprise that is the subject of the capital access loan is located.

Qualification as a "participating financial institution"

(R.C. 122.60(D), 122.601(F) and (G), and 122.602(B) and (C))

The bill provides for the participation of financial institutions in the CAL Program. "Financial institutions" include any bank, trust company, savings bank,

or savings and loan association that is chartered by and has a significant presence in Ohio, or any national bank, federal savings and loan association, or federal savings bank that has a significant presence in Ohio.

As with a business, a financial institution must qualify to participate in the CAL Program. First, pursuant to power granted in the bill, the DOD Director must determine the eligibility of a financial institution to so participate. This power includes the ability to set a limit on the number of financial institutions that may participate in the CAL Program.

Additionally, a financial institution must enter an agreement with the DOD to participate in the CAL Program. This is referred to in the bill as a "*participation agreement*." This agreement sets out the terms and conditions under which the DOD will deposit money from the CALP Fund into the financial institution's *program reserve account* (discussed below), specifies the criteria for loan qualification under the CAL Program, and contains any additional terms the DOD Director considers necessary.

Creation of a "program reserve account"

(R.C. 122.60(J) and 122.603(A)(1) and (2))

After the DOD Director determines that a financial institution is eligible to participate in the CAL Program and a participation agreement is entered into, the institution is a "participating financial institution" and must establish a program reserve account. A program reserve account is a dedicated account, at the financial institution, that is the property of the state. The account may be used by the financial institution only for the purpose of covering any claim arising from a default on a capital access loan (discussed below).

The account must be interest-bearing and must contain only moneys deposited into it under the CAL Program plus the interest payable on those moneys. All interest on those moneys must be held in the account as an additional loss reserve. No more than twice in a fiscal year, the DOD Director may require that a portion or all of the accrued interest in the account be released to the DOD. When released, the accrued interest must be deposited into the CALP Fund by the DOD Director.

Loan from a participating financial institution to an eligible business

(R.C. 122.60(H), 122.602(D) to (I), 122.603(B), (C), and (D), and 122.604(A) to (E))

Loan fee. Once a financial institution is determined to be eligible to participate in the CAL Program and a participation agreement is entered into with

the DOD under the bill, the institution may make capital access loans to eligible businesses. When a participating financial institution makes such a loan, the eligible business receiving it must pay a fee to the institution. Under the bill, this fee is to be in the amount of not less than 1 ½% and not more than 3% of the principal amount of the loan. The financial institution must deposit the fee into its program reserve account. Additionally, the financial institution must deposit into the account an amount of money from its own funds equal to the amount of the collected fee. The financial institution may recover from the eligible business all or part of the amount of that money in any manner agreed to by the institution and the business.

Loan certification. Each time a participating financial institution makes a capital access loan, the institution must certify to the DOD Director, within a period specified by the Director, that the institution made the loan. The certification is to include the amount of the loan, the amount of the fee received from the eligible business, the amount of the financial institution's own funds that were deposited into its program reserve account to reflect that fee, and any other information required by the DOD Director.

Disbursement from the CALP Fund. After the DOD Director receives the previously mentioned certification from a participating financial institution, the Director must disburse money from the CALP Fund to the financial institution for deposit into its program reserve account if the Director makes certain determinations (see below). The amount disbursed must be equal to 10% of the principal amount of the particular capital access loan. The disbursement of money from the CALP Fund to a participating financial institution does not require approval from the Controlling Board.

The bill places limitations upon the DOD Director's obligation to so disburse money from the CALP Fund. This step only may occur if the Director determines that the financial institution's loan to the business meets *all* of the following:

(1) It will be made to an eligible business.

(2) It will be used by the eligible business for a project, activity, or enterprise in the state that fosters economic development.

(3) It will not be made in order to enroll in the CAL Program *prior debt* that is not covered under the Program and that is owed or was previously owed by an eligible business to the financial institution.

(4) It will not be utilized for a project or development related to the on-site construction or purchase of residential housing.

(5) It will not be used to finance passive real estate ownership. The bill generally defines "passive real estate ownership" as the ownership of real estate for the sole purpose of deriving income from it by speculation, trade, or rental.

(6) The loan does not exceed $250,000 for working capital or $500,000 for the purchase of fixed assets. The same capital access loan may include *both* maximum amounts.

(7) If the financial institution wants to grant a capital access loan to a business that is owned or operated by a person that has previously defaulted under any state financial assistance program, it first must apply to the DOD Director for approval of the loan.

(8) The eligible business that applies for the loan complies with the Application for Economic Development Assistance Law.

(9) If the financial institution wants to grant a capital access loan that refinances a nonprogram loan made by *another* financial institution, it first must apply to the DOD Director for approval of the capital access loan. The Director cannot approve a loan that refinances a nonprogram loan made by the *same* financial institution, unless the amount of the refinanced loan exceeds the existing debt, in which case only the amount exceeding the existing debt is eligible for a loan under the CAL Program.

(10) The loan conforms to any other rules adopted by the DOD Director under the bill.

Collection of loans and payment from a program reserve account. Under the bill, a participating financial institution determines the timing and amount of delinquency on a capital access loan. It is to do this in a manner consistent with its normal method for making these determinations on similar nonprogram loans. If a financial institution determines that a portion or all of a capital access loan is uncollectible, the bill allows it to submit a specified type of claim to the DOD. If the DOD approves the claim, moneys in the amount of the claim are approved for release from the financial institution's program reserve account.

Financial institutions may claim the amount of the principal plus accrued interest owed. The amount of the principal included in the claim may not exceed the principal amount covered by the CAL Program. The amount of accrued interest included in the claim may not exceed the accrued interest attributable to the covered principal amount.

Additionally, a participating financial institution may file more than one claim at a time. If two or more claims are filed at the same time or approximately

the same time and there are insufficient funds in its program reserve account at that time to cover the entire amount of the claims, the financial institution may specify an order of priority in which the DOD must approve the release of funds from the account in relation to the claims.

If subsequent to the payment of a claim, a participating financial institution recovers from an eligible business to which the loan was made any amount covered by the previously paid claim, the institution must promptly deposit the amount recovered into its program reserve account, less any reasonable expenses incurred.

Annual report

(R.C. 122.605)

Under the bill, each participating financial institution must submit an annual report to the DOD on or before March 31 of each year. The report must include or be accompanied by all of the following:

(1) Information regarding the institution's outstanding capital access loans, its capital access loan losses, and other related matters that the DOD considers appropriate;

(2) A statement of the total amount of the institution's capital access loans for which the DOD has made disbursements from the CALP Fund under the CAL Program;

(3) A copy of the institution's most recent financial statement.

Withdrawal of funds from financial institutions

(R.C. 122.603(E) and (F))

The DOD *is allowed* to remove moneys from a participating financial institution's program reserve account under certain circumstances. If the amount in the account exceeds an amount equal to 33% of the financial institution's outstanding capital access loans, the DOD may withdraw the excess amount and deposit it into the CALP Fund.

Additionally, in certain situations, the DOD *may cause* the withdrawal of the total amount in a participating financial institution's program reserve account and its deposit into the CALP Fund. This step can be taken if any of the following occurs:

(1) The financial institution is no longer eligible to participate in the CAL Program.

(2) The participation agreement expires without renewal by the DOD or the financial institution.

(3) The financial institution has no outstanding capital access loans.

(4) The financial institution has not made a capital access loan within the preceding 24 months.

Miscellaneous changes

(R.C. 166.03(B))

The bill amends the Facilities Establishment Fund Law to include the CAL Program within its provisions. This allows moneys appropriated or transferred to the Facilities Establishment Fund to be released at the request of the DOD Director for the purpose of the CAL Program.

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.

State board and commission members participation in state health policies, contracts, or plans

(R.C. 124.82)

The Department of Administrative Services may contract with an insurance company or health plan in combination with an insurance company, and with health insuring corporations, for health, medical, hospital, dental, or surgical benefits or services, or a combination of those benefits or services, for state employees, including elected state officials. All or any portion of the premiums, costs, or charges for the health care coverage may be paid in the manner or combination of manners the Department determines.

The bill additionally permits members of state boards and commissions who elect to participate in the Public Employees Retirement System to be covered

by the policies, contracts, or plans that offer that health care coverage, but only if they pay both the employer and employee amounts of the premiums, costs, or charges for that coverage.

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 to periodically develop and distribute to state issuers an approved sale schedule for general obligation bonds and certain other securities on which the state is the direct obligor (or obligor on any backup securities or related credit enhancements) or for which state appropriations are the intended payment source. The bill expands this duty by requiring the Director to include in the approved sale schedule the following revenue-bond-type securities:

--obligations of the Ohio Finance Housing Agency;

--obligations issued by the Treasurer of State in connection with higher education student loans;

--obligations of the Air Quality Development Authority;

--obligations of the Petroleum Underground Storage Tank Release Compensation Board;

--obligations of the Ohio Turnpike Commission;

--obligations of the Ohio Water Development Authority;

--obligations 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 which was granted in S.B. 272 of the 123rd General Assembly).

The bill provides that the following entities, which also are authorized to issue revenue-bond-type debt, remain exempt from the approved sale schedule requirement and additionally no longer have to submit to the Director copies of their preliminary and final offering documents if issuing securities: 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, university housing commissions, and the Ohio Higher Educational Facility Commission.

Disbursement of lease rental payment appropriations

(Section 129)

The bill authorizes the Office of Budget and Management to initiate and process disbursements from appropriations for lease rental payments pursuant to leases and agreements related to state obligations issued under Chapters 154. and 3318. of the Revised Code.

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.

Two state agencies to prepare zero-base budgets

(Section 28.02)

The bill requires the Director of Budget and Management, prior to January 2002, to select one of 18 large administrative departments of the state, and one state agency with fewer full-time equivalent personnel than any of those departments, to prepare full zero-base budgets for the July 1, 2003 - June 30, 2005 biennium. The Director is further required to offer substantial technical assistance to the two agencies throughout the process of preparing their zero-base budgets. The budgets are to be prepared in the manner and according to the schedule prescribed by the Director and are to be prepared in addition to or in place of the budgets that the agencies would otherwise prepare, whichever the Director determines.

Zero-base budgeting involves the identification of all substantive aspects of an organization's operations, the establishment of its funding priorities, and the provision of performance measures and need indicators. The purpose, ultimately, is to determine whether an activity should be continued at its current level or at a different level or whether it should be terminated. Ohio currently is classified as a modified zero-base budgeting state because it requires a state agency to describe what its budget would look like if it were allowed to fund only its "core activities" as defined by the agency. In July 2000 the Office of Budget and Management set the General Revenue Fund core budget level for most agencies at 92% of the adjusted appropriations for the 2001 fiscal year.

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.

Assistance to steel companies by linked deposits of counties and municipal corporations

(R.C. 135.80, 135.81, and 135.84)

A board of county commissioners, by resolution, may establish a linked deposit program and authorize the investing authority of that county to participate in the program. Similarly, the legislative authority of a municipal corporation, by ordinance, may establish a linked deposit program and authorize participation by the treasurer or governing board of that municipal corporation. Currently, these linked deposit programs may authorize only the placement of certificates of deposits with eligible lending institutions at up to 3% below market rates, *provided* that the lending institution agrees to lend the amount of the deposit to eligible borrowers at up to 3% below the borrowing rate applicable to each borrower.

The bill adds as a condition of receiving such linked deposits an alternative to lending directly to borrowers at up to 3% below the applicable borrowing rate: that is, an eligible lending institution may enter into an agreement with an *eligible government* to provide that eligible government with a certificate of deposit, investment agreement, or other investment in the value of the linked deposit at an interest rate at up to 3% *above* current market rates, *as determined by the eligible government*.

"Eligible government," as used in the bill, means the state or a county, municipal corporation, or other political subdivision that has made or guaranteed a loan to a business that is an *eligible steel company*. The bill specifies that the government entity in effect guarantees such a loan if that entity incurs a direct or contingent legal obligation to repay (1) any portion or all of the loan, (2) any interest accrued on the loan, or (3) any amount owed to a person with respect to the loan for providing a letter of credit, guarantee, surety bond, insurance policy, or other form of credit facility or credit enhancement.

An "eligible steel company," under the bill, is a corporation or other person engaged in Ohio in the production and manufacture of a basic steel mill product or a company that would be a "qualified steel company" under the "Federal Steel Loan Act," provided that the corporation or other person is an "eligible borrower" under that act.

Assistance to steel companies under the Ohio Depressed Economic Area Linked Deposit Program

(R.C. 135.81, 135.82, 135.83, 135.85, 135.86, and 135.87)

State participation; limits of investment

Currently, the specified purpose of the Depressed Economic Area Linked Deposit Program is to make "lower cost funds [available to eligible businesses] for lending purposes that will materially contribute to the economic revitalization of depressed economic areas" in Ohio. The bill adds that it also is the purpose of the Depressed Economic Area Linked Deposit Program, consistent with the Steel Futures Program established under current Department of Development Law, to assist steel companies operating in Ohio by expanding forms of assistance available under the Depressed Economic Area Linked Deposit Program as modified by the bill. The bill expressly adds an *eligible steel company* as an eligible business for purposes of the Depressed Economic Area Linked Deposit Program.

Under the current program, the Treasurer of State may place depressed economic area linked certificates of deposit with eligible lending institutions at a rate of up to 3% below market rates, provided that the institution agrees to lend the value of the deposit at up to 3% below the present borrowing rate applicable to each specific business at the time of the deposit. The bill, similar to authority it provides for counties and municipal corporations to establish linked deposit programs, authorizes the Treasurer of State, for the Depressed Economic Area Linked Deposit Program, to place such linked certificates of deposit with eligible lending institutions, *provided* that the lending institution agrees to enter into an agreement with an *eligible government* to provide that eligible government with an *above-market investment* in the value of the linked deposit. "Above-market investment" is defined as a certificate of deposit, investment agreement, or other investment bearing an interest rate at up to 3% above current market rates, as *determined and calculated by the Treasurer of State*.

Under current law, the Treasurer of State may not invest more than 3% of the state's total investment portfolio in depressed economic area linked deposits. The bill adds that, in the case of a linked deposit with respect to which an above-market investment is provided to an eligible government or a reduced rate loan is

made for the benefit of an eligible steel company, the amount of the linked deposit may not exceed the product of $15,000 multiplied by the number of employees, at the time of placement of the linked deposit, whose employment was reasonably expected to be created or preserved as a result of the financial assistance provided under the Depressed Economic Area Linked Deposit Program.

In addition, current law limits the amount of depressed economic area linked deposits made in a single county to $1 million in a two-year period. The bill excludes from this limit deposits linked to above-market investments held by eligible governments.

Local participation

The bill authorizes a board of county commissioners, and the legislative authority of a municipal corporation, as an eligible government, to participate with the Treasurer of State in the Depressed Economic Area Linked Deposit Program as modified by the bill. Participation will be on such terms as may be agreed upon between the eligible government and the Treasurer.

Under the bill, an eligible lending institution and eligible government may forward to the Treasurer of State, either separately or in conjunction with a depressed economic area linked deposit package, a proposal for the lending institution to provide the eligible government with an above-market investment on such terms as the lending institution and eligible government agree. The Treasurer must accept or reject the proposal pursuant to the same standards the Treasurer would apply to a depressed economic area linked deposit loan or loan package to an eligible business. The bill states that, notwithstanding any other provision of the public depository law to the contrary, an above-market investment entered into by an eligible government with an eligible lending institution in compliance with the provisions of the law that refer expressly to above-market investments is a legal and authorized investment for the interim or inactive moneys of that government.

The bill also specifies duties of lending institutions with respect to above-market investments with eligible governments or eligible lending institutions under the modified linked deposit program. It also provides for the Treasurer of State to monitor the compliance of eligible governments and for additional annual reporting requirements to the General Assembly and to the Governor regarding financial assistance to eligible governments.

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.

Changes membership requirements of Ohio Housing Finance Agency

(R.C. 175.03)

The bill increases the membership of the Ohio Housing Finance Agency from nine to eleven and requires that at least one member of the agency represent the interests of nonprofit multifamily housing development organizations and at least one member represent the interests of for-profit multifamily housing development corporations. The bill establishes the terms for the additional members of the agency and specifies that six instead of five members must be present to constitute a quorum and to take action.

Modifications in the Low- and Moderate-Income Housing Trust Fund

(R.C. 175.21, 175.22, and 175.24)

The bill modifies the Low- and Moderate-Income Housing Trust Fund by changing the definition of rural areas to be consistent with the definition in the federal "Home" program and changing the restriction on funds awarded for rural

areas from not less than 35% of the money in the fund to not less than 45% of funds awarded during a fiscal year. The restriction on awards to nonprofit organizations is changed from 45% of the money in the fund to 45% of funds awarded during a fiscal year. Administration costs are increased from no more than 5% to no more than 6% of the money in the fund. The Department of Development must report Trust Fund activities to the legislature on a state fiscal year basis instead of a calendar year basis.

Under the bill, there can be no minimum project size for awards to projects that are being developed to serve special needs populations and that have the support of a local social service agency. A multifamily project generally consists of four or more units, but under the bill, smaller projects may be funded for special needs populations.

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 to the Tobacco Master Settlement Agreement Law

Education Technology Trust Fund dedicated to SchoolNet Commission

(R.C. 183.28)

Each year, a portion of the revenue the state receives under the Tobacco Master Settlement Agreement is credited to the Education Technology Trust Fund. Currently, money in the fund must be used to pay costs of new and innovative

technology for primary and secondary education (including chartered nonpublic schools) and higher education (both public institutions and private nonprofit institutions holding certificates of authorization from the Ohio Board of Regents).

The bill provides that money in the Education Technology Trust Fund is to be used instead for costs of the Ohio SchoolNet Commission. The SchoolNet Commission oversees programs that assist school districts and other educational institutions to acquire and utilize educational technology.

Temporary suspension of cap on administrative expenses

(R.C. 183.30)

Current law requires the Tobacco Use Prevention and Control Foundation, Southern Ohio Agricultural and Community Development Foundation, and Biomedical Research and Technology Transfer Commission to administer three of the programs to which the state dedicates a portion of the revenue it receives under the Tobacco Master Settlement Agreement. An administrative spending cap is imposed on these entities, in that no more than 5% of the entity's total expenditures in a fiscal year can be for administrative expenses.

The bill provides that the 5% limitation on administrative expenses does not apply in fiscal years 2001 and 2002.

Reporting date extension for the Tobacco Oversight Accountability Panel

(Sections 155 and 156)

Am. Sub. S.B. 192 of the 123rd General Assembly established seven trust funds to receive revenue distributed to the state under the Tobacco Master Settlement Agreement, and specified program objectives for each trust fund. The act also created a seven-member Tobacco Oversight Accountability Panel to develop appropriate achievement benchmarks for each trust fund. Currently, the Panel is required to submit a report describing the achievement benchmarks by July 1, 2001. The bill extends the reporting deadline to December 31, 2001.

County competitive bidding requirements

(R.C. 307.86)

Under existing law, family services or workforce development activities purchased by a board of county commissioners from nonprofit corporations or associations under programs funded entirely by the federal government are waived from county competitive bidding requirements. The bill waives criminal justice services, social services programs, family services, or workforce development

activities purchased by a board of county commissioners from nonprofit corporations or associations under programs *funded by the federal government* (apparently so funded in whole or in part) or by state grants from county competitive bidding requirements.

Release of certain medical or psychiatric records to a coroner's office

(R.C. 313.091)

Existing law permits a coroner, deputy coroner, or representative of a coroner or deputy coroner, in connection with the performance of duties under the Coroners Law, to submit a written request to inspect and receive a copy of the medical and psychiatric records of a deceased person. The person to whom the request is delivered (e.g., a physician) must make the requested records in that person's custody available during normal business hours to the coroner, deputy coroner, or representative for purposes of inspection and copying. A person who provides copies of medical or psychiatric records pursuant to such a request is permitted to make a written request for reimbursement in a specified amount for the necessary and reasonable costs of copying the requested records. The coroner, deputy coroner, or representative must remit the amount to the person upon receipt of the copies.

The following are effects of providing medical and psychiatric records to a coroner, deputy coroner, or representative under the latter provisions: (1) the records are not public records under the Public Records Law, (2) they are exempt from the provision of the Coroners Law that generally makes "all records in the coroner's office" open to public inspection and copying, and (3) the release of the records does not constitute a willful betrayal of a professional confidence for which the State Medical Board could take disciplinary action under the State Medical Board Law.

The bill essentially specifies that the Department of Mental Health, hospitals and other institutions or facilities within the Department, boards of alcohol, drug addiction, and mental health services, and community mental health agencies may release medical and psychiatric records to a coroner, deputy coroner, or representative of a coroner or deputy coroner pursuant to the above-described request procedure, without the necessity of a court order, without the necessity of following another statutory disclosure of records procedure, and without violating the otherwise applicable rule of confidentiality associated with that disclosure of records procedure (which confidentiality is owed to patients, former patients, and persons whose hospitalization was sought under the Hospitalization of the Mentally Ill Law).

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.

County hospital policies for acquiring certain services

(R.C. 339.05)

Currently, boards of county hospital trustees annually can establish bidding procedures and purchasing policies for supplies and equipment that are routinely used in the operation of their hospital, that differ from the competitive bidding procedures established by statute for counties in general. The bill permits those

boards to also annually establish different bidding procedures and purchasing policies for services provided through a joint purchasing arrangement sponsored by a nonprofit organization, that are routinely used in the operation of their hospital.

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.

