Bill Analysis

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Legislative Service Commission

S.B. 189

125th General Assembly
(As Introduced)

Sen. Harris

BILL SUMMARY

- Requires the local cost of administering Ohio estate taxes to be paid by both the state and local governments in proportion to their shares of estate tax revenue--with local governments paying 80% and the state paying 20% of the costs and expenses involved.

- Correspondingly, eliminates the requirements (1) that the costs and expenses involved be paid entirely out of the state's 20% share of estate tax revenue and (2) that the state pay out of the General Revenue Fund the local cost of administering Ohio estate taxes to the extent it exceeds the state's 20% share of estate tax revenue.

- Eliminates Step 7 from the current and future salary or wage Schedules E-1.

- Creates new and separate salary or wage schedules exclusively for Step 7 entitled "Schedule E-1 for Step Seven Only."

- Generally requires exempt employees to be paid under Schedule E-1 or Schedule E-2, but allows certain employees to be paid under Schedule E-1 for Step Seven Only.

- Changes one qualification for the one-time December 2004 2% pay supplement--the employee must "remain continuously" on the active payroll "through" November 14, 2004.

- Makes permanent employees of state boards and commissions eligible for the one-time December 2004 2% pay supplement.

- Requires the one-time December 2004 2% pay supplement for eligible permanent employees paid under Schedule E-1 for Step Seven Only to be

based on the annualization of Step 6 of the employee's corresponding pay range under Schedule E-1.

- Requires all other pay supplements for employees paid under Schedule E-1 for Step Seven Only to be based on the minimum hourly rate of the employee's corresponding pay range under Schedule E-1.

- Removes the requirements that members of the United States Congress from Ohio, candidates for the office of member of the United States Congress from Ohio, and persons who are appointed to fill vacancies in such an office file financial disclosure statements with the Ohio Ethics Commission and accompany their filings with a $40 filing fee.

- Modifies current law to authorize, rather than require, the Department of Administrative Services to periodically perform specified tasks relating to space occupied by state agencies.

- Specifies that the Director of Budget and Management may transfer such amount of investment earnings, instead of such percentage as stated in current law, from the Administrative Building Fund to the State Architect's Fund that the Director determines to be appropriate and requires those investment earnings that are transferred to be earnings in excess of the amounts required to meet estimated federal arbitrage rebate requirements.

- Requires the Director to approve and provide a voucher for rebates and payments made from the Administrative Building Fund to meet federal arbitrage requirements under the Internal Revenue Code.

- With respect to the law governing bonds issued by the Ohio Building Authority, provides that "costs of capital facilities" can include the cost of rebates and payments made to meet federal arbitrage requirements for those bonds under the Internal Revenue Code.

- Changes a requirement that not more than 5% of all the money in the Low- and Moderate-Income Housing Trust Fund be used for administration to instead require that not more than 5% of current year appropriation authority for the fund be used for administration.

- Increase from $100 to $200 the ceiling on the fee that the State Board of Building Appeals may charge for the cost of filing and processing appeals.

- Merges the Sports Facilities Building Fund into the Arts Facilities Building Fund to create the Arts and Sports Facilities Building Fund.

- Codifies an opinion of the Ohio Attorney General by instructing the Ohio Tuition Trust Authority not to incorporate tuition reductions that vary in amount from student to student when calculating "annual undergraduate tuition charged to Ohio residents," even though the reductions are granted only to Ohio residents.

- Specifies that the starting point for measuring travel time to determine if a school district must transport a student to a nonpublic or community school is the public school to which the student would otherwise be assigned.

- Eliminates a requirement that the Director of Job and Family Services adopt rules establishing statewide access and acuity standards for Medicaid-funded partial hospitalization mental health services.

- Requires the Director of Mental Health to revise a rule regarding the certification standards for the partial-hospitalization community mental health service and requires the Director to address client eligibility criteria as part of the revision.

- Reduces from 60 to 30 the number of days that a hospice care program may conditionally employ an individual pending the results of a criminal records check.

- Reduces from 60 to 30 the number of days a home health agency may conditionally employ an individual pending the results of a criminal records check.

- Clarifies that the transfers to the Department of Mental Health Trust Fund that the Director of Budget and Management can make of unexpended balances of General Revenue Fund appropriations made to the Department of Mental Health are cash transfers.