Increase in competitive bid limit for expenditures made by a statutory city's director of public safety

(R.C. 737.03)

Under current law, a statutory city has a department of public safety, administered by a director of public safety. The director of public safety, among other duties, manages and makes contracts pertaining to the police and fire departments and other specified institutions under the director's supervision. In so doing, the director of public safety may not create an obligation involving an expenditure of more than $10,000 unless first authorized and directed by ordinance. An authorized expenditure of more than $10,000 must be competitively bid and awarded to the lowest and best bidder. The bill increases the $10,000 threshold to $15,000.

Creation of Athlete Agents Registration Fund

(R.C. 3373.56 and 4771.22)

Am. Sub. H.B. 107 of the 123rd General Assembly required athlete agents to register with the Ohio Athletic Commission. The Commission charges the agents a registration fee, in an amount it calculates will raise sufficient funds to cover the costs of administering the Athlete Agent Registration Law.

Currently, the Commission must deposit the agent registration fees (and renewal fees) in the Occupational Licensing and Regulatory Fund. The bill instead requires that the fees be deposited in the Athlete Agents Registration Fund, which it creates in the state treasury. The Commission is required to use the new fund to administer and enforce the Athlete Agent Registration Law.

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 (although it does require that state bond proceeds were used to pay costs of the facility), and it allows for "cooperative" contracts as well as "management" contracts between the Commission and arts organizations. A similar change is made with respect to state historical facilities. 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.

Ballot arguments for or against constitutional amendments

(R.C. 3505.063)

Existing law *requires* the General Assembly, when it adopts a resolution proposing a constitutional amendment, to designate a group of members who voted in support of the proposed amendment to prepare arguments in favor of it and a group of members who voted in opposition to the proposed amendment to

prepare arguments against it. If no members voted in opposition to the proposed amendment, existing law permits the Ohio Ballot Board to prepare arguments against the amendment or to designate a group of persons to do so. All arguments must be filed with the Secretary of State at least 75 days before the date of the election, and arguments cannot exceed 300 words.

The bill *permits*, rather than requires, the General Assembly to designate a group of members who voted in support of a proposed amendment to prepare arguments in favor of it, and permits the General Assembly to designate a group of members who voted in opposition to a proposed amendment to prepare arguments against it. Under the bill, if no members vote in opposition to a proposed amendment, or if the General Assembly *chooses not* to designate a group to prepare either type of argument or chooses not to designate groups to prepare both types of arguments, the Ohio Ballot Board may prepare the relevant arguments or designate a group of persons to do so.

Physical Fitness and Sports Advisory Board changes

(R.C. 3701.77, 3701.771, and 3701.772)

The bill replaces the "Physical Fitness and Sports Advisory Board" in the Department of Health with the "Governor's Advisory Council on Physical Fitness and Sports." The composition of the members serving on the Council will be substantially the same as the composition of the members who served on the Board; however, the Council will have a total of 15 members, rather than the 11 who served on the Board. The four additional members will be appointed by the Director of Health. Additionally, changes are made to the operation of the Council, including permitting members of the Council who are also members of the General Assembly to designate a substitute to serve in their place on the Council; establishing a simple majority of the members of the Council as constituting a quorum at meetings; and permitting council meetings to take place at locations other than Columbus.

All references in the Revised Code to the Physical Fitness and Sports Advisory Board are changed to the Governor's Advisory Council on Physical Fitness and Sports. Uncodified law provides for the transfer of the Board's records and assets to the Council, and transfers the Board's administrative and fiscal authority, duties, powers, obligations, and functions to the Council.

Authority of the Director of Health

(R.C. 3701.04)

The Director of Health had, and continues to have, the authority to accept, deposit in the state treasury, and expend, certain grants, gifts, and contributions on behalf of the state. The Director's authority in this regard is expanded to permit the Director to also solicit, hold, and administer grants, gifts, and contributions, as well as other devises and bequests.

1990 federal census is population measure for metropolitan housing authority district

(R.C. 3735.27)

Under continuing law, not changed by the bill, the specific provisions that govern the appointment of members to a metropolitan housing authority are determined by the population of the district. The appointments in districts with at least one million persons are made by different persons or groups than the appointments in districts with populations under one million. If a district's population would increase to at least one million persons, the district would have to change its appointment procedures, possibly affecting the membership of its authority. The bill stipulates that the 1990 federal census will be the measure of a district's population, meaning that no district will have to change its appointment procedures due to the 2000 census.

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.

Clarification of status of Liquor Control Fund as part of the state treasury

(R.C. 4301.12)

Under current law, when the Director of Budget and Management determines that the amount "in the custody of the Treasurer of State" to the credit of the Liquor Control Fund exceeds the amount needed to meet the maturing obligations of the Division of Liquor Control, as working capital for its further operations, to pay the operating expenses of the Liquor Control Commission, and for the alcohol testing program, the Director must transfer the excess amount "to the state treasury" to the credit of the General Revenue Fund. The bill removes the reference to the amount credited to the Liquor Control Fund in "the custody of the Treasurer of State" and the reference to transferring the excess amount in the Liquor Control Fund "to the state treasury" for credit to the General Revenue Fund in recognition of the fact that both funds are in the state treasury.

Modification of the number of liquor agency stores that may be owned or operated by the same person

(R.C. 4301.17)

Current law prohibits the same person from operating, or having an interest in, more than four liquor agency stores in any one county or more than eight liquor agency stores in the entire state. The bill increases the number of agency stores allowed under this restriction from four to eight in any one county and from eight to 16 in the entire state. The Division of Liquor Control awards agency store contracts to persons engaged in a mercantile business to sell spirituous liquor on the Division's behalf.

Manufacturer aid or assistance to beer or liquor wholesalers

(R.C. 4301.24)

The bill specifies that the provision of the Liquor Control Law that restricts a manufacturer of beer or intoxicating liquor from aiding or assisting a wholesaler of beer or intoxicating liquor does not prevent a manufacturer from giving financial assistance to the holder of a B (wholesale) permit for the purpose of the holder purchasing an ownership interest in the business, existing inventory and equipment, or property of another B permit holder, including, but not limited to, participation in a limited liability partnership, limited liability company, or any

other legal entity authorized to do business in Ohio. The bill further specifies that that provision of the Liquor Control Law does not permit a manufacturer to give financial assistance to the holder of a B permit to purchase inventory or equipment used in the daily operation of a B permit holder.

Deputy registrar fees

(R.C. 4503.10, 4503.102, 4503.12, 4503.182, 4505.061, 4506.08, 4507.23, 4507.24, 4507.50, 4507.52, 4519.03, 4519.10, 4519.56, and 4519.69)

Generally, the bill increases transaction (or service) fees charged by a deputy registrar to $3.00 commencing July 1, 2001, $3.25 commencing January 1, 2003, and $3.50 commencing January 1, 2004. Most transaction fees currently are $2.25. If current law specifies that the Registrar of Motor Vehicles may perform the same service and assess a transaction fee, the bill increases the fees that the Registrar charges according to the same schedule. Although the bill does not change the fee for lamination of a driver's license and identification cards, it does extend the current lamination fee of not more than $1.50 to include the lamination of a temporary instruction permit identification card.

The following chart describes the deputy registrar transactions and fees under current law and the bill:

R.C. Number	Transaction Description	Current fee	Fee on 7/1/2001	Fee on 1/1/2003	Fee on 1/1/2004
§ 4503.10	Motor vehicle registration and registration renewal	$2.25	$3.00	$3.25	$3.50
4503.102	Motor vehicle registration renewal by mail	$2.25	$3.00	$3.25	$3.50
4503.12	Motor vehicle registration upon transfer of ownership	$2.25	$3.00	$3.25	$3.50
4503.182	Issuance of a temporary license placard or windshield sticker	$2.25	$3.00	$3.25	$3.50

R.C. Number	Transaction Description	Current fee	Fee on 7/1/2001	Fee on 1/1/2003	Fee on 1/1/2004
4505.061	Conducting a physical inspection of a motor vehicle last previously registered in another state *(fee may be charged by a deputy registrar, motor vehicle dealer, or salvage motor vehicle dealer)*	$1.50	$3.00	$3.25	$3.50
4506.08	Application for and renewal of a commercial driver's license temporary instruction permit, commercial driver's license, and duplicate commercial driver's license	$2.25	$3.00	$3.25	$3.50
4507.23	Laminating a driver's license, motorized bicycle license, or temporary instruction permit identification card	Not more than $1.50	No change	No change	No change
4507.24	Application for renewal of a driver's license, with vision screening	$3.25	$4.00	$4.25	$4.50
	Application for and renewal of a driver's license, without vision screening	$2.25	$3.00	$3.25	$3.50
4507.50	Issuance of an identification card	$2.25	$3.00	$3.25	$3.50
	Laminating an identification card or temporary identification card	Not more than $1.50	No change	No change	No change
4507.52	Issuance of a duplicate or replacement identification card	$2.25	$3.00	$3.25	$3.50

R.C. Number	Transaction Description	Current fee	Fee on 7/1/2001	Fee on 1/1/2003	Fee on 1/1/2004
4519.03	Registration or renewal of an off-highway motorcycle or all-purpose vehicle	$2.25	$3.00	$3.25	$3.50
4519.10	Issuance of a temporary license placard for an off-highway motorcycle or all-purpose vehicle	$2.25	$3.00	$3.25	$3.50
4519.56	Conducting a physical inspection of an off-highway motorcycle or all-purpose vehicle with no certificate of title previously issued by this state *(fee may be charged by a deputy registrar or a motor vehicle dealer)*	$1.50	$3.00	$3.25	$3.50
4519.69	Conducting a physical inspection of an off-highway motorcycle or all-purpose vehicle last previously registered in another state *(fee may be charged by a deputy registrar, motor vehicle dealer, or salvage motor vehicle dealer)*	$1.50	$3.00	$3.25	$3.50

Characteristics of a driver's license issued to a person under 21 years of age

(Section ___)

The driver's license issued to a person who is under 21 years of age is distinctive in several aspects. It is probationary for ages 16-17; it expires on the licensee's 21st birthday; and the cost of the license is adjusted to reflect that it is valid for one to five years. It also has distinguishing characteristics prescribed by the Registrar of Motor Vehicles (R.C. 4507.13, not in the bill). Currently, the prescribed distinguishing characteristics include: (1) a red background for the licensee's picture (the background is blue for persons 21 and older), (2) the

primary picture is located on the left side of the license (it is located on the right for persons 21 and older), and (3) the birthdate specifically states "under 21."

The bill requires the Registrar, in prescribing distinguishing characteristics for a driver's license issued to a person who is under 21 years of age, to consider: (1) formatting the license vertically, and (2) conspicuously indicating the month, day, and years on which the licensee becomes 18 and 21 years of age. The bill authorizes the Registrar, in accordance with existing law, to prescribe either or both of these distinguishing driver's license characteristics.

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.

Licensed dispensing optician examination and license requirements

(R.C. 4725.44, 4725.48, and 4725.49)

Under current law, the Ohio Optical Dispensers Board is required to schedule, administer, and supervise the qualifying examination for applicants for licensure as licensed dispensing opticians. In another section of the laws governing licensed dispensing opticians, the Board also has the authority to contract with a testing service to design, prepare, and administer qualifying examinations.

The bill reconciles the discrepancy making it clear in both places that the Board may supervise the qualifying examinations for license applicants or contract with a testing service to administer the examination.

Also under current law, an applicant for licensure as licensed dispensing optician must qualify to take the licensing examination by demonstrating that all of the following are true:

(1) The applicant is at least 18 years of age;

(2) The applicant is of good moral character;

(3) The applicant is free of contagious or infectious disease;

(4) The applicant is a graduate of an accredited high school of any state or has received an equivalent education.

To qualify to take the licensing examination, the applicant also must demonstrate the successful completion of two years of supervised experience or a two-year college level program in optical dispensing approved by the Board.

Under the bill, the applicant may take the examination without demonstrating any of the above qualifications, however, the applicant must apply for a license, separate from the examination, by filing a properly completed written application with the Board, and by paying the appropriate license fee. When the applicant applies for the license, the applicant must demonstrate that the applicant meets all of the above qualifications, and has received a passing score on the examination, as determined by the Board.

Current law allows a registered apprentice or a student in an approved college level program in optical dispensing to take the qualifying examination after completion of one year of the apprenticeship or college program, but does not allow the person to become eligible for licensure until the person has completed the second year of the apprenticeship or college program. The bill eliminates this provision.

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.

Occupational therapists

(R.C. 4755.01)

The bill expands the scope of practice of occupational therapists to include the application of topical drugs that have been prescribed by a licensed health professional authorized to prescribe drugs.

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.

Personal information obtained by the PUCO

(R.C. 4905.071)

The bill declares that personal information obtained by the Public Utilities Commission (PUCO), reduced to written or electronic form, and used in implementing lawful, regulatory authority of the PUCO, is not a public record or open to inspection under public records or public utility law unless the individual waives nondisclosure under those laws. However, the PUCO may disclose such information, without the information becoming a public record or being open to inspection, solely for the purpose of resolving a consumer complaint or a complaint filed with or presented under law to the PUCO or assisting the Consumers' Counsel in carrying out its authority under public utility law. "Personal information" is defined as any information that describes anything about a person, indicates actions done by or to a person, or indicates that a person possesses certain personal characteristics, and that contains, and can be retrieved from a system by, a name, identifying number, symbol, or other identifier assigned to a person.

Consumers' Counsel Governing Board

(R.C. 4911.17)

The bill makes several changes to provisions pertaining to the Consumers' Counsel Governing Board. Current law requires the Board to meet at least every "other" month; under the bill, the Board must meet at least every *third* month of the year. Under current law, the Board is required to select a chairperson and vice-chairperson at its "initial" meeting, which is required to occur 30 days following the appointment of all of its "initial" members; the bill instead requires the Board to select a chairperson and vice-chairperson at its first meeting *each year*. Finally, the bill allows the Board's chairperson to designate the vice-chairperson to perform the duties of the chairperson.

Technology Action Board

(Section 41.06)

The bill continues the Technology Action Board.[63] The Board consists of 14 members, ten of whom are appointed by the Governor. The members appointed by the Governor include: six members that are recognized technology and business leaders from the Northeast, Southeast, Northwest, Central, Southwest, and Miami Valley Area sections of the state; one member from the Wright Patterson Air Force Laboratory; one member from the NASA Glenn Research Center; one member from the Inter-University Council; and one member who is the current Director of the Edison Centers Technology Council. The Board also includes the Governor's Science and Technology Advisor, who is also the Board's chairperson, and three ex-officio members: the Director of Development, the Director of Transportation, and the Chancellor of the Board of Regents, or their designees. Staff and other support for the Board comes from the Department of Development's Technology Division and from the Board of Regents' Academic and Access Division.

The Board currently is charged with administering a technology grant award program. Pursuant to this duty, the Board must adopt program rules and develop guidelines for the release of funds under the Administrative Procedure Act (APA).

The bill instead requires the Board to adopt rules under the APA governing its grant award program, including (1) rules specifying application procedures for and standards for grant awards and (2) rules prescribing the form of the

[63] *Enacted in section 37.06 of Am. Sub. H.B. 283 of the 123rd General Assembly, as amendment by Am. Sub. H.B. 640 of the 123rd General Assembly.*

application for a grant award. Those rules must require grant awards to be used (a) by only the applicant to whom a grant is awarded and (b) only for the specific purposes stated by the applicant in the approved application for the grant.

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 62.32)

The bill requires the Director of Job and Family Services 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 also requires the Director to continue operations through each of the local public employment offices that exist on the bill's effective date until 30 days after submitting the required report. Additionally, the bill states that it is the General Assembly's intention that the Director negotiate with specified local officials regarding the transfer of services.

Joint legislative committee to study the impact of high technology start-up businesses

(Sections 165 and 166)

Current uncodified law (Section 1 of Sub. H.B. 574 of the 123rd General Assembly) established a joint legislative committee to study the impact of high technology start-up businesses on economic development and small business in Ohio. The committee is required to submit a report along with its recommendations based on the study to the General Assembly by August 1, 2001. The bill extends the committee's report deadline to March 1, 2002.

BILL SUMMARY

HEALTH AND HUMAN SERVICES

Wellness Block Grant Program

- Renames the Wellness Block Grant Program the Wellness Program and replaces the Children's Trust Fund Board with the Ohio Department of Job and Family Services as the program's administrative agent.

- Requires the Ohio Family and Children First Cabinet Council to oversee the program, establish guidelines and objectives, and determine the amount of funds allocated to each county department of job and family services for the program.

Ohio Family and Children First Cabinet Council strategic plan

- 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.

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.

The Ohio Long-term Care Consumer Guide

- Changes to March 1, 2002, the date by which the Department of Aging must make available over the Internet the Ohio Long-term Care Consumer Guide.

- Regarding the customer satisfaction component of the Guide, changes the requirement that the Department of Aging contract with an entity experienced in surveying nursing home residents and their families to a requirement that the Department contract with such an entity to the extent possible.

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.

Child support calculation worksheet

- Changes the child support calculation worksheet applicable to sole custody and shared parenting situations to permit the adjustment based on child care and health insurance costs to reduce each parent's child support obligation.

Home Health Agencies

- Repeals the requirement of current law that Medicare certified home health agencies register with and make reports to the Ohio Department of Health.

- Eliminates the Home Health Agency Advisory Council.

- Eliminates the requirement that the Director of Health make an annual home health agency report to the Governor.

Ohio Hepatitis C Advisory Commission

- 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

- Modifies the Ohio Department of Health's procedure for residents to appeal a proposed transfer or discharge from a nursing home and specifies when a transfer or discharge is appropriate.

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.

The Health Care Workforce Shortage Task Force

- Creates the Health Care Workforce Shortage Task Force.

- Requires the Task Force to submit a report of its findings and recommendations to the President and Minority Leader of the Senate and to the Speaker and Minority Leader of the House of Representatives.

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.

Radiation registration and inspection fees

- Increases registration and inspection fees imposed on facilities that handle radioactive material or radiation-generating equipment and establishes a new fee.

- Requires the Director of Health to increase fees for licensure, registration, or inspections of sources of radiation when there is an increase in compensation for public employees exempt from collective bargaining that is effective on or after July 1, 2002.

State Dental Board

- Provides that orders of the State Dental Board may be appealed only in the Franklin County Court of Common Pleas.

- 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

- 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.

- Clarifies that a nursing student in a program for certification in an advanced nursing specialty must practice under the supervision of the program and its instructors.

Pharmacy Board Operating Fund

- Creates the Pharmacy Board Operating Fund and requires that fees collected by the State Board of Pharmacy under the pharmacy licensing law be deposited in the Fund and be used solely for the administration and enforcement of that law.

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.

Chiropractic license examination requirements

- Extends to January 1, 2002, the effective date of the requirement that an applicant for licensure as a chiropractor have passed part IV of the examination of the National Board of Chiropractic Examiners.

Duration of respiratory care limited permits

- Clarifies the time limit governing a person practicing respiratory care under a limited permit may continue to practice following completion of an education program.

- Changes certain licensing requirements for the practices of orthotics, prosthetics, and pedorthics.

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

- Requires that procedures to monitor reports of costs reimbursable under Title IV-E for foster care and adoption assistance and costs reimbursable under Medicaid be implemented by ODJFS by October 1, 2003 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.

County children services board executive director

- Authorizes a county children services board to enter into an employment contract with the board's executive director.

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.

- Permits the Director of Job and Family Services to seek a federal waiver to provide health assistance to certain uninsured, residential parents with a family income not exceeding 100% of the federal poverty guidelines

using federal funds allotted under the Children's Health Insurance Program.

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.

Ohio Child Welfare Training Program

- 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.

Fees for publicly funded day-care

- Effective January 1, 2002, requires county departments of job and family services to redetermine every six months the fee charged for publicly funded child day-care.

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

- For FYs 2002 and 2003, establishes a maximum mean total per diem rate applicable to nursing facilities under the Medicaid program.

- For FYs 2002 and 2003, increases the franchise permit fee to $4 (from $1) per bed per day imposed on long-term care beds and requires that ODJFS use the additional money generated from the increase to make payments to nursing facilities (1) under the law governing Medicaid payments to nursing facilities, (2) to reimburse nursing facilities a portion of the franchise permit fee, (3) in an amount equal to $1.50 per Medicaid day, and (4) under the Nursing Facility Bed Operating Rights Buy-Back Program.

- For FYs 2002 and 2003, increases the Medicaid reimbursement rate for nursing facilities and intermediate care facilities for the mentally retarded (ICFs/MR) by changing the imputed occupancy percentage used in calculating the per diem for capital and indirect care costs.

- Increases nursing facilities' Medicaid reimbursement rates for direct care costs by providing that costs reported in a nursing facility's cost report for

purchased nursing services are to be allowable costs up to 20% (rather than 10%).

- Reduces the maximum return on equity payment paid to proprietary nursing facilities to $.50 (from $1) per patient day.

- Provides that a change of operator that results from bankruptcy, foreclosure, or findings of violations of Medicaid certification requirements is no longer an extreme circumstance that warrants reconsideration of a nursing facility's Medicaid reimbursement rates.

- Revises the law governing escrow accounts for nursing facilities and ICFs/MR that are sold or voluntarily terminate participation in the Medicaid program.

- Increases the maximum penalty ODJFS may impose on the owner of a nursing home or ICF/MR who fails to notify ODJFS of the sale of the facility or voluntary termination of participation in Medicaid within the required time.

- Eliminates the requirement that ODJFS report annually any necessary refinements to the case-mix system for reimbursing direct care costs under the Medicaid program.

- Requires that the Director of ODJFS create and implement the Nursing Facility Bed Operating Rights Buy-Back Program under which the Director purchases nursing facility bed operating rights in areas of the state the Director determines have an excess capacity of nursing facility beds.

- Abolishes the Medicaid Long-Term Care Reimbursement Study Council and creates the Nursing Facility Reimbursement Study Council.

- Provides that a pharmacy that achieves a savings in its average monthly cost of providing services to Medicaid nursing home residents is not subject to the 2% reduction in the reimbursement rate contemplated by the bill and receives 50% of the savings the pharmacy achieved.

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, (3) are enrolled in the Ohio Home Care Waiver Program on June 30, 2001, and (4) 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 for persons with mental retardation or a developmental disability.

- Permits ODJFS to administer the new or modified home and community-based services waiver program for persons with mental retardation or a developmental disability 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.

- Authorizes the Director of ODJFS to seek federal approval for a new or modified home and community-based services waiver program for medically fragile individuals who (1) need a skilled level of care, (2) are enrolled in the Ohio Home Care Waiver Program on June 30, 2001, or, in the case of a number of individuals approved by the Director of Budget and Management, after that date, 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 wavier program for medically fragile individuals.

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.

Hospital Care Assurance Program

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

- Requires HCAP to include a special funding pool for federally designated critical access hospitals for use in paying the difference between their Medicaid costs and Medicaid payments.

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.

- Permits a community mental health agency that ceases to operate to transfer its treatment records to another agency that assumes its caseload or to the local ADAMH board.

- Permits a community mental health agency or ADAMH board to release a client's medical information to third-party payors for payment purposes.

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

- Revises and reorganizes the law governing the Director of Mental Health's certification of community mental health services.

- Prohibits a board of alcohol, drug addiction, and mental health services (ADAMH board) from contracting with a community mental health agency to provide community mental health services included in the ADAMH board's community mental health plan unless the services are certified by the Director of Mental Health.

- Requires that rules governing Medicaid payment of community mental health facilities, and criteria by which an ADAMH board reviews and evaluates the quality, effectiveness, and efficiency of services provided through its community mental health plan, include requirements ensuring appropriate service utilization.

- Provides for the Director of Mental Health to cease certifying community mental health facilities for participation in health care plans of health insuring corporations and sickness and accident insurance policies two years after the provision's effective date.

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.

- Requires the Joint Council on Mental Retardation and Developmental Disabilities (MR/DD) to conduct reviews and make recommendations to the Director of MR/DD on disputes between the Department of MR/DD and entities that contract with the Department for the provision of protective services.

Services for persons with mental retardation and developmental disabilities

- Modifies the statutes under which certain services are provided to individuals with mental retardation and developmental disabilities, including such services as adult habilitation, family support services, and supported living.

- Renames case management as "service and support administration," specifies the duties of individuals who provide that service, and provides that the certification requirements cannot require more than an associate's degree.

- Requires that each individual with mental retardation and developmental disabilities either (1) select a person who is responsible for overseeing the day-to-day provision of services to the individual or (2) have such a person designated by a service and support administrator.

- Specifies examples of services that may be provided as adult day habilitation services, environmental modifications, and specialized medical, adaptive, and assistive equipment, supplies, and supports.

- Specifies that "program management" is a part of the provision of adult day habilitation services, residential services, and supported living.

Medicaid-funded MR/DD 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.

- Provides that the Medicaid program is to cover habilitation center services as permitted by the availability of funds.

- Permits ODJFS to seek federal approval for one or more Medicaid waivers under which home and 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.

- Requires a county board of mental retardation and developmental disabilities (county MR/DD board) to give certain individuals with mental retardation or other developmental disability who are eligible for Medicaid-funded home and 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 and 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.

- Authorizes ODMR/DD to withhold all or part of any funds it would otherwise allocate to a county MR/DD board if the county MR/DD board fails to timely submit all the components of the plan or ODMR/DD disapproves the plan.

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

- Requires ODMR/DD to charge county MR/DD boards an annual 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 and 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, the office of Budget and Management, and county MR/DD boards, to adopt rules establishing a method of 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 and 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 and 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 and 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 and community-based services that are comparable in scope to the services the individual receives before moving.

- Requires that ODMR/DD arrange for a study of the implications of the Health Insurance Portability and Accountability Act of 1996 on payment systems for Medicaid-funded services to individuals with mental retardation or other developmental disability.

- Creates the Executive Branch Committee on Medicaid Redesign and Expansion of MR/DD Services.

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 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.

Mediation and arbitration component of service contract

- Requires that each contract between a county MR/DD board and a provider of services to individuals with mental retardation or other

developmental disability include provisions for mediation and arbitration of conflicts.

Investigative agent

- Requires each county MR/DD board to employ at least one investigative agent or contract with a private or government entity for the services of an investigative agent to conduct investigations of suspected abuse or neglect of individuals with mental retardation or other developmental disability.

CONTENT AND OPERATION

HEALTH AND HUMAN SERVICES

Wellness Block Grant Program

(R.C. 121.371 and 3109.17)

Under current law, the Children's Trust Fund Board administers and the Family and Children First Cabinet Council oversees the Wellness Block Grant Program. The Board may accept money for the program from any source, which must be used to make block grants to county family and children first councils. The councils are required to use block grants to fund community-based programs of prevention services that address issues of broad social concern, as determined by the Cabinet Council and the Board, and to fund state-directed training, evaluation, and education programs pertaining to the issues being addressed.

The bill renames the program the Wellness Program and replaces the Children's Trust Fund Board with the Ohio Department of Job and Family Services (ODJFS) as the program's administrative agent. County departments of job and family services replace county family and children first councils as local operators of the Wellness Program and the recipients of program funds. The Ohio Family and Children First Cabinet Council retains oversight of the program, and is required to do all of the following:

- Establish program guidelines and objectives;
- Determine the amount of funds to be allocated to each county department of job and family services for the Wellness Program;
- Establish criteria for assessing a county department's progress in achieving the objectives of the Wellness Program.

Under the bill, county departments of job and family services must use funds allocated for the Wellness Program for the program's purposes as provided under current law. The bill eliminates the requirements that each county council submit a program and fiscal plan outlining its proposal for expenditures, designate a fiscal agent to receive the block grant and submit program and fiscal accountings regarding the use of its block grant on request by the Board and a requirement that the Board submit an annual report detailing the results of the program to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

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.

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.

The Ohio Long-term Care Consumer Guide

(R.C. 173.46 and 173.47)

Current law requires the Department of Aging to publish the Ohio Long-term Care Consumer Guide, a guide to Ohio nursing facilities for individuals considering nursing facility placement and their friends, families, and advisors. The bill changes the date by which the Guide must be made available over the Internet from September 1, 2001, to March 1, 2002.

Current law (R.C. 173.54) requires the Department to include customer satisfaction surveys in the Guide, and stipulates (R.C. 173.47) that the Department must contract to have the surveys conducted by a person or government entity experienced in surveying the customer satisfaction of nursing facility residents and their families. The bill requires instead that the Department contract with such an entity to the extent possible.

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.

Changes to sole and shared parenting child support calculation worksheet

(R.C. 3119.022)

Under Ohio's child support enforcement laws, child support is calculated using the child support guidelines and one of two worksheets. One worksheet is used for *sole custody* (one parent has primarily been allocated the parental rights and responsibilities for the children who are subject of the order) and *shared parenting* (both parents share the parental rights and responsibilities for the children). The other is used in *split custody* situations (the parents have two or more children and each parent has sole custody of at least one child). Under both worksheets amounts expended by the parents to pay for (1) child care expenses for the children that are related to work, employment training, or education and (2) marginal out-of-pocket costs necessary to provide for health insurance for the children, are calculated as an adjustment to each parent's child support obligation. In both cases each parent's child support obligation may be increased by the adjustment for childcare and health insurance, but not decreased.

The bill changes the worksheet applicable to sole and shared parenting situations by permitting the adjustment for the child and health care expenses regardless of whether either parent's child support obligation is increased or decreased by it. This change is not made to the split custody worksheet.

Home Health Agencies

(repeal R.C. 3701.88)

The bill repeals current law (Revised Code 3701.88) requiring that each Medicare certified home health agency annually register with and report to the Department of Health. The bill also eliminates the five-member Home Health Agency Advisory Council. Under current law, the duty of the Council, comprised of individuals appointed by the Director of Health to represent home health agencies, is to advise the Director in adopting new rules concerning the registration and reporting requirements for home health agencies. The bill eliminates the requirement that the Director of Health make an annual home health agency report to the Governor.

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 ___ and ___)

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 ___ and ___)

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 ___ and ___)

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.

In 1987, certain nursing homes operating beds as intermediate care facility beds for the mentally retarded (ICF/MR beds) were given the option of retaining their Medicaid-certification from the Department of Health to operate the ICF/MR beds or obtaining a residential facility license for the beds from the Department of Mental Retardation and Developmental Disabilities. A nursing home with Medicaid-certified ICF/MR beds may apply for a residential facility license, but is subject to the provisions of the moratorium.

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 above the statewide total number of beds on October 28, 1993, which is the date certain administrative rules governing the development and modification of residential services took effect after the moratorium was initially implemented. For purposes of identifying the number of beds that existed on that date, the Director must include the number of ICF/MR beds that were being operated by nursing homes without a residential facility license.

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.

Notwithstanding the moratorium on increasing the number of residential facility beds, 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 nursing homes operating Medicaid-certified ICF/MR beds. The Director may not authorize additional beds beyond those being converted to residential facility beds licensed by the Department of Mental Retardation and Developmental Disabilities. To receive licensure, the applicant must meet all licensure requirements and one of the following must apply:

(1) The applicant is the entity that holds controlling interest in the right to operate the beds pursuant to a Certificate of Need;

(2) The applicant is not the entity that holds the controlling interest, but prior to July 1, 2001, the Department had approved the applicant's proposal for the development of residential facility beds by converting Medicaid-certified ICF/MR beds.

Involuntary transfer or discharge from a nursing home

(R.C. 3721.10, 3721.12, 3721.13, 3721.15, 3721.16, 3721.161, 3721.162, 3721.17, and 5111.63)

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.[64] 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 nursing home and the Department of Health is designated ODJFS's designee for the purpose of conducting hearings 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).[65] However, the bill establishes more specific standards for transfers and discharges

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[64] *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.*

[65] *The bill excludes from the definition of "facility" a nursing facility that is certified as an intermediate care facility for the mentally retarded.*

and appeals of transfers and discharges and establishes an enforcement mechanism for those appeals.

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 and expands their application to include all nursing homes.[66] In addition, the bill maintains current law providing that at least 30 days before the proposed transfer or discharge, a nursing home administrator is required to notify, in writing, the resident and the resident's sponsor or legal representative of the proposed transfer or discharge.

The bill requires in addition that the administrator send a copy of the notice to the Department of Health. The 30-day notice is not required in certain circumstances. The bill adds to those exceptions the following:

- An emergency arises in which the safety of individuals in the home is endangered;
- An emergency arises in which the health of individuals in the home would otherwise be endangered;
- An emergency arises in which the resident's urgent medical needs necessitate a more immediate transfer or discharge.

In addition to information required under current law, the notice must include (1) the proposed date the resident is to be transferred or discharged, (2) the proposed location to which the resident is to be transferred or discharged, and (3) a statement that the resident will not be transferred or discharged before the date specified in the notice unless the home and the resident or, if the resident is not competent to make a decision, the home and the resident's sponsor, agree to an earlier date.

The bill prohibits a home from transferring or discharging a resident before the date specified in the notice unless the home and the resident or, if the resident is not competent to make a decision, the home and the resident's sponsor, agree to an earlier date. The bill eliminates provisions that prohibited a resident from challenging a transfer or discharge if the reason for the transfer or discharge is that the resident is a Medicaid recipient or Medicare beneficiary and the home's

[66] *(42 C.F.R. 483.12.)*

participation in the Medicaid or Medicare program, whichever is applicable, has been terminated or denied.

Request for hearing

Not later than 90 days after the date a resident or resident's sponsor receives notice of a proposed transfer or discharge, whichever is later, the resident or resident's sponsor may request a hearing before the Department of Health to challenge the transfer. The bill specifies that a nursing home must permit a resident to remain in the home pending the order of the hearing officer if the resident requests a hearing as permitted by the bill. This requirement does not apply if the nursing home was not required to provide at least 30 days advance notice of the proposed transfer or discharge.

If a resident or resident's sponsor does not request a hearing, the home may transfer or discharge the resident on the date specified in the notice or thereafter, unless the home and the resident, or if the resident is not competent, the home and the resident's sponsor, agree to an earlier date. If the resident or resident's sponsor requests a hearing and the home transfers or discharges the resident before the Department issues a hearing decision, the home must readmit the resident in the first available bed if the Department determines that the discharge was illegal.

Hearing procedure

On receiving a request for a hearing, the Department of Health is required to conduct hearings in accordance with federal regulations to determine whether the proposed transfer or discharge complies with the law.[67] The bill requires the Department to employ or contract with an attorney to serve as hearing officer. The hearing officer must conduct a hearing in the home and issue a decision not later than 30 days after the date the Department receives a hearing request, unless the resident and the home or, if the resident is not competent to make a decision, the resident's sponsor and the home, agree otherwise. The hearing must be recorded on audiotape, but neither the recording nor a transcript of the recording is to be part of the official record of the hearing. Ohio's Sunshine Law does not apply to these hearings. The hearing officer's decision must be served on the resident or resident's sponsor and the home by certified mail. The hearing officer's decision is to be considered the final decision of the Department.

Appeal

The bill permits a resident, resident's sponsor, or home to appeal the Department of Health's decision to the court of common pleas. In general, the

[67] *(42 C.F.R. 431, subpart E.)*

appeal is governed by the Administrative Procedure Act, with the following exceptions:

(1) The resident, resident's sponsor, or home must file the appeal in the court of common pleas of the county in which the home is located;

(2) The resident or resident's sponsor may apply to the court for designation as an indigent and, if the court grants the application, the resident or resident's sponsor shall not be required to furnish the costs of the appeal;

(3) The appeal must be filed with the Department and the court within 30 days after the hearing officer's decision is served. The appealing party is required to serve the opposing party a copy of the notice of appeal by hand-delivery or certified mail, return receipt requested. If the home is the appealing party, it must provide a copy of the notice of appeal to both the resident and the resident's sponsor or attorney.

(4) The Department is prohibited from filing a transcript of the hearing with the court unless the court orders it to do so. The court must issue such an order only if it finds that the parties are unable to stipulate to the facts of the case and that the transcript is essential to the determination of the appeal. If the court orders the Department to file the transcript, the Department must do so within 30 days.

The court is prohibited from requiring an appellant to pay a bond as a condition of issuing a stay pending its decision.

Enforcement

The resident, resident's sponsor, home, or Department may initiate a civil action in the court of common pleas of the county in which the home is located to enforce the decision of the Department of Health or the court. If the court finds that the resident or home has not complied with the decision, it is required to enjoin the violation and order other appropriate relief, including attorney's fees.

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.)

Creation of the Health Care Workforce Shortage Task Force

The bill creates the Health Care Workforce Shortage Task Force and requires it to do all of the following:

(1) Review the licensing standards for all health care professionals;

(2) Identify strategies to increase recruitment, retention, and development of qualified health care professionals and health care workers in health care settings;

(3) Develop recommendations for improving scopes of practice to remove unnecessary barriers to high quality provision of health care;

(4) Develop possible demonstration projects to present technology's potential to increase the efficiency of health care personnel;

(5) Recommend education strategies to meet health care workforce needs.

Not later than July 1, 2002, the Task Force must submit a report of its findings and recommendations to the Speaker and Minority Leader of the House of Representatives and the President and Minority Leader of the Senate.

Appointments to the Task Force

The bill requires the Director of Health to appoint 15 health care professionals and health care workers from the following organizations to serve on the Task Force:

(1) Ohio Hospital Association;

(2) Ohio Association of Children's Hospitals;

(3) Ohio Council for Home Care;

(4) Ohio Health Care Association;

(5) Ohio Hospice and Palliative Care Organization;

(6) Ohio Association of Philanthropic Homes;

(7) Ohio Commission on Minority Health;

(8) Ohio Nurses Association;

(9) Ohio Pharmacists Association;

(10) Ohio State Medical Association;

(11) Families for Improved Care;

(12) Ohio Association of Health Care Quality;

(13) Ohio Academy of Family Physicians;

(14) Ohio Association of Adult Day Services;

(15) Ohio Provider Resource Association.

The Speaker of the House and the President of the Senate are each to appoint a member of the House and Senate, respectively, to serve on the Task Force. The member of the House and the member of the Senate must be from different political parties. The bill also requires the Director of Aging to serve on the Task Force. No more than 21 individuals, all of whom serve without compensation, may serve on the Task Force.

Administration of the Task Force

The bill requires the Department of Health to provide the Task Force with office space, staff, supplies, services and other support. The Director of Health is

to serve as chair of the Task Force. On the issuance of its report, the Task Force ceases to exist.

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.[68] Under current law, the center is required to perform a number of duties 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.

Radiation control program fees for health care and radioactive waste facilities

(R.C. 3748.07 and 3748.13)

Current law requires the Director of Health to register and inspect sources of radiation. The bill increases registration and inspection fees as shown in the following chart.

[68] *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.*

Inspection or registration fee	Prior fee	Fee under the bill	Percentage increase
Biennial registration fee for facility that handles radioactive material or radiation-generating equipment	$160	$176	10%
First dental x-ray tube[69]	$94	$71	-24%
Each additional x-ray tube at a location	$47	$71	34%
First medical x-ray tube	$187	$187	---
Each additional x-ray tube at a location	$94	$187	50%
Each unit of ionizing radiation-generating equipment at a health care facility not capable of operating at or above 250 kilovoltage peak[70]	---	$210	---
Each unit of ionizing radiation-generating equipment at a health care facility that is capable of operating at or above 250 kilovoltage peak	$373	$435	17%
First nonionizing radiation-generating equipment of any kind[71]	$187	$187	---
Each additional nonionizing radiation-generating equipment of any kind at a location	$94	$187	50%
Assembler-maintainer inspection	$233	$256	10%
Inspection for unlicensed or unregistered facility without pending license or registration	$290	$334, plus application fee	15%
Review of shielding plans	$466	$536	15%

The bill eliminates the inspection fee distinction between the first and additional dental or medical x-ray tubes at a location by charging a fee of $71 for

[69] *The bill makes inspection fee of first and additional x-ray tubes the same.*

[70] *The bill added the category of fees for health care facilities operating at the lower kilovoltage peak and specified that fees for both kilovoltage peaks are assessed on health care facilities.*

[71] *The bill makes inspection fee of first and additional nonionizing radiation-generating equipment the same.*

each dental tube and $187 for each medical x-ray tube at a location. Similarly, a fee of $187 is assessed for all inspections of nonionizing radiation-generating equipment of any kind at a location.

Under the bill, a health care facility with radiation-generating equipment that is not capable of operating above a 250 kilovoltage peak must pay an inspection fee of $210. This is a new fee. The bill increases the fee for inspection of a facility with equipment capable of operating above the 250 kilovoltage peak to $435 (from $373).

At the request of a person holding or seeking a radioactive material license or radiation-generating equipment registration or when the Director of Health, during an inspection, considers a review to be necessary, the Director of Health is permitted to conduct a review of shielding plans or the adequacy of shielding. The bill increases the fee for the review to $536 (from $466).[72]

Increase in fees for radiation sources equal to percentage of raise for public employees

(R.C. 3748.08)

The bill requires the Director of Health to increase the fees for inspection of sources of radiation and licensure or registration of facilities each time that public employees exempt from collective bargaining receive a statutory increase in compensation that is effective on or after July 1, 2002. The fees are to be increased by a percentage equal to the highest percentage increase required by the raise. The Department of Health must notify each registrant of the amount of the fee increase not later than 30 days after the effective date of the increase.

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.

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[72] This fee amount is to continue until rules are adopted by the public health council or altered when the compensation for public employees is increased as discussed below.

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.

Appeal of orders of the State Dental Board

(R.C. 119.12)

Current law allows a person appealing an order of the State Dental Board to appeal the order in the court of common pleas of the county in which the place of business of the licensee is located or the county in which the licensee is a resident. The amendment requires appeals from decisions of the Board to be in the Franklin County Court of Common Pleas.

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.[73] 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 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.

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[73] *The Board licenses dentists, dental hygienists, and dental x-ray machine operators.*

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
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

Reason for fee	Fee in current law	Fee under the bill
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.

Ohio Board of Nursing supervision of nursing students

(R.C. 4723.32)

Current law allows a student pursuing certification in an advanced nursing specialty to practice nursing if certain qualifications are met. The bill clarifies that the student may practice only under the supervision of a registered nurse serving for the program as a faculty member, teaching assistant, or preceptor.

Pharmacy Board Operating Fund

(R.C. 4729.65 and 4743.05)

All receipts of the Board of Pharmacy under the pharmacy licensing law are required by current law to be deposited in the Occupational Licensing and Regulatory Fund, which is used to administer laws related to the occupational licensing boards. The bill creates the Pharmacy Board Operating Fund in the state treasury to receive the receipts of the Board and to be used solely for the administration and enforcement of the pharmacy licensing law.

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.