- Clarifies that the transfers to the Community Mental Retardation and Development Disabilities Trust Fund that the Director of Budget and Management can make of unexpended balances of General Revenue Fund appropriations made to the Department of Mental Retardation and Developmental Disabilities plus excess balances of any other department funds are cash transfers.

- Eliminates the Farm Service Agency Electronic Filing Fund and transfers the balance of the fund into the Cooperative Contracts Fund.

- Expands the use of money in the Cooperative Contracts Fund to include payment of fees charged by the Secretary of State for electronic filing of financing statements related to Farm Service Agency agricultural loans.

- Limits the transfer to the Auction Recovery Fund from the Auctioneer's Fund to 25% of the balance of the Auctioneer's Fund that is in excess of $300,000 at the end of each fiscal year.

- Exempts from the annual hazardous waste facility permit fee a hazardous waste disposal facility that uses deep well injection if the facility pays the annual injection well operating permit fee established under the Water Pollution Control Law and is in compliance with applicable requirements established under the Solid, Infectious, and Hazardous Waste Law and rules adopted under it.

- Specifies that, with regard to the payment of treatment or disposal fees by a hazardous waste facility that is both an on-site and an off-site facility, the determination of whether on-site or off-site fees are to be paid must be based on whether the hazardous waste was generated on or off the facility's premises.

- Clarifies that hazardous waste treatment and disposal fees are to be paid by facilities that are operating in accordance with a permit by rule under rules adopted by the Director of Environmental Protection.

- Clarifies that the additional hazardous waste treatment and disposal fees that are levied to pay certain costs incurred by municipal corporations and counties are due each year on the anniversary date of a permit by rule or the date on which a facility became exempt from hazardous waste permit requirements under rules adopted by the Director in addition to

being due each year on the anniversary date of a hazardous waste facility installation and operation permit or renewal permit as in current law.

- Reduces the time for the remittance of solid waste disposal fees from 60 to 30 days after the last day of the month during which they were collected before the owner or operator of a disposal facility must pay a late penalty, but adds as an alternative for a late remittance the last day of an extension approved by the Director of Environmental Protection.

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CONTENT AND OPERATION

Estate tax provisions

(R.C. 5731.47 and 5731.48)

Existing law

Distribution of estate taxes in general. Under existing Ohio Estate Tax Law, if a decedent dies on or after January 1, 2002, 80% of the gross amount of the taxes levied and paid under the law must be for the use of the municipal corporation or township in which the tax originates and must be credited in one of the following manners (R.C. 5731.48(A) and (C)):

- In the case of a city, to its general revenue fund.
- In the case of a village, to its general revenue fund or to the village's board of education for school purposes, as the village council decides by resolution.
- In the case of a township, to its general revenue fund or to the board of education of the school district of which the township is a part for school purposes, as the board of township trustees decides by resolution.

The remaining 20% of the gross amount of the taxes levied and paid under the law--*after deduction of the fees and expenses described below*--is for the use of the state and must be credited to the General Revenue Fund (R.C. 5731.48(C)).

Fees and expenses. As mentioned above, certain fees and expenses must be deducted from the state's 20% share of estate tax revenue. They include the fees of county sheriffs and other officers who perform services under the Ohio Estate Tax Law (e.g., service of process) and *the expenses of county auditors* who perform specified functions in the administration of the law. (R.C. 5731.47.)

The deduction procedure is as follows. Those fees and expenses must be certified by the auditor of a county to the Tax Commissioner in a report. If the Tax Commissioner finds the fees and expenses are correct and reasonable in amount, the Tax Commissioner must indicate his or her approval of them in

writing to the respective county auditor. The county auditor then pays the fees and expenses out of the state's 20% share of estate tax revenue in the county treasury's undivided estate tax fund. (R.C. 5731.47.)

One wrinkle is when the fees and expenses approved by the Tax Commissioner *exceed* the state's 20% share of estate tax revenue in the county treasury's undivided estate tax fund. In that situation, the county auditor must certify the excess to the Tax Commissioner, who must then certify the excess to the Director of Budget and Management. The OBM Director must cause the payment of the excess from the General Revenue Fund. (R.C. 5731.47.)

Changes proposed by the bill

The bill establishes the following new procedure for the payment of the fees of county sheriffs and other officers who perform services under the Ohio Estate Tax Law and the expenses of county auditors who perform specified functions in the administration of the law (R.C. 5731.47 and 5731.48(C)):

- As under existing law, those fees and expenses must be certified by the auditor of a county to the Tax Commissioner in a report, and, if the Tax Commissioner finds the fees and expenses are correct and reasonable in amount, the Tax Commissioner must indicate his or her approval of them in writing to the respective county auditor.