Examination requirements for chiropractic licensure

(R.C. 4734.20; Section 30.01)

Am. Sub. H.B. 506 of the 123rd General Assembly, which took effect April 10, 2001, revised the examination requirements for licensure of chiropractors. Prior to that act, an applicant was required to pass an exam consisting of subjects specified in the Revised Code. The act requires instead that the applicant pass, or have passed, the physiotherapy section of the examination of the National Board of Chiropractic Examiners and additional parts of that exam. Which parts an applicant must pass depends on the year the applicant graduated from a school or college of chiropractic approved by the State Chiropractic Board. An applicant who graduated during the period from 1970 through 1988, must have passed parts I and II of the national board's exam. An applicant who graduated on or after January 1, 1989, but before January 1, 2000, must have passed part III, as well as parts I and II, of the exam. An applicant graduating on or after January 1, 2000, must pass parts I through IV of the exam to be eligible for a license.

The bill extends the period during which an applicant can be granted a chiropractic license without having passed part IV of the examination of the National Board of Chiropractic Examiners. Under the bill an applicant who graduated from an approved school or college of chiropractic after December 31, 1988, but before January 1, 2002 and meets other requirements will be eligible for a license if the applicant has passed parts I, II, and III and the physiotherapy section of the examination. An applicant who graduates on or after January 1, 2002, must also pass part IV of the examination.

Under the bill, if the State Chiropractic Board has refused to issue a chiropractic license to an applicant solely because the applicant has not passed part IV of the examination of the National Board of Chiropractic Examiners the state board must reconsider the application. The state board's determination of whether to issue the license must be based on the examination requirements specified in the bill.

Duration of respiratory care limited permits

(R.C. 4761.05)

Under current law, a person practicing respiratory care under a limited permit issued by the Ohio Respiratory Care Board may continue to practice for not more than the earliest of the following:

(1) three years after the date the limited permit is issued;

(2) one year following the date of receipt of a certificate of completion from a board-approved respiratory care education program;

(3) until the holder completes or discontinues participation in the educational program.

The bill revises the third provision listed above by removing the reference to completion of participation. Therefore, under the bill, a person enrolled in a board-approved respiratory care education program may practice under a limited permit for one year following the date of receipt of a certificate of completion for the program, or until the person discontinues participation in the program.

Practice of orthotics, prosthetics, and pedorthics

(R.C. 4779.01, 4779.02, 4779.16, 4779.19, 4779.20, and 4779.26)

Current law defines the practices of orthotics, prosthetics, and pedorthics and prohibits their practice without a valid license. The bill exempts those practicing under the direct supervision of a physician from the licensing requirement. The bill also exempts certain activities from licensure by providing that the practice of orthotics does not include wrist splints, prefabricated fabric abdominal supports, and other prefabricated soft goods requiring minimal fitting.

Current law requires a license for the practice of orthotics, prosthetics, or pedorthics to be renewed every three years. The bill requires the licenses to be renewed annually.

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.[74] 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

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[74] *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.*

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.

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 requires 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. It also requires that those procedures be implemented by October 1, 2003.

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.

County children services board executive director

(R.C. 5153.06)

The bill authorizes a county children services board to enter into a written contract with the board's executive director specifying the terms and conditions of the executive director's employment. The contract cannot exceed three years in duration. The bill specifies that the contract may not abridge the right of the board to terminate the employment of the executive director as an unclassified employee at will, but may specify terms and conditions for any such termination.

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.

Waiver request to provide health assistance to certain uninsured parents

(R.C. 5101.50 and 5101.5110)

The bill provides that the Director of Job and Family Services may submit a waiver request to the U.S. Secretary of Health and Human Services to provide health assistance to any individual who meets all of the following requirements:

- Is the parent of a child under 19 years old who resides with the parent and is eligible for health assistance under the children's health insurance program (CHIP) or Medicaid;
- Is uninsured;
- Has a family income that does not exceed 100% of the federal poverty guidelines.

A waiver request the Director submits pursuant to the bill may seek federal funds allocated to the state for CHIP that are not already used to fund CHIP. If a waiver request the Director submits under the bill is granted, the Director may adopt rules in accordance with the Administrative Procedure Act (Revised Code Chapter 119.) as necessary for the efficient administration of the program authorization by the waiver.

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.[75] Current law requires

[75] *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*

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 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

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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.

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.[76]

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 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.

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[76] *"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.*

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.

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.[77] The deceased person must not have had, at the time of death, funds available for the expenses. The total cost of the expenses cannot

[77] *A recipient of Ohio Works First or Disability Assistance must have resided in an unincorporated area.*

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.

Ohio Child Welfare Training Program training for foster caregivers

(R.C. 5103.031, 5103.033, 5103.036, 5103.0313, 5103.0314, 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. Current law prohibits ODJFS from reimbursing training if it is in addition to the training required by law. The bill reiterates that ODJFS may not reimburse training that exceeds the ***minimum*** training required by law. 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.[78] Payment must be made for attending preplacement training courses during the first month a foster child is placed in the foster caregiver's home.

Fees for publicly funded child day-care

(R.C. 5104.341)

Under current law, when a caretaker parent is determined to be eligible to receive publicly funded child day-care provided through a county department of job and family services, the fee is valid for one year. Any fee charged by the department for the day-care cannot be changed during the one-year period of eligibility, unless the parent requests a reduction due to changes in income, family size, or both.

The bill requires the department to redetermine the amount of the fee every six months. The requirement takes effect January 1, 2002.

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[78] *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.*

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 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.[79]

[79] *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*

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 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

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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.

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.[80] 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

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[80] *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.*

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:

(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.[81]

The Director is required to implement the state plan amendment if it is approved.

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.[82] A state agency that enters into such an interagency agreement must do both of the following:

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[81] *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.*

[82] *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*

(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.

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

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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.

this provision and specifies that the Department may enter into contracts with managed care organizations to authorize the organizations to provide, or arrange for the provision of, 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

Background

Current law requires ODJFS to pay the reasonable costs of services that a nursing facility or intermediate care facility for the mentally retarded (ICF/MR)

with a Medicaid provider agreement provides to Medicaid recipients.[83] The amount ODJFS pays a nursing facility or ICF/MR is determined by formulas established by state law.

Nursing facility and ICF/MR services are divided into four different categories, referred to in state law as cost centers. Each cost center has its own Medicaid reimbursement formula. The four cost centers are capital, indirect care, direct care, and other protected costs.[84]

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.

Indirect care costs are all reasonable costs other than the three other cost centers. This includes costs of the following: 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.

Direct care costs include a nursing facility or ICF/MR's costs for the following: (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 related to direct care, and (6) allocated direct care home office costs.

Other protected costs are costs for medical supplies; real estate, franchise, and property taxes; natural gas, fuel oil, water, electricity, sewage, and refuse and

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[83] *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.*

[84] *The fourth cost center is other protected costs.*

hazardous medical waste collection; allocated other protected home office costs; and any additional costs included in ODJFS rules.

Maximum mean total per diem rate for nursing facilities

(Section 62.33)

The bill establishes a maximum mean total per diem rate applicable to nursing facilities in FYs 2002 and 2003. For FY 2002, the mean total per diem rate for all nursing facilities in the state, weighted by Medicaid days and calculated as of July 1, 2001, is not to exceed $144.99.[85] For FY 2003, the mean total per diem rate for all nursing facilities in the state, weighted by Medicaid days and calculated as of July 1, 2002, is not to exceed $154.41, plus any difference between $144.99 and the mean total per diem rate for all nursing facilities in the state for FY 2002, weighted by Medicaid days and calculated as of July 1, 2001, under the law governing the calculation of Medicaid reimbursement rates. If the mean total per diem rate for all nursing facilities in the state for FY 2002 or 2003, weighted by Medicaid days and calculated as of the first day of July of the calendar year in which the fiscal year begins, exceeds the maximum amount established by the bill, ODJFS is required to reduce the total per diem for each nursing facility in the state by a percentage that is equal to the percentage by which the mean total per diem rate exceeds the maximum amount established by the bill for that fiscal year. Adjustments to a nursing facility's Medicaid reimbursement rate required by the law governing the calculation of Medicaid reimbursement rates are to be made during the remainder of the fiscal year in which a reduction required by this provision of the bill is made.

Additional funding from increase in franchise permit fee

(R.C. 3721.51 and 3721.56; Section 62.35)

Under current law, ODJFS is required to assess an annual franchise permit fee on each long-term care bed in a nursing home or hospital.[86] The fee is applied

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[85] The bill defines Medicaid days as all days during which a resident who is a Medicaid recipient occupies a bed in a nursing facility that is included in the facility's Medicaid certified capacity. Therapeutic or hospital leave days for which a Medicaid payment is made are considered Medicaid days proportionate to the percentage of the nursing facility's per resident per day rate paid for those days. Other than defining "Medicaid days," the bill does not provide guidance as to what is meant by "weighted by Medicaid days."

[86] ODJFS is required to cease implementation of the franchise permit fee if the United States Health Care Financing Administration determines that it would be an impermissible health care related tax under federal Medicaid law.

to each nursing home bed, Medicare-certified skilled nursing facility bed, Medicaid-certified nursing facility bed, and each bed in a hospital that is registered as a skilled nursing facility bed or long-term care bed or licensed as a nursing home bed. The amount of the fee is $1 for each such bed a nursing home or hospital has multiplied by the number of days in the fiscal year for which the fee is assessed.[87] Money generated by the fee and penalties associated with the fee are used for (1) the Medicaid program, (2) the PASSPORT program, and (3) the Residential State Supplement program. The franchise permit fee is a reimbursable expense under the Medicaid program for nursing home and hospital beds that are nursing facility beds participating in Medicaid.

For FYs 2002 and 2003, the bill raises the franchise permit fee to $4; a $3 per bed per day increase. The additional money generated from the increase, and three fourths of the penalties related to the franchise permit fee, are to be deposited into the Nursing Facility Stabilization Fund which the bill creates in the state treasury.[88] ODJFS is to use the money in the fund to do all of the following:

(1) Make payments to nursing facilities under the law governing Medicaid payments to nursing facilities to the extent that funds available in the Medicaid appropriation line item are insufficient to make those payments;

(2) Make payments to each nursing facility for FYs 2002 and 2003 in an amount equal to three fourths of the franchise permit fee the nursing facility pays for the fiscal year ODJFS makes the payment divided by the nursing facility's inpatient days for the calendar year preceding the calendar year in which that fiscal year begins;[89]

(3) Make payments to each nursing facility for FYs 2002 and 2003 in an amount equal to $1.50 per Medicaid day;

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[87] A nursing home with 100 beds subject to the franchise permit fee would be assessed $36,500 in fiscal year 2002. ($1 x 100 beds x 365 days.)

[88] The amount of money generated from the franchise permit fee under current law is to continue to be used for the purposes specified in current law.

[89] As discussed above, the franchise permit fee is reimbursable under the Medicaid program for nursing facility beds participating in the Medicaid program. This is because the definition of "other protected costs" includes the franchise permit fee. Because of this and the provision of the bill requiring ODJFS to use money in the Nursing Facility Stabilization Fund to pay a portion of a nursing facility's franchise permit fee, a nursing facility may receive Medicaid reimbursement for the fee twice.

(4) Make payments under the Nursing Facility Bed Operating Rights Buy-Back Program not to exceed a total of $15,000,000.[90]

Any money remaining in the fund after these payments are made for FYs 2002 and 2003 are to be retained in the fund. Any interest or other investment proceeds earned on money in the fund is to be credited to the fund and used to make the required payments.

Imputed occupancy

(Section 62.34)

The bill increases a nursing facility and ICF/MR's Medicaid reimbursement rate for FYs 2002 and 2003 by changing the imputed occupancy percentage used in calculating its per diem for capital and indirect care costs. Capital cost per diems are to be determined by dividing the facility's actual, allowable costs in a cost reporting period by the greater of the facility's inpatient days (days that a resident occupies or is considered to occupy a bed, as when the person has therapeutic or hospital leave days) for that period or the number of inpatient days the facility would have had during that period if its occupancy rate had been 88% (for FY 2002) or 91% (for FY 2003) rather than 95%.[91] Indirect care per diems are to be determined by dividing the facility's actual, allowable costs in a cost reporting period by the greater of the facility's inpatient days for that period or the number of inpatient days the facility would have had during that period if its occupancy rate had been 82% (for FY 2002) or 87% (for FY 2003) rather than 85%.[92]

ODJFS is required to implement the imputed occupancy percentage change as soon as practicable for the purpose of calculating nursing facility and ICF/MR Medicaid reimbursement rates for capital and indirect care costs for FYs 2002 and 2003. If ODJFS is unable to calculate the rates before it makes payments for services provided during those fiscal years, it must pay a facility the difference between the amount it pays the facility and the amount that would have been paid had ODJFS made the calculation in time.

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[90] *See "***Nursing Facility Bed Operating Rights Buy-Back Program***" below.*

[91] *For FY 2001, the imputed occupancy percentage used is 85%.*

[92] *For FY 2001, the imputed occupancy percentage used is 75%.*

Purchased nurses services

(R.C. 5111.262)

The bill increases nursing facilities' Medicaid reimbursement rates for direct care costs by providing that costs reported in a nursing facility's cost report for purchased nursing services are to be allowable costs up to 20% (rather than 10%) of the nursing facility's cost specified in a cost report for services provided by registered nurses, licensed practical nurses, and nurse aides who are employees of the nursing facility, plus one half of the amount by which the reported costs for purchased nursing services exceed that percentage.[93] This change is applicable for fiscal years 2002 and thereafter.

Return on equity factor in nursing facility's capital cost rate determination

(R.C. 5111.25(H))

As part of capital costs, ODJFS is required to pay each eligible proprietary nursing facility 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 nursing facility's return on net equity may exceed $1 per patient day.

The bill reduces the maximum return on equity payment from $1 to $.50 per patient day.

Reconsideration of nursing facility's rates due to extreme circumstances

(R.C. 5111.29)

The Director of ODJFS is required to adopt rules establishing a process under which a nursing facility may seek reconsideration of its Medicaid payment rates if it demonstrates that its actual, allowable costs have increased because of extreme circumstances. A nursing facility 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 a nursing facility that has an appropriate claims management program, (2) increased security costs for an inner-city nursing facility, and (3) a change of ownership that results from bankruptcy, foreclosure, or findings of violations of

[93] *For FY 2001, the percentage used is 17%.*

Medicaid certification requirements. The bill provides that a change of operator that results from bankruptcy, foreclosure, or findings of violations of Medicaid certification requirements is no longer an extreme circumstance that warrants reconsideration of a nursing facility's Medicaid reimbursement rates. The bill also provides that an increase in workers' compensation experience rating of any amount, rather than one exceeding 5%, warrants the reconsideration and the nursing facility does not have to have an appropriate claims management program to be eligible for the reconsideration.

Payments held in escrow and penalties

(R.C. 5111.25(G), 5111.251(H), and 5111.28)

Under current law, the owner of a nursing facility or ICF/MR is required to provide ODJFS written notice at least 45 days prior to entering into any contract of sale for the facility or voluntarily terminating participation in Medicaid. For the purpose of securing funds the owner may owe the Medicaid program, ODJFS is required to hold in escrow the amount of the last two monthly payments to a nursing facility 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 nursing facilities or ICFs/MR that participate in Medicaid, obtain a promissory note in an amount sufficient to cover the amount likely to be refunded.

The bill provides that if the owner fails to timely notify ODJFS before entering into a contract of sale for the facility, ODJFS is to hold in escrow the amount of the first two monthly payments made to the facility after ODJFS learns of the contract. If the amount the owner will be required to refund is likely to be less than the amount of two monthly payments and the owner owns other facilities that participate in Medicaid, ODJFS is to obtain a promissory note in an amount sufficient to cover the amount likely to be refunded. If the owner does not own other facilities that participate in Medicaid, ODJFS must withhold the amount of the first monthly payment made to the facility after ODJFS learns of the contract. ODJFS is to withhold the payment or payments regardless of whether the new owner is in possession of the facility.

ODJFS is authorized to penalize the owner of a nursing facility or ICF/MR who fails to notify ODJFS of the sale of the facility or voluntary termination of participation in Medicaid within the required time. Under current law, the amount of the penalty may be no more than 2% of the facility's last two monthly payments. The bill increases the maximum penalty to the current average bank prime rate plus 4% of the last two monthly payments.

Annual report on refinements to case-mix system

(R.C. 5111.341 (repealed))

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 consider the comments of representatives of nursing facilities, ICFs/MR, and other interested parties.

The bill eliminates the requirement that ODJFS make this report.

Nursing Facility Bed Operating Rights Buy-Back Program

(Section 62.36)

The bill requires that the Director of ODJFS create and implement the Nursing Facility Bed Operating Rights Buy-Back Program. Under the program, the Director must notify nursing facilities in the areas of the state that the Director determines have an excess capacity of nursing facility beds that the Director proposes to purchase the operating rights to a number of nursing facility beds the Director specifies.

No later than a date the Director specifies, a nursing facility located in an area that the Director determines has an excess capacity of nursing facility beds is permitted to submit a sealed bid to the Director. The date that the Director specifies must be no more than 60 days after the date the Director notifies nursing facilities of the proposal to buy the operating rights of nursing facility beds. To the extent money in the Nursing Facility Stabilization Fund is available for the program, the Director is required to review the bids and purchase the operating rights of nursing facility beds from the lowest bidder or bidders.[94] The Director is authorized to decline to purchase any operating rights if the lowest bidder asks for more than the maximum per-bed amount, if any, that the Director establishes. The Director is prohibited from purchasing operating rights to more nursing facility beds than the Director specifies in the notice to the nursing facilities.

A nursing facility that has sold the operating rights to a nursing facility bed under the program is prohibited from including that bed or costs associated with that bed in a cost report filed under the Medicaid program. The nursing facility is required to file with the Director an amended cost report for the calendar year preceding the year the Director purchases the operating rights. In the amended

[94] *See "***Medicaid reimbursement of long-term care services**,*" above.*

cost report, the nursing facility must subtract the bed and costs associated with the bed from the previous cost report for that calendar year. The Director must use the amended cost report to revise the nursing facility's rates under the law governing Medicaid payments to nursing facilities for the fiscal year in which the operating rights are purchased.

The bill provides that no action taken pursuant to the Nursing Facility Bed Operating Rights Buy-Back Program is subject to the certificate of need law.

Medicaid Long-Term Care Reimbursement Study Council

(R.C. 5111.231 and 5111.34; Section 62.37)

The bill abolishes the Medicaid Long-Term Care Reimbursement Study Council, which is required under current law to review, on an ongoing basis, the Medicaid payment system for nursing facilities and intermediate care facilities for the mentally retarded (ICFs/MR) and recommend any changes it determines are necessary. The Medicaid Long-Term Care Reimbursement Study Council also plays a part in ODJFS's determination of case-mix scores for the purpose of Medicaid direct care payments to nursing facilities and ICFs/MR. As part of the process of determining case-mix scores, ODJFS must use a grouper methodology. ODJFS is permitted to make changes to the grouper methodology that the Council approves. Because the bill abolishes the Council, it eliminates the requirement that ODJFS seek the Council's approval to change the grouper methodology.

The bill creates the Nursing Facility Reimbursement Study Council. The Council consists of four members of the General Assembly, certain department directors, and representatives of various nursing facility associations. The Council is required to review, on an ongoing basis, the Medicaid payment system for nursing facilities and recommend any changes it determines are necessary. It must periodically report its activities, findings, and recommendations to the Governor, Speaker of the House of Representatives, and Senate President. The bill also specifies that the Council report on the following during fiscal years 2002 and 2003:

(1) The use of imputed occupancy factors in calculating reimbursement rates;

(2) The identification and quantification of costs that vary with occupancy and costs that do not vary with occupancy;

(3) Specific elements of the reimbursement formula that contribute to or detract from facility efficiency, including appropriate methods of defining and measuring efficiency;

(4) The inclusion or exclusion of direct-care costs and case-mix scores for classes of facility residents the Council identifies from case-mix calculations and the effect of those inclusions or exclusions on direct care of residents;

(5) Whether the return on equity provision in the reimbursement formula should remain;

(6) The use of depreciation recapture in the case of transfers of nursing facilities;

(7) The amount of time that elapses between when a facility incurs costs for wage increases or other expenditure and when those costs are included in the reimbursement rate;

(8) The percentage of capital costs that are not included in the reimbursement rate;

(9) The percentage of purchased nursing costs that are not included in the reimbursement rate.

Medicaid pharmacy services for nursing home residents

(Section ___)

The bill provides that, from July 1, 2001 to September 30, 2001, a pharmacy provider will be reimbursed for pharmacy services provided to a Medicaid recipient who resides in a nursing home at a rate of the wholesale acquisition cost, plus 9%, plus any applicable dispensing fee.[95] During the remainder of the biennium, the pharmacy provider is to be reimbursed at a rate determined by comparing the provider's average monthly cost of providing pharmacy services to Medicaid recipients who reside in nursing homes for the immediately preceding quarter to the statewide average monthly cost of providing such services on March 31, 2001. ODJFS is required to make the comparison at the end of each quarter of the biennium and take into account an adequate factor for inflation in the cost of drugs.

If the provider's average monthly cost of the services in the quarter being examined is equal to or greater than the statewide average monthly cost of the services on March 31, 2001, the provider must be reimbursed at a rate of the wholesale acquisition cost, plus 9%, plus any applicable dispensing fee. If the

[95] *"Wholesale acquisition cost" means the cost of a particular drug estimated by ODJFS by periodic review of pricing information from drug wholesalers in Ohio, pharmaceutical manufacturers, and one or more pharmacy pricing update services.*

provider's average monthly cost of the services is less than that amount, the provider is to be reimbursed at a rate of the wholesale acquisition cost, plus 11%, plus any applicable dispensing fee, plus 50% of the difference between the provider's average monthly cost of the services and the statewide average monthly cost of the services on March 31, 2001.