- Then, as modified by the bill, the county auditor (1) must pay the fees and expenses out of the county's undivided estate tax fund and (2) deduct a *pro rata share* of the amount so paid from the amount of estate tax revenue required to be credited as described under "***Existing law***," above, to each city's general revenue fund, each village's general revenue fund or board of education, each township's general revenue fund or associated school district's board of education, and the state's General Revenue Fund. The pro rata share must be computed on the basis of the proportions of estate tax revenue that are required to be credited as mentioned above.

Thus, the bill essentially requires the local cost of administering Ohio estate taxes to be paid by both the state and local governments in proportion to their shares of estate tax revenue--with local governments paying 80% and the state paying 20% of the costs and expenses involved. This contrasts with existing law's requirement that the costs and expenses be paid entirely out of the state's 20% share of estate tax revenue in a county treasury's undivided estate tax fund. Moreover, the bill repeals the provisions of existing law that require the state to pay out of the General Revenue Fund the local cost of administering Ohio estate

taxes to the extent it exceeds the state's 20% share of estate tax revenue in a county treasury's undivided estate tax fund. (R.C. 5731.47 and 5731.48(C).)

Schedules of rates for certain public employees

(R.C. 124.15(G)(1), 124.152(A), (B), (C), (D), and (E), 124.181(A), (E), (F), (H), and (K), 124.183, 124.382, 126.32, and 4701.03)

Overview

Continuing law provides that certain public employees are to be paid a wage or salary that must be determined using one of four "schedules of rates" set forth in R.C. 124.15 and 124.152.

Managerial and professional employees. Managerial and professional public employees who are permanent employees paid directly by warrant of the Auditor of State, whose positions are included in the state's job classification plan, and who are exempt from the Collective Bargaining Law ("exempt employees") receive wages or salaries based upon the schedule of rates known as Schedule E-2.[1] Under Schedule E-2, there are a certain number of different pay ranges to which an employee paid under the schedule may be assigned. Then, for each pay range, there is a specific minimum and maximum hourly wage or annual salary that the employee may receive.

Nonmanagerial and nonprofessional employees. Exempt employees who are not managerial or professional employees paid under Schedule E-2 receive wages or salaries based upon the schedule of rates known as Schedule E-1. Similar to Schedule E-2, Schedule E-1 contains a certain number of different pay ranges to which an employee under that schedule may be assigned. However, rather than having a minimum and maximum hourly wage and annual salary for

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[1] *Under R.C. 124.14(B) (not in the bill), exempt employees, for purposes of R.C. 124.15 and R.C. 124.152, do not include any of the following: elected officials; legislative employees; employees of the Legislative Service Commission; employees in the Governor's office; employees who are in the unclassified civil service and exempt from collective bargaining coverage in the office of the (a) Secretary of State, (b) Auditor of State, (c) Treasurer of State, or (d) Attorney General; employees of the Supreme Court; employees of a county children services board that establishes its own compensation rates; any position for which the authority to determine compensation is given by law to an individual or entity other than DAS; and employees of the Bureau of Workers' Compensation whose compensation the Administrator of Workers' Compensation establishes.*

each pay range as under Schedule E-2, pay ranges under Schedule E-1 contain a number of step values, one to which an employee is assigned, with each step providing for a specifically set hourly wage or annual salary.

Under current law, the highest step in certain pay ranges in Schedule E-1 is Step 7. These pay ranges are pay ranges 12 to 18. An employee may advance to Step 7 only upon performance at an exemplary level, as determined in the employee's performance evaluation, and only in the discretion of the employee's appointing authority.

Changes made by the bill

Creation of Schedule E-1 for Step Seven Only. The bill eliminates Step 7 from the current and future salary or wage Schedule E-1 and creates new and separate salary or wage schedules exclusively for Step 7 entitled "Schedule E-1 for Step Seven Only." Only certain employees may be paid under the new schedules (see "***Assignment to schedules of rates***," below), and the bill repeals current law's limitations on advancement to Step 7 (namely, performance at an exemplary level and only in an appointing authority's discretion).

Assignment to schedules of rates. The bill generally requires each exempt employee to be paid only under Schedule E-1 or Schedule E-2. However, there are two exceptions.