A pharmacy provider may receive a reduction in its average monthly cost of providing services to a Medicaid recipient who resides in a nursing home by providing consulting services to the physicians who provide drugs to the resident, which may include recommendations for eliminating unnecessary and duplicative drugs, modifying inefficient drug regimens, and implementing safe and cost-effective drug therapies. The bill permits ODJFS to adopt rules under the Administrative Procedure Act (Chapter 119.) that it considers necessary to develop and administer the bill's provisions concerning Medicaid reimbursement of pharmacy services for nursing home residents.

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.[96] 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;

[96] *Current law requires the Director of ODJFS to adopt rules to implement the managed care waiver component.*

(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;[97]

(8) Other policies necessary for the efficient administration of the waiver components.[98]

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 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 establish a corrective action plan for the violator and impose fiscal, administrative, or both types of sanctions in accordance with rules.

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[97] *The bill provides that the rules establishing enforcement provisions must include due process protections and that the sanctions include terminating Medicaid provider agreements.*

[98] *The rules must be adopted in accordance with the provisions of the Administrative Procedure Act (R.C. Chapter 119.) that require public hearings.*

Medicaid home and community-based services for individuals with MR/DD

(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, (3) be enrolled in the Ohio Home Care Waiver Program on June 30, 2001, and (4) 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.

Medicaid home and community-based services for medically fragile individuals

(Section 62.22)

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 medically fragile individuals. To be eligible for the new or modified waiver program, a medically fragile individual must need a skilled level of care as defined in ODJFS rules and be transferred from the Ohio

Home Care Waiver Program to the new or modified waiver program.[99] In addition, the individual must be enrolled in the Ohio Home Care Waiver Program on June 30, 2001, or, in the case of a number of individuals approved by the Director of Budget and Management, after that date.

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. ODJFS is required to administer the new or modified waiver program. 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 waiver program to the new or modified waiver program.

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;

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[99] *Under the ODJFS rules, an individual needs a skilled level of care if the individual receives at least one skilled nursing service at least seven days per week, a skilled rehabilitation service at least five days per week, or both. The services must be ordered by a physician because of (1) the instability of the individual's condition and the complexity of the prescribed service or (2) the instability of the individual's condition and the presence of special medical complications.*

(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.[100]

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 Finance and Appropriations Committee and the chairperson and ranking minority member of the Senate Finance and Financial Institutions Committee.[101]

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

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[100] *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.*

[101] *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.*

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.[102] Under the agreement, the manufacturer must give rebates for the covered outpatient drugs dispensed and paid for under a state's Medicaid plan.

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. 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.

Under existing law, the funding mechanism for HCAP is to terminate on July 1, 2001. The act delays the termination until October 16, 2003.

Payment pool for critical access hospitals

(Section ____)

Pursuant to the existing requirement that rules be adopted establishing a methodology for paying hospitals under HCAP, the bill requires the Director of

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[102] "Covered outpatient drugs" are prescription drugs that meet requirements imposed under federal law governing Medicaid. 42 U.S.C. § 1396r-8(k)(2).

Job and Family Services to include within the methodology a special payment pool for hospitals certified as critical access hospitals by the United States Health Care Financing Administration. The special payment pool for critical access hospitals is to be used for reimbursing each critical access hospital an amount equal to the difference between its Medicaid costs and its Medicaid payments.

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
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, to develop and submit an application to the federal government for a Medicaid waiver with respect to coverage of community mental health services. Before developing and submitting the waiver application, the Department of Job and Family Services must consult with community mental health agencies that provide Medicaid-covered mental health services, as well as the chairpersons and ranking minority members of the House Health and Family Services Committee and the Senate Health, Human Services and Aging Committee.

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.

Transfer of mental health treatment records

(R.C. 5122.31)

Current law provides that records directly or indirectly identifying a patient or former patient or a person whose hospitalization has been sought under the law governing the hospitalization of the mentally ill are confidential and may be

disclosed only in specified circumstances.[103] The bill permits a community mental health agency that ceases to operate to transfer to either a community mental health agency that assumes its caseload or to the ADAMH board of the service district in which the patient resided at the time services were most recently provided any treatment records that have not been transferred elsewhere at the patient's request.

Release of client medical information to third-party payors

(R.C. 5122.31)

Under current law, all certificates, applications, records, and reports made for purposes of Ohio law governing the hospitalization of the mentally ill and criminal trials of persons alleged insane that identify a patient or former patient or person whose hospitalization for mental illness has been sought under the law governing hospitalization of the mentally ill, must be kept confidential and not be disclosed by any person. A number of exceptions to this confidentiality requirement exist, however, including one that permits mental hospitals to release necessary medical information to insurers to obtain payment for goods and services furnished to the patient.

The bill would expand the exception to permit boards of alcohol, drug addiction, and mental health services and community mental health agencies to release the medical information. The bill also includes, in addition to insurers, other third-party payors, including government entities responsible for processing and authorizing payment, as entities that may receive the medical information.

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

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[103] A "patient" is a person who is admitted voluntarily or involuntarily to a hospital or other place after a finding of not guilty by reason of insanity or incompetence to stand trial or under the law governing the hospitalization of the mentally ill and who is under observation or receiving treatment in that place. (R.C. 5122.01(C).)

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. 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 of community mental health services

(R.C. 340.03, 5119.01(G), 5119.61 5119.611, and 5119.612; Section ___ ; ancillary sections: 9.03, 173.35, 340.02, 340.08, 2919.271, 3722.01, 3722.15, 3722.16, 5111.022, and 5119.22)

Current law requires the Director of Mental Health to adopt rules establishing minimum standards for 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 services that meet the Director's minimum standards.

The bill revises and reorganizes the law governing the Director of Mental Health's certification of community mental health services. The Director is no longer required, but is instead permitted, to visit an applicant for certification. The Director is not restricted to establishing *minimum* standards for community mental health services but is required to include as certification standards only requirements that improve the quality of services or the health and safety of clients of the services. The rules the Director is to adopt establishing certification standards are to include standards that address reporting major unusual incidents to the Director and procedures for applicants for and clients of the services to file grievances and complaints.

The bill prohibits an ADAMH board from contracting with a community mental health agency to provide community mental health services included in the ADAMH board's community mental health plan unless the services are certified by the Director.

Appropriate service utilization

(R.C. 5119.61)

Current law authorizes the Director of Mental Health to adopt rules governing the method of paying a community mental health facility for providing Medicaid-funded mental health services. The bill requires that the rules include requirements ensuring appropriate service utilization.

The Director must establish criteria by which an ADAMH board reviews and evaluates the quality, effectiveness, and efficiency of services provided through its community mental health plan. The bill requires that the criteria include requirements ensuring appropriate service utilization.

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, 3923.29, 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 effective two years after the effective date of this provision of the bill. 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 Rehabilitation Accreditation Commission.

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 effective two years after the effective date of this provision of the bill, 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, effective two years after the

effective date of this provision of the bill, the Director's authority 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.

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.

Contract disputes between ODMR/DD and protective service providers

(R.C. 101.37)

Under current law, the Joint Council on Mental Retardation and Developmental Disabilities (MR/DD) has a number of duties concerning issues affecting ODMR/DD, county boards of MR/DD, persons with MR/DD, and providers of services to persons with MR/DD. The bill requires the Joint Council to, in addition, conduct reviews and make recommendations to the Director of ODMR/DD regarding disputes between ODMR/DD and entities that have contracted with ODMR/DD to provide protective services to individuals with MR/DD.

MR/DD board services

Existing law in general requires county boards of mental retardation and developmental disabilities to operate facilities, programs, and services for individuals with mental retardation and developmental disabilities. Some of the services are specifically identified in statute. The bill modifies certain of these statutes and establishes statutory descriptions of other services the boards provide.

Adult services

(R.C. 5126.01(A) and (C))

Under current law, adult services include a range of habilitation services, including sheltered employment providing a structured work environment, job training, job placement, supported employment, competitive employment, and planned therapeutic and work activities providing meaningful tasks designed to improve the effectiveness or degree with which an individual meets the standards of personal independence and social responsibility expected of the individual's age and cultural group.

The bill describes adult services as services provided to an adult outside the home, except when they are provided within the home according to an individual's assessed needs and identified in an individual service plan, that support learning and assistance in the area of self-care, sensory and motor development, socialization, daily living skills, communication, community living, social skills, or vocational skills. Adult services expressly include adult day habilitation services, adult day care, prevocational services, and educational experiences and training obtained through entities and activities that are not expressly intended for individuals with mental retardation and developmental disabilities, including trade schools, vocational or technical schools, adult education, job exploration and sampling, unpaid work experience in the community, volunteer activities, and spectator sports.

Expressly excluded from adult services are community or supported employment services, which are services related to employment outside a sheltered workshop. Community or supported employment services include all of the following:

(1) Job training resulting in the attainment of competitive work, supported work in a typical work environment, or self-employment;

(2) Supervised work experience through an employer paid to provide the supervised work experience;

(3) Ongoing work in a competitive work environment at a wage commensurate with workers without disabilities;

(4) Ongoing supervision by an employer paid to provide the supervision.

Adult day habilitation services

(R.C. 5126.01(B))

As noted above, the bill specifies that adult services include adult day habilitation services. Adult day habilitation services are services that do the following:

--Provide access to and participation in typical activities and functions of community life that are desired and chosen by the general population, including such activities and functions as opportunities to experience and participate in community exploration, companionship with friends and peers, leisure activities, hobbies, maintaining family contacts, community events, and activities where individuals without disabilities are involved;

--Provide supports or a combination of training and supports that afford an individual a wide variety of opportunities to facilitate and build relationships and social supports in the community.

Adult day habilitation services expressly include all of the following:

(1) Personal care services needed to ensure an individual's ability to experience and participate in vocational services, educational services, community activities, and any other adult day habilitation services;

(2) Skilled services provided while receiving adult day habilitation services, including such skilled services as behavior management intervention, occupational therapy, speech and language therapy, physical therapy, and nursing services;

(3) Training and education in self-determination designed to help the individual do one or more of the following: develop self-advocacy skills, exercise the individual's civil rights, acquire skills that enable the individual to exercise control and responsibility over the services received, and acquire skills that enable the individual to become more independent, integrated, or productive in the community;

(4) Recreational and leisure activities identified in the individual's service plan as therapeutic in nature or assistive in developing or maintaining social supports;

(5) Transportation necessary to access adult day habilitation services;

(6) Program management.

The bill specifies that adult day habilitation services do not include activities that are components of the provision of residential services, family support services, or supported living services. They also do not include counseling and assistance provided to obtain housing, including such counseling as identifying options for either rental or purchase, identifying financial resources, assessing needs for environmental modifications, locating housing, and planning for ongoing management and maintenance of the housing selected.

Residential services

(R.C. 5126.01(N))

Under current law, residential services include housing, food, clothing, habilitation, staff support, and related support services. The bill provides that residential services include program management.

Supported living

(R.C. 5126.01(S))

Current law describes supported living as services that enhance the individual's reputation in community life and advance the individual's quality of life by providing the support necessary to enable an individual to live in a residence of the individual's choice, with or without other individuals who may or may not have disabilities. Supported living services include housing, food, clothing, habilitation, staff support, professional services, and any related support services necessary for the health, safety, and welfare of the individual receiving the services.

The bill specifies that supported living services are provided for as long as 24 hours a day. The bill removes the reference to the individual's choice to live alone, but remaining statutes appear to maintain that choice. It specifies that one of the purposes of supported living is to assist the individual in acquiring, retaining, and improving the skills and competence necessary to live successfully in the individual's residence.

The bill expressly includes the following as supported living services:

(1) A combination of life-long or extended-duration supervision, training, and other services essential to daily living, including assessment and evaluation and assistance with the cost of training materials, transportation, fees, and supplies;

(2) Personal care services and homemaker services;

(3) Household maintenance that does not include modifications to the physical structure of the residence;

(4) Respite care services;

(5) Program management.

Program management

(R.C. 5126.14)

The bill specifies that "program management" is included in the provision of adult day habilitation services, residential services, and supported living. The entity responsible for the program management is required by the bill to provide administrative oversight by doing all of the following:

(1) Having available supervisory personnel to monitor and ensure implementation of all interventions in accordance with every individual service plan implemented by the staff who work with the individuals receiving the services;

(2) Providing appropriate training and technical assistance for all staff who work with the individuals receiving services;

(3) Communicating with service and support administration staff for the purpose of coordinating activities to ensure that services are provided to individuals in accordance with individual service plans and intended outcomes;

(4) Monitoring for major unusual incidents and cases of abuse, neglect, or exploitation involving the individual under the care of staff who are providing the services; taking immediate actions as necessary to maintain the health, safety, and welfare of the individuals receiving the services; and providing notice of major unusual incidents and suspected cases of abuse, neglect, or exploitation to the investigative agent for the county board of mental retardation and developmental disabilities;

(5) Performing other administrative duties as required by state or federal law or by the county board of mental retardation and developmental disabilities through contracts with providers.

Environmental modifications

(R.C. 5126.01(F) and 5126.08)

The bill requires the Director of Mental Retardation and Developmental Disabilities to adopt rules establishing standards for the provision of environmental modifications, including standards that require adherence to all applicable state and local building codes. The bill describes environmental modifications as the physical adaptations to an individual's home, specified in the individual's service plan, that are necessary to ensure the individual's health, safety, and welfare or that enable the individual to function with greater independence in the home, and without which the individual would require institutionalization.

Included are such adaptations as installation of ramps and grab-bars, widening of doorways, modification of bathroom facilities, and installation of specialized electric and plumbing systems necessary to accommodate the individual's medical equipment and supplies. Excluded are physical adaptations or improvements to the home that are of general utility or not of direct medical or remedial benefit to the individual, including such adaptations or improvements as carpeting, roof repair, and central air conditioning.

Equipment, supplies, and supports

(R.C. 5126.01(O) and 5126.08)

The bill requires the Director of MR/DD to adopt rules establishing standards for the provision of specialized medical, adaptive, and assistive equipment, supplies, and supports that enable an individual to increase the ability to perform activities of daily living or to perceive, control, or communicate within the environment. All of the following are included:

(1) Eating utensils, adaptive feeding dishes, plate guards, mylatex straps, hand splints, reaches, feeder seats, adjustable pointer sticks, interpreter services, telecommunication devices for the deaf, computerized communications boards, other communication devices, support animals, veterinary care for support animals, adaptive beds, supine boards, prone boards, wedges, sand bags, sidelayers, bolsters, adaptive electrical switches, hand-held shower heads, air conditioners, humidifiers, emergency response systems, folding shopping carts, vehicle lifts, vehicle hand controls, other adaptations of vehicles for accessibility, and repair of the equipment received.

(2) Nondisposable items not covered by Medicaid that are intended to assist an individual in activities of daily living or instrumental activities of daily living.

Family support services program

(R.C. 5126.11)

Current law permits an MR/DD board establish a family support services program. Under such a program, payments are made to an individual or the individual's family to assist with the cost of services that promote self-sufficiency and normalization, prevent or reduce inappropriate institutional care, and further the unity of the family. Payment may be made for respite care, counseling, training, and education of the family, special diets, purchase or lease of special equipment, home modifications, and other appropriate services.

The bill expands on the purposes of the program and the items for which payment may be made. The bill specifies that the program is for individuals with mental retardation and developmental disabilities who desire to remain and be supported in the family home. The family's unity can be furthered by the program by enabling it to live as much like other families as possible. The bill specifies that one of the purposes of payment for counseling, training, and education is to assist in all aspects of the individual's daily living. Payments may be made under the bill for providing support necessary for the individual's continued skill development, including such services as development of interventions to cope with unique problems that may occur within the complexity of the family, enrollment of the individual in special summer programs, provision of appropriate leisure activities, and other social skills development activities.

Service and support administration (case management)

(R.C. 5126.15 and 5126.22; Section ____)

Current law requires an MR/DD board to provide case management services to individuals who are eligible for the board's other services. Case management is described as a mechanism to improve the quality and appropriateness of the services being rendered.

The bill renames case management as "service and support administration," and renames the title of the persons who provide it as "service and support administrators." The Department of MR/DD must change its rules to reflect the bill's terms. All employment contracts and other documents must likewise be altered.

The bill provides that the standards for certification of service and support administrators cannot require that a person have higher than an associate's degree. The standards must permit certification of a person without an associate's degree if the individual has adequate experience.

A service and support administrator cannot be assigned responsibilities for implementing services for individuals. Individuals employed or under contract as service and support administrators cannot be in the same collective bargaining unit as employees who perform duties that are not administrative.

The individuals employed by or under contract with a board to provide service and support administration must do all of the following:

(1) Establish an individual's eligibility for the board's services;

(2) Assess individual needs for services;

(3) Develop individual service plans with the active participation of the individual to be served, other persons selected by the individual, and, when applicable, the provider selected by the individual, and recommend the plans for approval by the Department of MR/DD when services included in the plans are funded through Medicaid;

(4) Establish budgets for services based on the individual's assessed needs and preferred ways of meeting those needs;

(5) Assist individuals in making selections from among the providers they have chosen;

(6) Ensure that services are effectively coordinated and provided by appropriate providers;

(7) Establish and implement an ongoing system of monitoring the implementation of individual service plans to achieve consistent implementation and the desired outcomes for the individual;

(8) Perform quality assurance reviews as a distinct function of service and support administration;

(9) Incorporate the results of quality assurance reviews and identified trends and patterns of unusual incidents and major unusual incidents into amendments of an individual's service plan for the purpose of improving and enhancing the quality and appropriateness of services rendered to the individual;

(10) Ensure that each individual receiving services has a designated person who is responsible on a continuing basis for providing the individual with representation, advocacy, advice, and assistance related to the day-to-day coordination of services in accordance with the individual's service plan. The service and support administrator must give the individual receiving services an opportunity to designate the person to provide daily representation. If the individual declines to make a designation, the administrator will make the designation. In either case, the individual receiving services may change at any time the person designated to provide daily representation.

Medicaid-funded mental retardation and developmental disability services

(R.C. 127.16, 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, 5123.082, 5126.01, 5126.042, 5126.046, 5126.051, 5126.054 (repealed), 5126.054 (new), 5126.055, 5126.056, 5126.057, 5126.18, 5705.091, 5705.41, and 5705.44; Sections ___; ___, and ___ ; 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 but provides that the Medicaid program is to cover habilitation center services as permitted by the availability of funds.

Home and community-based services waiver request

(R.C. 5111.87. 5111.871, 5111.872, and 5111.873; Section ___)

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 and 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 (ICF/MR). Before the Director applies for a waiver, the Director must seek, accept, and consider public comments.

Continuing law provides for ODJFS to enter into an interagency agreement with ODMR/DD for ODMR/DD to administer these kinds of home and 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 and 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 and are given priority on the waiting list, (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 necessary to enable county MR/DD boards to provide those services to individuals with priority for the services.

The Director is required to adopt rules establishing statewide fee schedules for these home and community-based services administered by ODMR/DD pursuant to an interagency agreement with ODJFS. 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 provide to ODJFS;

(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) assure 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.

For the purpose of collecting data necessary for constructing the assessment instrument that ODMR/DD must provide to ODJFS, ODMR/DD is required to contract with a private entity to administer an individual assessment instrument to a representative sample of individuals receiving or eligible to receive these home and community-based services. The assessment instrument must be identical or similar in design to the New York Developmental Disabilities Profile.

Individual Options

(Section _____)

Individual Options is an existing Medicaid component under which home and community-based services are provided to individuals with mental retardation or other developmental disability as an alternative to placement in an ICF/MR. The bill authorizes the Director of ODJFS to apply to the United States Secretary of Health and Human Services for approval to increase the number of slots for Individual Options. The Director may seek to increase the number of slots by 1,000 for the biennium: 500 in fiscal year 2002 and 500 in fiscal year 2003.

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 and 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. 127.16, 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 and 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.

ODMR/DD is permitted to withhold all or part of any funds it would otherwise allocate to a county MR/DD board if the county MR/DD board fails to timely submit all the components of the plan or ODMR/DD disapproves the plan. ODMR/DD may not withhold any funds it allocates prior to the date the last of the plan's components are due or ODMR/DD disapproves the plan.

Contracts with Medicaid providers

(R.C. 5126.057)

The bill requires that each contract between a county MR/DD board and a provider of ODMR/DD-administered home and community-based services, habilitation center services, or case management services comply with rules that ODMR/DD is to adopt and include a general operating agreement component and an individual service needs addendum. The general operating agreement component must include specific provisions, including the roles and responsibilities of the county MR/DD board regarding services for individuals with mental retardation or other developmental disability who reside in the county and the roles and responsibilities of the provider. The individual service needs addendum also must include specific provisions, including the name of the individual who is to receive the services from the provider and any information about the recipient that the provider needs to be able to provide the services.

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 and 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 and 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 unless ODMR/DD is required to pay the nonfederal share. 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;

(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) The school district has a Medicaid provider agreement to provide habilitation center services;

(4) They are provided by a habilitation center with a Medicaid provider agreement.