First, an exempt employee who holds a specified position under the Unclassified Civil Service Law and who is involved in policy development and implementation at any specified administrative department of the state, the Department of Taxation, the Department of Adjutant General, the Department of Education, the Ohio Board of Regents, the Bureau of Workers' Compensation, the Industrial Commission, the State Lottery Commission, or the Public Utilities Commission or is appointed to an administrative staff position for which the employee's appointing authority is given specific statutory authority to set compensation may be paid under Schedule E-1, Schedule E-1 for Step Seven Only, or Schedule E-2.

Second, an exempt employee who was paid at Step 7 in the employee's pay range on June 28, 2003, under former Schedule E-1 and who continued to be so paid on June 29, 2003, must be paid in the corresponding pay range under Schedule E-1 for Step Seven Only. However, the employee generally will be paid under this schedule only for as long as the employee remains in the position the employee was in on July 1, 2003. The one exception is if the employee moves to a new position that is assigned to Pay Range 12 or above, in which event the employee's appointing authority has the discretion to assign the employee to be paid a salary or wage in that pay range under Schedule E-1 for Step Seven Only,

so long as the appointing authority notifies the Director of Administrative Services in writing at the time of the appointment to the new position. Otherwise, if the employee moves to a new position where the employee is not eligible to receive a salary or wage under Schedule E-1 for Step Seven Only, the employee cannot receive a salary or wage under the schedule in the new position or any other new position in the future.

One-time 2% pay supplement

(R.C. 124.183)

Overview

Continuing law requires that a one-time 2% pay supplement be paid to certain permanent employees in the first paycheck of December 2004.

Qualifications

Under current law, to receive the 2% pay supplement, a permanent employee must (1) be an exempt employee, (2) have been appointed on or before March 6, 2003, and (3) be on the active payroll as of November 14, 2004.[2] The bill revises these qualifications to require that the employee *remain continuously* on the active payroll from appointment on or before March 6, 2003, *through* November 14, 2004.

Expansion of the supplement

Under current law, employees of the General Assembly, legislative agencies, the Supreme Court, and state boards or commissions are not eligible for the 2% pay supplement. The bill retains this list with the exception of permanent employees of state boards and commissions, who the bill makes eligible for the supplement.

Calculation of the supplement

Under continuing law, the 2% pay supplement for nonmanagerial and nonprofessional exempt employees paid under Schedule E-1 is to be based on the annualization of the top step in the pay range that the employee is in as of November 14, 2004. However, for employees paid at Step 7 under the new Schedule E-1 for Step Seven Only, the bill requires the supplement to be based on

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[2] *R.C. 124.183(A) defines "active payroll" to mean an employee is actively working; on military, workers' compensation, occupational injury, or disability leave; or on an approved leave of absence.*

the annualization of Step 6 of the employee's corresponding pay range in Schedule E-1.

Other pay supplements

(R.C. 124.181(B))

Under current law, in computing various pay supplements paid to certain employees (such as the longevity, hazard, special professional achievement, educational pay, bilingual pay, and shift differential supplements), the salary base that must be used to determine the amount of the supplement is the minimum hourly rate of the employee's pay range in the schedule under which the employee is paid. The bill generally retains this provision but, for employees paid under the new Schedule E-1 for Step Seven Only, requires the supplements to be based on the minimum hourly rate of the employee's corresponding pay range under Schedule E-1.

Filings with the Ohio Ethics Commission

(R.C. 102.02(A) and (E)(2))

Current law requires (among others) persons elected to, candidates for, and persons appointed to fill vacancies in specified state, local, and federal government offices to file with the "appropriate ethics commission" at specified times prescribed financial disclosure statements. The appropriate ethics commission depends upon the individual's office and either is the Ohio Ethics Commission, the Joint Legislative Ethics Committee, or the Board of Commissioners on Grievances and Discipline of the Supreme Court.

Currently, members of the United States Congress from Ohio, candidates for the office of member of the United States Congress from Ohio, and persons who are appointed to fill vacancies in such an office are covered by the financial disclosure statement requirement, must make their filings with the Ohio Ethics Commission, and must accompany their filings with a $40 filing fee. The bill removes those requirements.