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 and community-based services it administers when they are provided to an individual with mental retardation or other developmental disability who (1) a county MR/DD board has determined is not eligible for county board services or (2) is given priority for the services due to the individual's status as a resident of an ICF/MR or nursing facility.

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 an annual 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 and 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.

Rules 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, the Office of Budget and Management, and county MR/DD boards, must adopt rules establishing a method of paying for extraordinary costs, including extraordinary costs for services to individuals with mental retardation or other developmental disability, 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. The rules may provide for using and managing one or more of the following:

(1) County MR/DD Medicaid reserve funds;

(2) A state MR/DD risk fund;

(3) A state insurance against MR/DD risk fund.

ODJFS is prohibited, beginning January 1, 2002, from requesting approval from the United States Secretary of Health and Human Services to increase the number of slots for home and community-based services until these rules are in effect.

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 and community-based services that ODMR/DD administers, habilitation center services, and case management services.

Certification of Medicaid-funded home and community-based services

(R.C. 5123.045)

ODMR/DD is required by the bill to certify providers of Medicaid-funded, ODMR/DD-administered home and 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 and community-based services. They are required to consider the recommendations a county MR/DD board makes. If either department approves, 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 and 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 and 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 and 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 determines that the individual is not eligible for county board services, ODMR/DD is required to ensure that the individual receives the comparable services.

Study on Health Insurance Portability and Accountability Act

(Section _____)

The bill requires that ODMR/DD arrange for a study of the implications of the Health Insurance Portability and Accountability Act of 1996 on payment

systems for Medicaid-funded services to individuals with mental retardation or other developmental disability, including Multi-Agency Community Services Information System and similar payment systems. The study must be completed no later than January 1, 2003. It must include consideration of the feasibility of a payment system under which a county MR/DD board pays claims directly to providers under contract with the county MR/DD board.

Committee On Medicaid Redesign and Expansion of MR/DD Services

(Section _____)

The bill creates the Executive Branch Committee on Medicaid Redesign and Expansion of MR/DD Services. The committee is to (1) review the effect that the provisions of the bill regarding Medicaid funding for services to individuals with mental retardation or other developmental disability have on the funding and provision of services to such individuals, (2) identify issues related to, and barriers to, the effective implementation of those provisions of the bill with the goal of meeting the needs of individuals with mental retardation or other developmental disability, and (3) establish effective means for resolving the issues and barriers, including advocating changes to state law, rules, or both.

Tax equity payments

(R.C. 5126.18)

Under current law, ODMR/DD is permitted to pay a county MR/DD board a tax equity payment if its hypothetical local revenue per enrollee is less than the hypothetical statewide average revenue per enrollee.[104] The bill requires, rather than permits, ODMR/DD to pay county MR/DD boards tax equity payments.

[104] *A county MR/DD board's hypothetical local revenue per enrollee is the quotient obtained by dividing the county MR/DD board's local revenue factor by its average daily membership of programs and services, excluding individuals served solely through case management or family support services. The local revenue factor concerns funds for services to individuals with mental retardation or other developmental disability raised by county property tax levies. The hypothetical statewide average per enrollee is the quotient obtained by dividing the sum of all county MR/DD board's local revenue factors by the total enrollment of all county MR/DD boards.*

Freedom to choose provider

(R.C. 5126.046)

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)

Under current law, ODMR/DD is required to adopt rules establishing standards and procedures for certification of private and government entities that provide supported living for individuals with mental retardation or other developmental disability. The bill eliminates the requirement that the rules establish standards and procedures for the certification of government providers of supported living.

The rules are to allow a private entity that holds a residential facility license to automatically satisfy a standard for supported living certification that the entity had to meet to obtain the residential facility license. ODMR/DD is required to follow the Administrative Procedure Act when revoking a supported living certificate.

Mediation and arbitration component of service contract

(R.C. 5126.035 and 5126.06)

The bill requires that each contract between a county MR/DD board and a provider of services to individuals with mental retardation or other developmental disability include specific provisions for mediation and arbitration of conflicts. If the county MR/DD board and provider are unable to mutually select an individual to conduct the mediation and arbitration, they are to request that the Ohio Supreme

Court Chief Justice provide them with a list of five retired judges who are willing to perform the mediation and arbitration. The county MR/DD board and provider are to select a retired judge from the list by taking turns striking names from the list. The retired judge remaining on the list after the county MR/DD board and provider have each stricken two names from the list is to perform the mediation and arbitration.

Investigative agent

(R.C. 5123.082, 5126.20, 5126.22, 5126.221, 5126.25, 5126.311, 5126.313, and 5126.32)

A county MR/DD board is required by current law to review reports made to the county MR/DD board, a law enforcement agency, ODMR/DD, or a county department of job and family services regarding suspected abuse or neglect of an individual with mental retardation or other developmental disability.[105] Under the bill, a county MR/DD board, after reviewing a report that gives the county MR/DD board reason to believe that the subject of the report may be the victim of abuse or neglect, is required to conduct an investigation if circumstances specified in rules ODMR/DD is to adopt exist. The county MR/DD board must conduct the investigation in accordance with ODMR/DD's rules.

Each county MR/DD board is required by the bill to employ at least one investigative agent or contract with a private or government entity, including another county MR/DD board or a regional council established by two or more county MR/DD boards, for the services of an investigative agent. An investigative agent is to conduct the investigations of suspected abuse or neglect of individuals with mental retardation or other developmental disability. Neither a county MR/DD board nor a private or government entity with which the county MR/DD board contracts for the services of an investigative agent is to assign any duties to the investigative agent other than conducting the investigations.

The bill provides for investigative agents employed by a county MR/DD board to be management employees. ODMR/DD is required to specify in its rules governing certification of county MR/DD board employees that the position of an investigative agent requires certification. The certification rules must require an

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[105] *Current law provides that a county MR/DD board is not to conduct the review if ODMR/DD or the county MR/DD board determines that it would be inappropriate. Instead, another government entity requested by ODMR/DD or the county MR/DD board is to conduct the review. The bill requires that ODMR/DD adopt rules specifying circumstances under which it is inappropriate for a county board to conduct the review and provides for ODMR/DD or a county MR/DD board to request that another government entity conduct the review if the circumstances specified in the rules exist.*

investigative agent to have or obtain no less than an associate degree from an accredited college or university. The rules also must establish continuing education and professional training requirements for renewal of an investigative agent certificate.

ODMR/DD's rules governing certification of employment positions with entities that contract with a county MR/DD board to operate programs or provide services to individuals with mental retardation or other developmental disability must designate the position of investigative agent as a position for which certification is required. The certification and renewal requirements must be the same as the requirements for certification and renewal for investigative agents who are employed by a county MR/DD board.

BILL SUMMARY

AGRICULTURE, ENERGY, ENVIRONMENT, AND NATURAL RESOURCES

- Repeals, as of July 1, 2002, the Civilian Conservation Law, thus eliminating the Division of Civilian Conservation in the Department of Natural Resources, the Civilian Conservation Advisory Council, civilian conservation programs, and all related statutory provisions.

- 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.

- 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.

- Authorizes the Director of Natural Resources to designate volunteers assisting the Department of Natural Resources as state employees for the purpose of civil immunity.

- 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.

- Eliminates overlapping requirements concerning certain information regarding hazardous substances that owners of oil and gas wells currently must submit both to the Chief of the Division of Mineral Resources Management in the Department of Natural Resources and to the Emergency Response Commission by requiring well owners to submit the information only to the Chief, who must adopt rules under which the Chief creates an electronic database containing the information that may be accessed by the Emergency Response Commission and certain other emergency response personnel and planners.

- Increases certain fees and makes changes regarding other fees that must be paid under the Emergency Planning Law.

- Modifies the membership of the Emergency Response Commission.

- 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.

- Authorizes the Department of Natural Resources to allow the relocation of an existing easement or other encumbrance within the boundaries of a

nature preserve when the Director determines that the terms and conditions of the relocation will not destroy the natural or aesthetic conditions of a preserve; provides that such a relocation does not constitute the taking of land for another use; provides that such a relocation does not require a finding of the existence of an imperative and unavoidable public necessity or require the approval of the Governor; and provides that such a relocation does not require a public hearing.

- 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.

- Abolishes the Mine Examining Board, transfers its authority to hear appeals on mine safety issues to the Reclamation Commission, and transfers the remainder of its authority to the Chief of the Division of Mineral Resources Management.

- Alters the membership of the Reclamation Commission solely for the purposes of hearing appeals involving mine safety issues.

- Alters requirements concerning practical experience that must be possessed by an applicant for the position of deputy mine inspector of underground mines.

- 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 Grant 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, not later than ten business days after receipt of an application for a permit to install under

the Air Pollution Control Law or for the approval of sewage treatment and disposal plans under the Water Pollution Control Law, to provide written notice to the applicant either that the application contains all of the necessary information to perform a technical review or that the application is incomplete; provides that if the Director fails to do so, the application is deemed complete as of the 11th business day after receipt of the application; authorizes the Director to request additional information in writing that is necessary in order to take final action on the application; and applies these provisions only to applications for permits and plan approvals that are submitted on and after the bill's effective date.

- Requires the Director of Environmental Protection to either issue or deny a permit to install under the Air Pollution Control Law, or modification of such a permit, or propose to deny such a permit or modification and approve or disapprove sewage treatment and disposal plans under the Water Pollution Control Law within 150 days after receipt of a complete application for the permit, modification, or approval; prohibits the collection of a permit to install fee or an application fee, whichever is applicable, if the Director fails to do so; provides that if an extension of time is agreed to regarding the issuance of permits to install and modifications, the loss of fees by the Director that is required by the bill if the Director fails to comply with the time limits does not apply unless agreed to by the parties; applies existing time limits within which the Director of Environmental Protection must issue permits to install and permits to operate under the Air Pollution Control Law and procedures governing the review and issuance of those permits only to permits to operate, includes permit modifications and renewals in those provisions, and enacts similar procedures governing the review and issuance of permits to install and modifications; and applies all of the bill's provisions governing the review and issuance of permits and approval of plans only to applications that are submitted on and after the bill's effective date.

- 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.

- Transfers the licensing and regulation of auctioneers from the Department of Commerce to the Department of Agriculture.

- 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

Repeal of the Civilian Conservation Law

(R.C. 121.04, 1501.04, 1553.01 through 1553.10, 1553.99, and 3517.092; Section 202)

Current law establishes the Division of Civilian Conservation in the Department of Natural Resources. The Chief of the Division of Civilian Conservation is required to establish residential and nonresidential civilian conservation programs that the Chief considers appropriate; establish, in accordance with certain statutory provisions, eligibility standards for selecting applicants for participation in conservation programs; and adopt rules to carry out the purposes of the Civilian Conservation Law.

Current law requires the Chief to ensure that each program established under the Civilian Conservation Law provides participants with educational advancement opportunities, life skill development opportunities, and work experience related to the conservation, development, and management of natural resources and recreational areas, restoration of historic structures, and assistance in the development of related community programs. The work experience may include planting, pruning, and cutting of trees; forest management, including fire protection; reclaiming strip-mined land; wildlife habitat development; drainage control; prevention of shore and soil erosion; litter removal; trail development; cleaning or repair of drainage ditches or streams; highway and community beautification; construction of lakes, ponds, and waterways to be used as fishing and hunting sites and for other recreational purposes; flood control projects; urban parks and recreational site development; assistance in times and places of natural disasters; insect and pest control; construction and renovation of facilities; restoration of historic structures; and any other similar work experience considered appropriate by the Chief. The programs may be carried out on any publicly owned or, with the prior written approval of the person owning, administering, or controlling the land, on privately owned land.

Under current law, a participant in a conservation program must be a resident of this state who is at least 18 years of age, but who is younger than the maximum age for participation established by the Chief and must satisfy eligibility standards established by the Chief. In considering each application, the Chief must determine whether the applicant would be benefited by participation in a program and whether the applicant has the ability and desire to participate in a

program. Current law requires participants in a conservation program to serve, generally, for a period between six and twenty-four months. The Division must compensate each participant in an amount not less than minimum wage and must provide each participant in residential camps with lodging, food, and necessary work clothing and any other services that the Chief considers appropriate.

Current law requires the Chief to establish rules of conduct for conservation program participants and procedures for disciplining them and establishes limits on certain practices that involve conservation programs, such as soliciting participants for political activity. In addition, current law creates in the Division of Civilian Conservation the Civilian Conservation Advisory Council, which consists of nine members who recommend to the Chief broad policies for the Division and a long-range plan to implement the policies, evaluate the Division's needs to meet its policy objectives, and recommend to the Chief ways of cooperating with other conservation programs administered by private and public agencies.

The bill, as of July 1, 2002, repeals the Civilian Conservation Law, thus eliminating the Division of Civilian Conservation, the Civilian Conservation Advisory Council, civilian conservation programs, and all related statutory provisions.

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.

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.

Immunity for Department of Natural Resources volunteers

(R.C. 1501.23)

The bill provides that the Director of Natural Resources may designate volunteers in a Department of Natural Resources volunteer program as state employees for the purpose of immunity under R.C. 9.86. R.C. 9.86 states that, except for civil actions that arise out of the operation of a motor vehicle and civil actions in which the state is the plaintiff, no state officer or employee may be liable in any civil action that arises under the law of Ohio for damage or injury caused in the performance of the officer's or employee's duties, unless the officer's or employee's actions were manifestly outside the scope of the officer's or employee's employment or official responsibilities, or unless the officer or employee acted with malicious purpose, in bad faith, or in a wanton or reckless manner.

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.

Emergency planning

(R.C. 1509.11, 1509.23, 3750.02, 3750.081, and 3750.13; Section 187)

Submittal of information concerning hazardous substances for emergency planning purposes

Background. Existing federal law establishes requirements governing emergency planning and requires each state to create an emergency response commission.[106] In order to facilitate emergency planning, existing state law, in accordance with federal law, requires certain facilities to submit specified information regarding hazardous substances to the Emergency Response Commission in this state.[107] Included in this information is an emergency and hazardous chemical inventory form concerning amounts of hazardous chemicals that were present at the facility during the preceding calendar year.[108]

Currently, an owner of any well producing or capable of producing oil or gas annually must submit such hazardous chemical inventory information for the preceding year to the Emergency Response Commission and also annually must file with the Chief of the Division of Mineral Resources Management in the Department of Natural Resources a statement of the production of oil, gas, and brine for the preceding calendar year in the form that the Chief prescribes. The

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[106] *Emergency Planning and Community Right-to-Know Act of 1986, 100 Stat. 1728, 42 U.S.C.A. 11001.*

[107] *"Facility" means all buildings, equipment, structures, and other stationary items that are located on a single site or on contiguous or adjacent sites and that are owned or operated by the same person or by any person who controls, is controlled by, or is under common control with such person (R.C. 3750.01(D), not in the bill).*

[108] *R.C. 3750.08, not in the bill.*

information that must be provided to the Emergency Response Commission and the Chief apparently is somewhat duplicative and overlaps.

Elimination of overlapping requirements. The bill seeks to eliminate overlapping requirements concerning the information regarding hazardous substances that owners of oil and gas wells currently must submit both to the Chief and to the Emergency Response Commission. Under the bill, the form that the Chief prescribes for an oil or gas well owner's statement of the production of oil, gas, and brine for the preceding calendar year must include, at a minimum, a request for the submittal of the information concerning hazardous substances that a person who is regulated under the Oil and Gas Law must submit under the federal emergency planning law and regulations adopted under it and that the Division of Mineral Resources Management does not obtain through other reporting mechanisms. In addition, the bill changes the annual deadline by which the information must be submitted to the Chief from April 15 to March 1.

Thus, the bill requires the owner of an oil or gas well to provide the required information concerning hazardous substances to the Chief of the Division of Mineral Resources Management and no longer requires the owner also to provide the information directly to the Emergency Response Commission. The bill specifies that notwithstanding any provision in the Emergency Planning Law to the contrary, an owner or operator of a facility that is regulated under the Oil and Gas Law who has filed a log and a production statement with the Chief in accordance with that Law is deemed to have satisfied all the inventory, notification, listing, and other submission and filing requirements established under the Emergency Planning Law, except for certain reporting requirements regarding the release of a hazardous substance.

Database. Although the bill requires an owner of an oil or gas well to submit the information concerning hazardous substances only to the Chief, it provides a mechanism by which the information can be obtained by the Emergency Response Commission. The Chief must adopt rules under which the Chief creates an electronic database containing the information that then may be accessed by the Emergency Response Commission and certain other emergency response personnel and planners.

Specifically, under the bill, the Chief, in consultation with the Emergency Response Commission, must adopt rules in accordance with the Administrative Procedure Act that specify the information to be included in an electronic database that the Chief must create and host. The information must be that which the Chief considers to be appropriate for the purpose of responding to emergency situations that pose a threat to public health or safety or the environment. At the minimum, the information must include the information regarding hazardous substances that

a person who is regulated under the Oil and Gas Law is required to submit under the federal emergency planning law and regulations adopted under it.

In addition, the rules must specify whether and to what extent the database and the information that it contains will be made accessible to the public. The rules must ensure that the database will be made available via the Internet or a system of computer disks to the Emergency Response Commission and to every local emergency planning committee and fire department in Ohio.

The bill requires the Emergency Response Commission and every local emergency planning committee and fire department to establish a means by which to access, view, and retrieve information, through the use of the Internet or a computer disk, from the electronic database. With respect to facilities regulated under the Oil and Gas Law, the database is to be the means by which the Chief provides and the Emergency Response Commission receives the information regarding hazardous substances that a person who is regulated under the Oil and Gas Law is required to submit to the Chief.

Fees

The bill increases certain fees in the Emergency Planning Law. Under current law, the owner or operator of a facility who is required annually to file an emergency and hazardous chemical inventory form with the Emergency Response Commission must submit a filing fee of $100. The bill increases the fee to $150. Under current law, the owner or operator must submit, with certain exceptions, an additional fee of $10 per hazardous chemical enumerated on the inventory form in excess of five. The bill increases this to an additional fee of $20 per hazardous chemical enumerated on the inventory form and applies the fee to every hazardous chemical enumerated on the form. Current law requires the payment of an additional fee of $50 per extremely hazardous substance enumerated on the inventory form. The bill increases the fee to $150.

An owner or operator who fails to submit an inventory form by a certain date must submit a late filing fee in addition to the other fees that are due. Under current law, the late filing fee is 15% of the total fees due. The bill changes the amount of the fee to 10% per year of the total fees due. The bill eliminates a current law provision that requires the late filing fee to be compounded every three months until the total fees due are submitted to the Emergency Response Commission.

Under current law, an owner or operator of a facility who submits inventory forms for not more than 35 facilities that meet certain conditions generally concerning oil and gas must submit with the forms a flat fee of $25. The bill changes this requirement and applies it only to an owner or operator of a facility

who is regulated under the Oil and Gas Law. Under the bill, such an owner or operator who submits to the Chief of the Division of Mineral Resources Management information for not more than 25 facilities concerning hazardous substances that is required under the federal emergency planning law and regulations adopted under it must submit to the Emergency Response Commission on or before March 1 a flat fee of $50 if the facilities meet the existing conditions concerning oil and gas.

Under current law, an owner or operator of a facility who submits inventory forms for more than 35 facilities that meet all of those conditions must submit to the Emergency Response Commission a base fee of $25 in addition to a filing fee of $10 for each facility reported in excess of 35, but not exceeding a total fee of $700. The bill changes this requirement and applies it only to an owner or operator of a facility who is regulated under the Oil and Gas Law. Under the bill, such an owner or operator who submits to the Chief information regarding hazardous substances for more than 25 facilities that meet all of the specified conditions must submit to the Emergency Response Commission a base fee of $50 and an additional filing fee of $10 for each facility reported in excess of 25, but not exceeding a total fee of $900. The bill eliminates current law requiring an owner or operator of such facilities to submit the forms for all facilities owned or operated by him in this state to the Emergency Response Commission at the same time together with the applicable fee.

The bill specifies that an owner or operator of a facility that is regulated under the Oil and Gas Law who submits the filing fees that the owner or operator is required to submit under the bill's provisions described above by March 1 of the year following the bill's effective date must be deemed to have satisfied all filing, listing, and notification requirements and all late fees, penalties, and interest and to have satisfied all other monetary obligations that were imposed on the person under the Emergency Planning Law prior to that date.

Membership of Emergency Response Commission

The bill eliminates from the membership of the Emergency Response Commission the chairpersons of the Industrial Commission and the State and Local Government Commission and the Director of Job and Family Services and adds to its membership the Director of Transportation, the Director of Natural Resources, and the Superintendent of the Highway Patrol.

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.

Relocation of an existing easement or other encumbrance within the boundaries of a nature preserve

(R.C. 1517.05, 1517.06, and 1517.07)

Current law requires the Department of Natural Resources to acquire a system of nature preserves for and on behalf of the state. One of the uses and purposes of a preserve identified in statute is the preservation and protection of nature preserves against modification or encroachment resulting from occupation, development, or other use that would destroy their natural or aesthetic conditions. A nature preserve is established when articles of dedication have been filed by or at the direction of the owner of land, or a governmental agency having ownership or control of the land, in the office of the appropriate county recorder. Articles of dedication may contain provisions for the management, custody, and transfer of land, provisions defining the rights of the owner or operating agency and the Department, and other provisions that are necessary or advisable to carry out the uses and purposes for which the land is dedicated. In addition, current law authorizes the Department to make or accept amendments of any articles of dedication upon terms and conditions that will not destroy the natural or aesthetic conditions of a preserve. If the fee simple interest in the area is not held by the state, amendments cannot be made without the written consent of the owner.