Department of Administrative Services' authority over space used by state agencies

(R.C. 123.01(A)(18))

Current law requires the Department of Administrative Services (DAS) to do all of the following: (1) require each state agency to categorize periodically the use of space allotted to the agency between office space, common areas, storage space, and other uses and report its findings to DAS, (2) periodically create and

update a master space utilization plan for all space allotted to state agencies, (3) periodically conduct a cost-benefit analysis to determine the effectiveness of state-owned buildings, and (4) periodically assess the alternatives associated with consolidating the commercial leases for buildings located in Columbus (R.C. 123.01(A)(19) to (22)).

Under the bill, the Director of Administrative Services periodically may perform the activities described in items (1) through (4) above *at the Director's discretion* (R.C. 123.01(A)(18)(b)). Thus, DAS is no longer *required* to perform these activities.

The bill also requires DAS to manage the use of space that it owns and controls, including space in property under the jurisdiction of the Ohio Building Authority, by (a) carrying out the discretionary activities described in items (1) through (4) above, (b) biennially implementing, by state agency location, a census that current law requires regarding agency employees assigned space, and (c) commissioning a comprehensive space utilization and capacity study that current law requires in order to determine the feasibility of consolidating existing commercially leased space used by state agencies into a new state-owned facility (R.C. 123.01(A)(18)(a), (b), and (c)).

State Architect's Fund; Administrative Building Fund

(R.C. 123.10 and 152.101)

Current law creates the State Architect's Fund that is administered by the Department of Administrative Services and is used to pay the costs of personnel and certain building and project related expenses of the Department. Current law also creates the Administrative Building Fund to consist of the proceeds of Ohio Building Authority bond sales which are required to be used to pay the costs of certain state-financed capital facilities. The State Architect's Fund is required to consist of money from certain tolls, rentals, fines, commissions, and fees resulting from the operation of public works of the state, transfers of money to the fund authorized by the General Assembly, and such percentage of the investment earnings of the Administrative Building Fund that the Director of Budget and Management determines to be appropriate.

The bill specifies that the Director of Budget and Management may transfer such amount of investment earnings, instead of such percentage, from the Administrative Building Fund to the State Architect's Fund that the Director determines to be appropriate. Further, the bill requires any such investment earnings that are transferred must be earnings in excess of the amounts required to meet estimated federal arbitrage rebate requirements for federal tax purposes. The bill also requires the Director to approve and provide a voucher for rebates and

payments made from the Administrative Building Fund to meet federal arbitrage requirements under the Internal Revenue Code.

Costs of OBA capital facilities

(R.C. 152.09)

Current law establishes the requirements and procedures by which the Ohio Building Authority may issue bonds to pay for certain capital facilities and establishes what costs may be paid by bond proceeds for those capital facilities by providing a definition of "cost of capital facilities." That definition includes such costs as construction related expenses, financing costs, and certain costs related to the issuance of bonds. The bill includes in the definition of "costs of capital facilities" the costs associated with rebates and payments made to meet federal arbitrage requirements for those bonds under the Internal Revenue Code.

Low- and Moderate-Income Housing Trust Fund

(R.C. 175.21)

The Low- and Moderate-Income Housing Trust Fund is used for the housing programs of the Ohio Housing Finance Agency and the Department of Development. Current law requires that not more than 5% of all the money in the trust fund be used for administration. The bill instead requires that not more than 5% of current year appropriation authority for the fund be used for administration.

Board of Building Appeals fees

(R.C. 3781.19)

Under current law, the State Board of Building Appeals may establish reasonable fees, based on the actual costs for administration of filing and processing, for the costs of filing and processing appeals that come before the State Board. The fees may not exceed $100. The bill increases this ceiling to $200.

Arts and Sports Facilities Building Fund

(R.C. 3383.09; Section 64)

Current law establishes the Arts Facilities Building Fund and the Sports Facilities Building Fund in the state treasury. Those funds consist of money derived from the sale of bonds and are used by the Ohio Arts and Sports Facilities Commission to fund Ohio arts facilities and Ohio sports facilities, respectively. The bill merges the Sports Facilities Building Fund into the Arts Facilities

Building Fund to create the Arts and Sports Facilities Building Fund. Any unexpended balance in the Sports Facilities Building Fund is required to be deposited into the Arts and Sports Facilities Building Fund. However, the unexpended balance is required to be segregated within the Arts and Sports Facilities Building Fund and used to pay the costs of Ohio sports facilities. Future deposits in the Arts and Sports Facilities Building Fund are required to be aggregated and used to pay the costs of Ohio arts facilities and Ohio sports facilities.