The bill modifies the current provisions relating to amendments of articles of dedication. It authorizes the Department to make or accept amendments of any articles of dedication upon terms and conditions that the Director of Natural Resources determines will not destroy the natural or aesthetic conditions of a preserve, including amendments that provide for the relocation of an existing easement or other encumbrance within the boundaries of a preserve. In addition, the bill states that the relocation of an existing easement or encumbrance does not constitute the destruction of the natural or aesthetic conditions of a preserve. It retains the requirement for written consent of the owner if the fee simple interest in the area is not held by the state.

Existing law provides that nature preserves are to be held in trust for the benefit of the people of the state of present and future generations and cannot be taken for any other use except another public use after a finding by the Department of the existence of an imperative and unavoidable public necessity for such other public use and with the approval of the Governor. The bill states that the relocation of an existing easement or other encumbrance within the boundaries of a preserve does not constitute the taking of land for another use. In addition, the relocation does not require a finding of the existence of an imperative and unavoidable public necessity by the Department and does not require the approval of the Governor.

Current law requires the Department to give notice and an opportunity for any person to be heard at a public hearing in the county in which the preserve is located when the Department makes any finding of the existence of an imperative and unavoidable public necessity; grants any estate, interest, or right in a nature preserve; or disposes of a nature preserve or of any estate, interest, or right in it. However, the bill provides that a public hearing is not required for the relocation of an existing easement or encumbrance within the boundaries of a preserve.

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.

Elimination of Mine Examining Board

(R.C. 124.24, 1509.06, 1509.08, 1513.05, 1513.13, 1513.14, 1561.05, 1561.07, 1561.10 to 1561.23, 1561.35, 1561.351, 1561.46, 1561.51, 1561.52, 1561.53, 1561.54, 1561.55, 1563.13, 1565.04, 1565.06, 1565.07, 1565.08, 1565.25, and 6111.044 and Section 179)

Current law creates the Mine Examining Board in the Division of Mineral Resources Management of the Department of Natural Resources. The Board consists of five members appointed by the Governor, four of whom are connected with the mining industry and one of whom is a representative of the public. The bill abolishes the board and transfers its authority to the Chief of the Division of Mineral Resources Management and the Reclamation Commission. To effectuate the transfer, the bill includes standard language for that purpose concerning such things as rules, orders, employees, assets, liabilities, equipment, actions, and proceedings.

Examinations

Under current law, the Board is required to provide for, conduct, and administer examinations of applicants for the positions of deputy mine inspector, superintendent of rescue stations, assistant superintendent of rescue stations, electrical inspectors, gas storage well inspectors, and mine chemists in the Division of Mineral Resources Management. It must then compile a list of the persons eligible for those positions, and the Chief of the Division makes appointments to those positions from the list. In addition, the Board must provide for, conduct, and administer examinations for persons seeking certificates of competency as mine forepersons, forepersons, fire bosses, mine electricians, surface mine blasters, and shot firers and must issue the certificates to applicants who pass the examinations. The examinations must be conducted under rules and conditions prescribed by the Board. The bill transfers the authority to conduct the examinations and to issue certificates to the Chief of the Division of Mineral Resources Management.

In addition, the bill requires the Chief to adopt all necessary rules, in accordance with the Administrative Procedure Act, for conducting examinations and for governing all other matters requisite to the exercise of the Chief's powers and the performance of the Chief's duties under the law governing mines and mining. These rules are to replace rules that have been adopted by the Mine Examining Board for those purposes.

Appeals

Transfer of authority to Reclamation Commission. Under current law, the Board also has authority to hear certain appeals that involve mine safety issues. Such appeals include the appeal of an order by the Chief for the immediate suspension of the drilling or the reopening of an oil or gas well in a coal bearing township, a decision by the Chief concerning the location of an oil or gas well in a coal bearing township, a finding by the Chief with respect to a deputy mine inspector's determination regarding a mining safety issue or a charge of neglect of duty, incompetence, or malfeasance that is filed against a deputy mine inspector, and a rejection by the Chief of an application for a permit to drill or convert a well or for the injection into a well that is or is to be located within a certain distance of a mine. The bill transfers the authority to hear such appeals to the Reclamation Commission.

Membership of Reclamation Commission for purposes of hearing appeals concerning mining safety issues. The Reclamation Commission is created under current law and consists of seven members appointed by the Governor. The bill specifies that for the purposes of hearing appeals that involve mine safety issues, the Commission must consist of two additional members appointed specifically for that function by the Governor. The two additional members must be individuals who, because of previous vocation, employment, or affiliation, can be classified as representatives of employees currently engaged in mining operations. One must be a representative of coal miners, and one must be a representative of aggregates miners. Prior to making the appointment, the Governor must request the highest ranking officer in the major employee organization representing coal miners in Ohio to submit the names and qualifications of three nominees and must request the highest ranking officer in the major employee organization representing aggregates miners in Ohio to do the same. The Governor must appoint one person nominated by each organization to the Commission. The nominees must have not less than five years of practical experience in dealing with mine health and safety issues and at the time of the nomination must be employed in positions that involve the protection of the health and safety of miners. The major employee organization representing coal miners and the major employee organization representing aggregates miners must represent a membership consisting of the largest number of coal miners and aggregates miners, respectively, in this state compared to other employee organizations in the year prior to the year in which the appointments are made.

Under current law, the Commission includes two members, among others, who must own and operate a farm or be retired farmers. Under the bill, when the Commission hears an appeal that involves a coal mining safety issue, one of the farmer members must be replaced by the additional member who is a

representative of coal miners. Similarly, when the Commission hears an appeal that involves an aggregates mining safety issue, one of the farmer members must be replaced by the additional member who is a representative of aggregates miners. Neither of the additional members who are appointed specifically to hear appeals that involve mine safety issues can be considered to be members of the Commission for any other purpose, and they cannot participate in any other matters that come before the Commission.

Qualifications of deputy mine inspectors

(R.C. 1561.12(A))

Under current law, an applicant for the position of deputy mine inspector of underground mines must have had actual practical experience of not less than six years, at least two of which must have been in the underground workings of coal mines in this state. The bill instead requires that those two years must have been in the underground workings of mines in this state. It then states that in the case of an applicant who would inspect underground coal mines, the two years must consist of actual practical experience in underground coal mines. In the case of an applicant who would inspect noncoal mines, the two years must consist of actual practical experience in noncoal mines.

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.[109]

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.[110] 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 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.

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[109] *The bill replaces the Scrap Tire Loans and Grants Fund with the Scrap Tire Recycling Fund (see below).*

[110] *The funding authorization for the Polymer Institute expired after fiscal year 1999.*

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 Grant 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 grants may be awarded to individuals and businesses as well as to state agencies, municipal corporations with a population of more than 50,000, counties, solid waste management districts, and other political subdivisions that are certified for grants from the continuing Recycling and Litter Prevention Fund.

Projects and activities that are eligible for grants from the Scrap Tire Grant Fund must be evaluated for funding using, at a minimum, the following criteria: (1) the degree to which a proposed project contributes to the increased use of scrap tires generated in Ohio, (2) the degree of local financial support for a proposed project, and (3) the technical merit and quality of a proposed project.

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 specified permit applications and plan approvals

(R.C. 3745.10; Section ____)

The bill requires the Director of Environmental Protection, not later than ten business days after receipt of an application for a permit to install or a modification of such a permit under the Air Pollution Control Law or for the approval of sewage treatment and disposal plans under the Water Pollution Control Law, to send to the applicant written acknowledgement of receipt of the application. The written acknowledgement must contain a completeness determination indicating either that the application contains all of the necessary information to perform a technical review 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 application is deemed to be complete in all material respects as of the 11th business day after receipt of the application by the Director or the Director's agent or authorized representative. If, during the processing of the application, the Director determines, either before or after it has been determined or deemed to be complete under the bill's provisions, that additional information is necessary in order to evaluate or take final action on the application, the Director may request the information in writing. The bill applies these provisions only to applications for permits, including modifications and renewals, and for plan approvals that are submitted to the Director on and after the bill's effective date.

Time period for issuance of specified permits and approvals

(R.C. 3704.034 and 3745.15; Section _____)

The Air Pollution Control 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 and plan

approvals. The bill revises two of those time periods by requiring the Director to issue or deny a permit to install or a modification of such a permit under the Air Pollution Control Law, or propose to deny such a permit or modification, and approve or disapprove sewage treatment and disposal plans within 150 days after receipt of a complete application. The Director must send written notification to the applicant of the issuance or denial or the approval or disapproval, whichever is applicable. If the Director fails to issue or deny or propose to deny the permit or modification or approve or disapprove the plans, whichever is applicable, by the end of the 150-day period, the Director and the Director's authorized representative cannot collect the applicable permit to install fee or the applicable plan approval fee established under existing law, whichever is applicable. In addition, the applicant may bring a mandamus action to obtain a judgment that orders the Director to take final action on an application for a permit to install or a modification of such a permit under the Air Pollution Control Law. For purposes of the time periods for issuance of the permits and plan approvals under the bill, a complete application is an application that has been determined or deemed to be complete under the bill (see "***Written acknowledgement by the Director of Environmental Protection of receipt of specified permit applications and plan approvals***," above).

The bill includes in its provisions certain procedures governing the review and issuance of air pollution control permits that are in existing law. The bill applies its procedures to the review and issuance of permits to install and applies the existing procedures only to permits to operate (see below).

Under the bill, the Director, upon the Director's own motion or upon the written request of the applicant, may extend the time for issuing or denying or proposing to deny a permit to install or modification of such a permit for an additional 60 days if a public informational meeting or public hearing was held on the application. In addition, upon the written request of the applicant, the Director, in writing, may extend the time for issuing or denying or proposing to deny a permit to install or modification of such a permit for the additional time specified in the applicant's request for the extension. If the time for issuance, denial, or proposed denial of a permit to install or modification of such a permit is extended by either method, the bill's preclusion against the collection of the applicable permit to install fee does not apply unless the preclusion is included in a written agreement providing for the extension of time.

Additionally, upon the written request of the person who is responsible for a facility, the Director may consolidate or group applications for the issuance of permits to install, or modifications or renewals of those permits, for individual air contaminant sources located at the facility in order to reduce the unnecessary paperwork and administrative burden to the applicant and the Director in

connection with the issuance of those permits, modifications, and renewals. The bill prohibits the reduction of applicable fees that are payable to the Director under existing law by reason of any consolidation or grouping of applications for permits, modifications, or renewals.

Current law requires the Director to make a completeness determination of all applications for the issuance of permits to install and permits to operate under the Air Pollution Control Law within 60 days of their receipt. Because of the provisions discussed above, the bill applies the 60-day completeness determination requirement only to applications for the issuance of an initial permit to operate or for the modification or renewal of such a permit. In addition, current law requires the Director to issue or deny or propose to issue or deny a permit to install, a modification of such a permit, or an initial permit to operate within 180 days after the date on which the application for the permit or modification was determined to be complete. Because of the provisions discussed above, the bill applies the 180-day requirement for the issuance or denial or proposal to issue or deny only to an initial permit to operate or a modification or renewal of such a permit. Finally, it applies existing procedures governing time extensions and consolidation of applications, which are similar to those discussed above, only to permits to operate and modifications and renewals of those permits.

The bill provides that all of the above new provisions and changes in existing law apply only to applications for permits, including modifications and renewals, and for plan approvals that are submitted to the Director on and after the bill's effective date.

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.[111] 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 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

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[111] *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.*

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.

Transfer of the licensing and regulation of auctioneers from the Department of Commerce to the Department of Agriculture

(R.C. 1345.21, 4707.01, 4707.011, 4707.02, 4707.03, 4707.04, 4707.05, 4707.06, 4707.07, 4707.071, 4707.072, 4707.08, 4707.09, 4707.10, 4707.11, 4707.111, 4707.12, 4707.13, 4707.15, 4707.152, 4707.16, 4707.19, 4707.20, 4707.21, 4707.23, and 4707.99)

Existing law provides for the licensing and regulation of auctioneers by the Division of Real Estate and Professional Licensing and the Superintendent of Real Estate and Professional Licensing in the Department of Commerce. Existing law also provides for the establishment of a State Auctioneers Commission in the Department Commerce to act in an advisory capacity to the Department of Commerce for the purpose of carrying out the Auctioneers Licensing Law (Chapter 4707. of the Revised Code).

The bill transfers the functions of licensing and regulating auctioneers, and transfers the State Auctioneers Commission, to the Department of Agriculture. The bill does not make any other substantive changes in the Auctioneers Licensing Law. The functions transferred to the Department of Agriculture include, but are not limited to, the following responsibilities:

(1) Granting, revoking, and suspending the licenses of auctioneers, apprentice auctioneers, and special auctioneers;

(2) Issuing a reprimand to a licensee in lieu of license suspension or revocation;

(3) Conducting written and oral license examinations;

(4) Collecting fees and charges pursuant to the Auctioneers Licensing Law;

(5) Maintaining a record of the names of all licensed auctioneers, apprentice auctioneers, and special auctioneers, including a list of all persons whose licenses have been suspended or revoked, or any other relevant information deemed necessary by the department;

(6) Investigating, upon a written complaint, the actions of any auctioneer, apprentice auctioneer, or special auctioneer, or any applicant for a license under the Auctioneers Licensing Law;

(7) Making reasonable administrative rules necessary for the implementation of the Auctioneers Licensing Law.

The bill also makes various technical changes that do not appear to have any substantive effect.

Temporary law provisions for the transfer of functions relating to the Auctioneers Licensing Law to the Department of Agriculture

(Section 205)

The bill provides that the transfer of functions takes effect on October 1, 2001, or the earliest date thereafter that is permitted by law. On the effective date, the Department of Agriculture assumes all licensing functions under the Auctioneers Licensing Law. Any business commenced but not completed by the Department of Commerce on that date must be completed by the Department of Agriculture. The transfer does not impair any validation, cure, right, privilege, remedy, obligation, or liability. All of the Department of Commerce's rules, orders, and determinations continue in effect as rules, orders, and determinations of the Department of Agriculture, until modified or rescinded. The Department of Agriculture is substituted for the Department of Commerce as a party in any court actions pending on the date of transfer.

No employees are to be transferred from the Department of Commerce to the Department of Agriculture. The Department of Agriculture may create up to three full-time positions to administer the Auctioneers Licensing Law.

The bill also provides procedures for the transfer to the Department of Agriculture of unexpended balances in Department of Commerce appropriation accounts that pertain to auctioneers.

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 Service's authority to provide financial assistance for the cost of operating and maintaining county schools, forestry camps, or other facilities for delinquent or unruly children.

- Transfers most of the Office of Criminal Justice Service'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 the Office of Criminal Justice Services to maintain responsibility for closing out all the federal grants it receives prior to July 1, 2001, and to make any required reports related to those grants, and allows the Office of Criminal Justice Services to expend and take other appropriate actions related to those grants.

- 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.

- Allows the Governor to appoint any advisory committees to assist the Department of Youth Services that the Governor considers appropriate or that are required under any state or federal law.

- Authorizes the Department of Youth Services to provide funds to metropolitan county criminal justice service agencies for certain specified purposes.

- Revises the definition of "comprehensive plan" as used in the Office of Criminal Justice Services Laws.

- Creates the Federal Juvenile Justice Programs Funds.

- Requires the responsible officials to submit plans and receive approval from the Department of Rehabilitation and Correction before adopting plans for new jails, workhouses, or lockups, or plans for substantial additions or alterations to existing jails, workhouses, or lockups.

- Assigns the Division of Parole and Community Service, or other division designated by the Director of DRC, with responsibility for reviewing plans submitted to DRC for approval.

- Requires the approval of the Legal Rights Service Commission, by an affirmative vote of at least four members, before the Legal Rights Service's Administrator may pursue certain legal, administrative, or other remedies or approaches, and before the Legal Rights Service may use specified subpoena power.

- Authorizes an ethics commission, at the commission's discretion, to share information gathered in the course of any investigation with, or disclose the information to, any appropriate prosecuting authority, any law enforcement agency, or any other appropriate ethics commission.

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 county schools, forestry camps, or other facilities for delinquent or unruly children

(R.C. 2151.652 and 5139.28 (repealed) and R.C. 5139.29 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 county schools, forestry camps, or other facilities for delinquent or unruly children.

Existing law

Existing law authorizes the board of county commissioners of a county or the board of trustees of a district maintaining a school, forestry camp, or other facility, used exclusively for the rehabilitation of adjudicated delinquent or unruly children between the ages of 12 to 18 years, other than psychotic or mentally retarded children, to apply to DYS for financial assistance in defraying the cost of operating and maintaining the school, forestry camp, or other facility (R.C. 2151.652).

DYS must adopt rules prescribing the standards of operation, programs of education, and training and qualifications of personnel of such a school, forestry camp, or other facility. If the appropriate board applies for DYS assistance and if DYS finds that the application is in proper form and the standards have been met, DYS may grant financial assistance for the operation and maintenance of the school, forestry camp, or other facility in an amount not to exceed 50% of the cost of operating and maintaining the school, forestry camp, or other facility. DYS is prohibited from granting the financial assistance unless it is used solely for the purpose of rehabilitating children of the type described in the preceding paragraph. DYS also must adopt regulations prescribing the method of calculating the amount of and the time and manner for the payment of this financial assistance. (R.C. 5139.28 and 5139.29.)

Existing law also permits DYS to inspect such a school, forestry camp, or other facility that has applied 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) certain duties, and specifies that DYS must coordinate and assist juvenile justice systems by doing the specified things. The duties so transferred are all of the following (R.C. 181.52(B)(1) to (5), (9), and (10) and 5139.11(K)(1)(a) to (e), (h), and (i)):[112]

(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, and 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 system in Ohio and other appropriate organizations and persons to solve problems that relate to the duties of the Office (changed to DYS under the bill);

(5) Administer within the state any federal juvenile justice acts "and programs" (the reference to programs is added by the bill) 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 (changed to 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

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[112] "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)).

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 coordinate and assist juvenile justice systems by doing all of the following, which parallel existing duties of the Office of Criminal Justice Services (R.C. 5139.11(K)(1)(f), (g), and (j) to (o) and 181.52(B)(7), (8), and (11) to (16)):

(1) Implement the state comprehensive plans;[113]

(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;

(6) Prepare and recommend legislation to the General Assembly and Governor for the improvement of juvenile justice system in Ohio;

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[113] *"Comprehensive plan" means a document that coordinates, evaluates, and otherwise assists, on an annual or multi-year basis, any of the functions of the juvenile justice systems of Ohio or a specified area of Ohio, that conforms to the priorities of the state with respect to juvenile justice systems, and that conforms with the requirements of all federal criminal justice acts. Those functions include delinquency prevention; identification, detection, apprehension, and detention of persons charged with delinquent acts; assistance to crime victims or witnesses; adjudication or diversion of persons charged with delinquent acts; custodial treatment of delinquent children; and institutional and noninstitutional rehabilitation of delinquent children. (R.C. 5139.01(A)(33).)*

(7) Assist, advise, and make any reports that are required by the Governor, Attorney General, or General Assembly;

(8) Adopt rules pursuant to the Administrative Procedure Act.

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)).

Appointment of advisory committees

The bill allows the Governor to appoint any advisory committees to assist the Department that the Governor considers appropriate or that are required under any state or federal law (R.C. 5139.11(K)(4)).

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.

Closing out of federal grants

In the uncodified law relative to the transfer of the administration of federal juvenile justice funding from the Office of Criminal Justice Services to the Department of Youth Services, specifies that the Office of Criminal Justice Services maintains all responsibility for closing out all the federal grants it

receives prior to July 1, 2001, may expend and take other appropriate actions related to those grants, and must make any required reports related to those grants (Section 116).

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)(31).)

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)(30).)

Funding

Existing law. Under existing law, when funds are available for this purpose, the Office of Criminal Justice Services must provide funds to metropolitan county criminal justice services agencies for the purpose of developing, coordinating, evaluating, and implementing comprehensive plans within their respective counties. The Office of Criminal Justice Services must provide funds to an agency only if it complies with the conditions of R.C. 181.55(B). (R.C. 181.55(A).)

Operation of the bill. The bill limits the above provision to when funds are available for specified criminal justice purposes. It also provides that when funds are available for juvenile justice purposes pursuant to R.C. 181.54, the Department of Youth Services must provide funds to metropolitan county criminal justice service agencies for the purpose of developing, coordinating, evaluating, and implementing comprehensive plans within their respective counties. The Department must provide funds to an agency only if it complies with the conditions of R.C. 181.55(B). Among these conditions is a requirement that a municipal county criminal justice services agency submit, in a form that is acceptable to the Office of Criminal Justice Services or the Department of Youth Services pursuant to R.C. 5139.01, a comprehensive plan for the county. (R.C. 181.55(A)(1) and (2) and (B)(1).)

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 generally uses the existing definition of "comprehensive plan" for the Department of Youth Services but removes references to crime, criminal offenses, and criminal offenders. (R.C. 5139.01(A)(33).)

The Federal Juvenile Justice Programs Funds

(R.C. 5139.87)

The bill creates the Federal Juvenile Justice Programs Funds in the state treasury to be used for federal juvenile programs. A separate fund is to be established each federal fiscal year. All federal grants and other moneys received for federal juvenile programs must be deposited into the funds. All receipts deposited into the funds are to be used for federal juvenile programs. All investment earnings on the cash balance in a federal juvenile program fund must be credited to that fund for the appropriate federal fiscal year.

DRC approval required for jail, workhouse, and lockup plans

(R.C. 5120.10)

The bill requires that no plan may be adopted for any new jail, workhouse, or lockup, or for any substantial addition or alteration to an existing jail, workhouse, or lockup, unless the officials responsible for adopting the plan have submitted it to the Department of Rehabilitation and Correction for approval and the Department has approved the plan. Under the bill, the Division of Parole and Community Services in DRC, or other division assigned by the Director, is responsible for reviewing the plans submitted to DRC for approval.

Restriction on Administrator of the Legal Rights Service taking legal action

(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 requires approval of the Commission, by an affirmative vote of at least four members, before the Administrator may pursue those legal, administrative, or other remedies or approaches and before the Legal Rights Service may use that subpoena power.

Sharing of information by ethics commissions

(R.C. 102.06(B))

The bill creates an exception to the confidentiality of information gathered in the course of an investigation of an ethics complaint or charges. Under the bill, an appropriate ethics commission (Joint Legislative Ethics Committee, Board of Commissioners on Grievances and Discipline of the Supreme Court, or Ohio Ethics Commission), at its discretion, may share information gathered in the course of any investigation with, or disclose the information to, any appropriate prosecuting authority, any law enforcement agency, or any other appropriate ethics commission.

BILL SUMMARY

TAXATION

- Transfers from the Treasurer of State to the Tax Commissioner receipt and processing of sales, use, corporate franchise, and various excise tax returns and payments.
- 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.

- Requires any fees assessed for or on behalf of the Ohio Sires Stakes Races to be deposited into the Ohio Standardbred Development Fund, and requires any investment earnings on the cash balance in the Fund to be credited to it.

- Establishes a new horse racing permit holder retention of wagering pool moneys requirement relative to wagering pools other than win, place, and show.

- Requires 1/2 of the amount retained (1/4 of 1%) to be paid to the Tax Commissioner as a tax and to be deposited into the State Racing Commission Operating Fund.

- Repeals existing law's permissive retention of wagering pool moneys provisions relative to pools that require three or more runner selections.

- Extends the extra 2¢ earmark of wine tax revenue credited to the Ohio Grape Industries Fund until July 1, 2003.

- Replaces the seat tax on motor vehicles used for transporting persons with a flat tax of $30.

- Creates the positions of tax auditor agent and tax auditor agent manager, and establishes education and experience qualifications for the positions.

- Creates the Municipal Internet Site Fund in the state treasury, and requires the Tax Commissioner to credit to the fund any fees charged municipal corporations to defray costs of the Commissioner's new municipal income tax internet site.

- Authorizes a county special tax levy for the combined purposes of a 9-1-1 system and a countywide public safety communications system.

- Exempts from taxation certain tangible personal property held by the federally chartered Corporation for the Promotion of Rifle Practice and Firearms Safety.

- Permits businesses to pay outstanding tangible personal property taxes in installments instead of in a lump sum.

- Makes the option of selling tax certificates through negotiation rather than public auction available to the county treasurer of any county with a population over 200,000 persons.

- Delays for two years the tax credit for job training expenses.

- Makes various changes in the manner in which school districts and other local taxing districts are compensated for the reduction in property tax collections from electric companies and natural gas companies resulting from the reductions in the property tax assessment rate.

- 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).

- Clarifies that all estates exempted from the estate tax need not file an estate tax return.

- 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 tax year 2004, but allows corporations with taxable years that end prior to July 1, 2001, to claim the credit for tax year 2002.

- 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.

- Requires that the Legislative Service Commission study the fiscal impact on state revenues of extending the Ohio coal tax credit for two additional years.

- Suspends political campaign contributions tax credit for 2001 and 2002.

CONTENT AND OPERATION

TAXATION

Transfer of receipt and processing of sales, corporate franchise, and some excise tax returns and payments from Treasurer of State to Tax Commissioner

(R.C. 3734.904, 4301.422, 4303.33, 4303.331, 5727.25, 5727.26, 5727.81, 5727.811, 5727.82, 5728.08, 5733.02, 5733.021, 5733.12, 5733.18, 5735.06, 5735.061, 5739.032, 5739.07, 5739.102, 5739.12, 5739.121, 5739.13, 5739.18, 5741.10, 5741.12, 5743.62, 5743.63, 5745.03, 5745.04, and 5749.06; Section ___)

Under existing law, the receipt and processing of sales, use, corporate franchise, and various excise taxes are handled by the Treasurer of State. The bill transfers these functions to the Tax Commissioner. The excise taxes affected are on tires, alcoholic beverages, natural gas and combined electric and gas companies, electric and natural gas distribution companies (except where payment directly to the Treasurer of State by electronic funds transfer is required), highway use, motor fuel, tobacco, municipal electric light companies, and severed minerals. The bill establishes the following future effective dates for the transfers: for sales and use taxes, January 1, 2002; for the corporate franchise tax, July 1, 2002, and for the excise taxes, January 1, 2003.

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.

Ohio Standardbred Development Fund

(R.C. 3769.085)

Existing law requires specified percentages of moneys wagered on harness or quarter horse racing that are retained by a permit holder to be paid to the Tax Commissioner, as a tax, and a certain percentage of those payments to be deposited into the Ohio Standardbred Development Fund (5/8ths of 1% of the moneys wagered on a racing day, from the moneys paid by harness racing permit holders to the Tax Commissioner). Certain other moneys also must be paid into the Fund. (R.C. 3769.08(C), (D), and (M).) Moneys in the Fund must be distributed on order of the State Racing Commission with the approval of the Ohio Standardbred Development Commission. The moneys are required to be allocated for specified colt and filly races, and up to 5% of the Fund may be allocated yearly by the State Racing Commission to research projects directed toward improving the breeding, raising, racing, and health and soundness of horses in Ohio and toward education or promotion of the industry.

In addition to the specified moneys required to be deposited into the Fund under existing law, the bill requires any fees assessed for or on behalf of the Ohio Sires Stakes Races to be deposited into the Fund, as well as all investment earnings on the cash balance in the Fund.

Horse racing wagering pools other than win, place, and show

(R.C. 3769.087(B))

Current law (1) *authorizes* each horse racing permit holder to retain an additional amount equal to not less than 2%, but not more than 3%, of the total of all moneys wagered on each racing day on wagering pools that require three or more runner selections to complete the wager and (2) requires the payment to the Tax Commissioner, as a tax, of an amount equal to 2% of that total and the deposit

of that amount by the Tax Commissioner into the PASSPORT Fund, with the permit holder being allowed to retain the amount not so paid to the Tax Commissioner.

The amendment eliminates these two provisions and instead *requires* each horse racing permit holder to retain an additional amount equal to 1/2 of 1% of the total of all moneys wagered on each racing day on all wagering pools other than win, place, and show. One-half of the amount retained (that is, 1/4 of 1%) must be paid to the Tax Commissioner by the permit holder, as a tax, for deposit into the State Racing Commission Operating Fund. The permit holder must retain the remaining 1/2 of the amount retained and use 1/2 of it for purse money.

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.

Replaces the seat tax on motor vehicles used for transporting persons with a flat tax of $30

(R.C. 4921.18 and 4923.11)

The amendment replaces the $4-per-seat tax on motor vehicles used by motor transportation companies and private motor carriers to transport persons with a flat tax of $30.

Tax auditor agents and agent managers

(R.C. 5703.17)

Continuing law grants the tax commissioner the authority to appoint and prescribe the duties of tax agents to investigate persons who are subject to the laws the tax commissioner must administer. The agent has every power of an inquisitorial nature granted by law to the commissioner, and the same powers as a notary public as to the taking of, and related to, depositions.

The bill adds the positions of tax auditor agent and tax auditor agent manager to continuing law. These two positions have the same powers as an

agent, but no person may be appointed as a tax auditor agent or tax auditor agent manager, unless that person meets one of the following requirements:

(1) The person holds from an accredited college or university a baccalaureate or higher degree in accounting, business, business administration, public administration, or management, a doctoral degree in law, a bachelor of laws degree, or a master of laws degree in taxation;

(2) The person possesses a current certified public accountant, certified managerial accountant, or certified internal auditor certificate; a professional tax designation issued by the Institute for Professionals in Taxation or the International Association of Assessing Officers; or a designation as an enrolled agent of the Internal Revenue Service;

(3) The person has accounting, auditing, or taxation experience that is acceptable to the Department of Taxation;

(4) The person has experience as a tax commissioner agent, tax auditor agent, or supervisor of tax agents that is acceptable to the Department.

Creation of the Municipal Internet Site Fund

(R.C. 5703.49)

Current law requires that beginning January 1, 2002, each municipal corporation that imposes an income tax must make information about the tax available on the internet. The information must include the ordinances and rules governing the tax, and blank copies of returns and related documents. Municipal corporations can maintain their own internet sites, or can post their information to a central site the Tax Commissioner is to establish. If a municipal corporation maintains its own site, it must incorporate a link to the Commissioner's site.

The Commissioner is authorized to charge municipal corporations a fee to defray the costs of creating and maintaining the central site. The bill requires the Commissioner to deposit the fees in the Municipal Internet Site Fund, which it creates in the state treasury.

County special tax levy for 9-1-1 and public safety communications systems

(R.C. 5705.19)

Under existing law, as interpreted by the Attorney General, a county may have a special tax levy for the establishment and operation of a 9-1-1 system and it may have a special levy for a countywide public safety communications system,

but it may not have a single levy for both purposes. The bill authorizes a levy for both purposes.

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.

Business personal property taxes--installment payments allowed

(R.C. 5711.33)

Taxes on tangible personal property used in business are payable at one or two times during the year, depending on whether the business has taxable property in one county or more than one county. If the business has property in only one county, one-half of the annual tax is payable by April 30 and the other half is payable by September 20. If the business has property in more than one county, the entire amount is payable by September 20. These tax payments are based on the property value listed by the taxpayer as set forth in a "preliminary assessment." Later, when the state assesses the taxpayer's property, more or less tax might be owed depending on whether the state's assessment is higher or lower than the taxpayer's. If the state's assessment is higher than the taxpayer's, the state issues a "deficiency" assessment, which is a notice of additional tax liability. If the entire tax deficiency is paid within 60 days after the deficiency assessment is issued, no interest or penalty accrues; if the entire deficiency is not paid within 60 days, interest begins to accrue on the outstanding liability and a 10% penalty is charged.

The bill permits taxpayers who receive a deficiency assessment to pay the deficiency in installments over a period of up to five years under a "tax contract" with the county treasurer. Such a contract must be entered into by the taxpayer within 60 days after the deficiency assessment is issued. The contract must set forth the amount due and the due date of each installment; no limitation is placed on the frequency of installments. As long as the taxpayer abides by the tax contract, the 10% penalty that otherwise would be charged for the delinquent payment is forestalled, but interest accrues on the outstanding balance for as long as it remains outstanding. The taxpayer is to receive a receipt for each installment paid. Installments are to be distributed among taxing authorities and their respective funds as are any other property tax collections.

If an installment is not paid when it is due under the terms of the contract, the county treasurer must declare the contract to be void and collect the unpaid balance in the same manner used to collect any other outstanding personal property tax liability. The 10% penalty then is applied to the tax and interest that remains unpaid. Although the unpaid tax and interest is deemed to be delinquent, the bill permits, but does not require, the county treasurer to approve a "delinquent tax contract" under which the taxpayer agrees to pay the unpaid balance (including the tax as well as the penalty and interest) in installments over a period of up to five years (such delinquent tax contracts were authorized in 2000).

Sale of tax certificates

(R.C. 5721.30)

In a county with a population of at least 200,000, the county treasurer has the option to sell real property tax liens through the sale of "tax certificates." The certificates may be sold at public auction or, in counties with a population of at least 1.4 million, by a negotiated sale (i.e., a private sale negotiated between the county treasurer and another party). These certificates represent an interest in the proceeds from any foreclosure sale, plus interest and other amounts tendered by the certificate holder.

The bill eliminates the 1.4 million population threshold for negotiated sales; thus the county treasurer of a county with a population of at least 200,000 may sell tax certificates at public auction or by a negotiated sale.

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). However, if any of the foregoing taxpayers applies for a credit before June 30, 2001, the Director may issue a tax credit certificate (assuming the taxpayer otherwise qualifies for the credit), but the certificate cannot be applied to the taxpayer's liability until 2004. The credit granted under such a certificate is in addition to any credit claimed by the taxpayer for 2004, and does not count toward the taxpayer's maximum allowable annual credit amount for 2004 ($100,000 per business entity); in other words, a taxpayer's maximum allowable credit for 2004 is $200,000 per business entity. But the maximum aggregate annual credit amount for all taxpayers for 2004 ($20 million) will apply to all credits claimed in 2004--both those claimed on the basis of applications filed by June 30, 2001, but deferred until 2004, and those claimed on the basis of applications for 2004.

Because the bill delays the right to claim job training tax credits, it also extends the latest date job training costs may be incurred and still qualify for the credit--from December 31, 2003, to 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.

Property tax replacement payments

(R.C. 5727.84, 5727.85, 5727.86, and 5727.87)

In 1999 and 2000, legislation reduced the tax assessment rate for much of the personal property of electric companies and natural gas companies. The reductions were made on the premise that some aspects of those industries were then, or soon would be, subject to competitive market forces. The reductions in the assessment rate meant that the property tax base, and thus the future revenue streams, of school districts and other taxing districts were significantly diminished. Thus, the legislation lowering the assessment rate also provided for "property tax replacement payments" to be made by the state to compensate these districts for some or all of the diminished revenue for up to 16 years. The source of the payments are two state excise taxes on electricity and natural gas, which are to be paid by the companies distributing those energy sources to destinations in Ohio--the "kilowatt-hour" or "KWH" tax on electricity and the "MCF" tax on natural gas.

A fixed share of each excise tax is dedicated to covering all or most of the replacement payments.

Generally, property tax replacement payments are based on the tax rates in effect in 1998 (for electric company property replacement payments) or in 1999 (for natural gas company property payments). Payments are computed separately for "fixed-rate" levies (i.e., those that are levied at a fixed millage rate that generates more or less revenue depending on changes in property values) and for "fixed-sum" levies (those that generate a fixed amount of revenue regardless of changes in property values, such as debt levies and school district emergency levies).

School district payments

(R.C. 5727.85(I))

Currently, if the shares of the KWH and MCF taxes dedicated for replacement payments are not sufficient to cover all replacement payments computed for school districts when those payments are due, replacement payments made on the basis of fixed-rate levies are to be reduced proportionately across all school districts; fixed-sum levies are covered first, and so generally would not be affected by a shortfall in excise tax revenue.

Under the bill, replacement payments based on both fixed-rate levies and fixed-sum levies would be made in full through fiscal year 2006, and the Director of Budget and Management would be required to transfer amounts from the GRF to the School District Property Tax Replacement Fund in sufficient amounts to cover all of those payments.

Joint vocational school district payments

(R.C. 5727.84(A) and 5727.85)

Currently, joint vocational school districts are entitled to replacement payments as are other school districts, but there is no "offset" to account for the fact that a joint vocational school district's state aid generally increases in response to a decline in its taxable property valuation. Such an offset currently is incorporated into the computation of other school district's replacement payments to reflect the reduction in taxable valuation resulting from the reduction in the assessment rate on electric and natural gas company property.

The bill establishes such an offset against joint vocational school district replacement payments to preclude those districts from receiving both property tax replacement payments and increases in state aid for the reduction in taxable valuation brought about by the reduction in the assessment rates.

Computation of the state aid "offset"

(R.C. 5727.85(A))

As indicated under the preceding heading, school district replacement payments are adjusted to offset the increases in state education aid that ensue from a reduction in property tax assessment rates. The bill specifies that this offset is to be based on a school district's or joint vocational school district's state aid as computed on July 31 of the fiscal year in which the payments are to be made. Thus, subsequent recomputations or adjustments in a district's state aid for the fiscal year will be disregarded for the purpose of computing the payment amount.

Computation, distribution of replacement payments

(R.C. 5727.84(B), (C), (D), (E), and (H) and 5727.86(A))

Currently, the Director of Budget and Management is responsible for distributing replacement payments to school districts and joint vocational school districts. One-half of the fiscal year's distribution is to be made at each of the semiannual real property tax settlement dates (August 10 and February 15) through the county treasury.

The bill transfers the responsibility for distributing replacement payments to the Department of Education. The Department would make the payments directly to school districts and joint vocational school districts between August 21 and 28 each fiscal year and again between February 21 and 28 of the same fiscal year.

Currently, the Director of Budget and Management is responsible for computing replacement payments for all taxing districts. The bill shifts this responsibility onto the Tax Commissioner.

Full reimbursement for unvoted debt millage

(R.C. 5727.84(A)(12), 5727.85(B) and (C)(4), and 5727.86(A)(4))

Under current law, debt levies that do not require voter approval because they are levied within the 10-mill limitation on unvoted taxes may be treated as fixed-rate levies for purposes of computing replacement payments. This is because, unlike voted debt levies, the rate of an unvoted debt levy may remain the same each year so as not to exceed the 10-mill limitation. But by being treated as a fixed-rate levy, an unvoted debt levy also is subject to diminished replacement payments under current provisions that phase out replacement payments for fixed-rate levies. In the case of an unvoted debt levy of a school district or joint vocational school district, under current law the tax loss from the levy might not

be fully reimbursed between 2006 and 2016 if the increase in the school district's state education aid after FY 2002 exceeds the district's inflation-adjusted property tax loss from fixed-rate levies. In the case of an unvoted debt levy of any other taxing district, the levy may not be fully reimbursed between 2006 and 2016 because current law calls for a gradual phase out of replacement payments on account of tax losses from fixed-rate levies.

The bill ensures that the tax loss from any unvoted debt levy is to be reimbursed in entirety through 2016 by excluding them from the phase out provisions. The phase out provisions would continue to apply to tax losses from other fixed-rate levies.

Administrative fee losses

(R.C. 5727.87)

Under current law, certain administrative fees that depend on the amount of property tax collections are, like property taxes, reimbursed, but only through 2011. Examples of such fees include the fees for county auditors and treasurers based on the property tax collections processed through their respective offices. Currently, seventy per cent of the fee losses are to be deducted from school districts' replacement payments before those payments are disbursed from the county treasury and 30% are to be deducted from other taxing districts' replacement payments before they are disbursed from the county treasury.

The bill dispenses with the fixed 70/30 percentage ratio for apportioning the fee loss reimbursement among the districts, replacing it with a requirement that the fee loss be apportioned ratably among all school districts and other taxing districts on the basis of their respective tax levy losses. Also, since the bill requires replacement payments to school districts to be paid directly to school districts rather than going through the county treasury, the reimbursement for administrative fee losses is no longer deducted from the replacement payments; instead, it will be deducted from each taxing district's regular property tax distributions semiannually.

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.

Correction to estate tax exemption amount

(R.C. 5731.21)

The bill corrects a reference to the minimum value of an estate that is subject to the basic Ohio estate tax. Under current law, beginning in 2002 estates having a taxable value of $338,333 or less are exempted from the estate tax. But the statute erroneously requires any estate having a taxable value above $338,000 to file an estate tax return, meaning that estates valued between $338,000 and $338,333 must file a return even though there is no tax liability. Under the bill, only those estates valued above $338,333 will be required to file estate tax returns.

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.

Delay of tax credit for qualified research expenses

(R.C. 5733.351; Sections ___ and ___)

Continuing law allows 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 until tax year 2004, but allows a taxpayer to claim the credit for tax year 2002 if its taxable year ended before July 1, 2001 (assuming the taxpayer incurred its qualified research expenses between January 1 and July 1, 2001).

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. 5739.024(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 must 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 191)

The bill grants a temporary amnesty to some individuals, businesses, and utilities that have outstanding, undiscovered 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, pass-through entity, sales and use (state, county, and transit), public utility excise (gross receipts), and business tangible personal property. 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 the case of delinquent personal property taxes, the Tax Commissioner must issue a preliminary assessment certificate to the proper county auditor (i.e., of the county in which the property should be listed for taxation), and the county auditor must compute the amount of tax and interest due. The county treasurer must collect the tax and interest from the taxpayer in the same manner as other personal property taxes are collected. The existing $10,000 exemption for each taxpayer, for which local taxing districts are reimbursed by the state, will not be reimbursed in the case of tax collections under the amnesty, and the Tax Commissioner is not required to disclose to county auditors any information regarding the exemption for a taxpayer paying personal property taxes under the amnesty.

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 May 1, 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 has been conducted or 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.

Collections arising from the amnesty for state taxes are to be credited to the GRF. Collections arising from county or transit authority sales and use taxes are to be distributed to the county or the transit authority that is owed the taxes, and collections arising from tangible personal property taxes are to be distributed among the taxing districts as are other property tax collections.

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.

Study to extend the Ohio coal tax credit

(Section _____)

Existing law (R.C. 5733.39) allows a corporation franchise tax credit for an electric company that burns Ohio coal in its electric generating units between April 30, 2001, and January 1, 2005. The bill requires that the Legislative Service Commission study the fiscal impact on state revenues of extending the Ohio coal tax credit for an additional two years. Not later than July 1, 2002, the Commission must report its findings to the Speaker and Minority Leader of the House of Representatives and the President and Minority Leader of the Senate.

Suspends political campaign tax credit for 2001 and 2002

(Section 192)

The bill prohibits taxpayers from claiming the credit against the personal income tax for contributions to political campaigns for taxable years 2001 and 2002.

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
Reported, S. Finance & Financial Institutions		

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