Miami University's tuition restructuring plan and its effect on pre-paid tuition credits

(R.C. 3334.01)

The bill codifies the Ohio Attorney General's opinion that the "annual undergraduate tuition charged to Ohio residents" calculated by the Ohio Tuition Trust Authority should not reflect tuition reductions that are granted in varying amounts to Ohio residents who are students of institutions of higher education. The Authority calculates the "annual undergraduate tuition charged to Ohio residents" as a component of determining the "weighted average tuition." The "weighted average tuition" is used to determine the cost and redemption value of pre-paid tuition credits for the Ohio College Savings Plan.

In the spring of 2003, the board of trustees of Miami University adopted a new tuition plan whereby all undergraduate students are charged the same tuition, regardless of whether the students are residents or nonresidents of Ohio. However, the university then reduces the tuition owed by Ohio residents by awarding financial assistance to them in the form of scholarships. One such scholarship varies in amount from student to student based on financial need, academic qualifications, and other considerations.

The Executive Director of the Ohio Tuition Trust Authority requested a formal opinion from the Ohio Attorney General regarding how Miami University's tuition restructuring plan, and more specifically the reductions in tuition for Ohio residents, would affect the calculation of the cost of pre-paid tuition credits. The Attorney General's opinion explained that the Revised Code "appears to contemplate the existence of a single figure that each four-year state university charges to each Ohio resident for attendance as an undergraduate."[3] Therefore, the opinion concludes that tuition reductions that vary in amount among its recipients, even though only Ohio residents can receive them, should be excluded from the determination of "annual undergraduate tuition charged to Ohio residents."

[3] *Ohio Attorney General Opinion No. 2003-028, 2003 Ohio AG LEXIS 36, 15.*

Thirty-minute travel time for busing

(R.C. 3327.01)

Continuing law requires school districts to provide transportation to nonpublic and community school students in kindergarten through eighth grade who reside in the district and live more than two miles from the school they attend. Districts may also transport high school students to and from their nonpublic and community schools.[4] A district, however, is not required to transport students of any age to and from a nonpublic or community school if the direct travel time by school bus is more than 30 minutes.

Under current law, the 30 minutes is measured from the "collection point" (*i.e.*, where the student is picked up) to the school of attendance. The bill specifies instead that the time must be measured from the district school the student would otherwise attend if not enrolled in the nonpublic or community school.

Medicaid-funded community mental health services

(R.C. 5111.022)

Continuing law provides for Medicaid to cover certain mental health services provided by community mental health facilities. These include partial hospitalization, assertive community treatment, and intensive home-based mental health services.

Current law requires the Director of Job and Family Services to adopt rules establishing statewide access and acuity standards for Medicaid-funded partial hospitalization mental health services and assertive community treatment and intensive home-based mental health services. The bill eliminates the requirement that the Director adopt rules establishing statewide access and acuity standards for Medicaid-funded partial hospitalization mental health services but does not affect the requirement that the Director adopt rules for Medicaid-funded assertive community treatment and intensive home-based mental health services.

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[4] These are the same requirements that apply to the transportation of students to and from schools operated by the districts. Also, districts must provide transportation for all students who "are so crippled that they are unable to walk to and from the school. . .which they attend." When transportation by the district is impractical, the district may offer payment to a student's parent or guardian in lieu of providing the transportation.

Revision of partial hospitalization rule

(Section 65)

Continuing law prohibits a board of alcohol, drug addiction, and mental health services from contracting with a community mental health agency to provide community mental health services included in the board's community mental health plan unless the services are certified by the Director of Mental Health.[5] The Director is required to adopt rules establishing certification standards for the community mental health services.

The bill requires the Director to revise the rule regarding the certification standards for the partial-hospitalization community mental health service. The rule must be revised not later than June 30, 2005. As part of the revision, the Director must address client eligibility criteria.[6]

Criminal records check for hospice care program staff

(R.C. 3712.09)

Under continuing law, a chief administrator of a hospice care program must ask the Superintendent of the Bureau of Criminal Identification and Investigation to conduct a criminal records check with respect to individuals under final consideration for employment with the program in a full-time, part-time, or temporary position that involves providing direct care to an older adult.[7] If an individual who is the subject of the check does not present proof of having been an Ohio resident for the five-year period immediately before the date on which the check is requested or does not provide evidence that within that period the Superintendent has requested information about the person from the Federal Bureau of Investigation in a criminal records check, the chief administrator must request that the Superintendent obtain information from the FBI as part of the check.

A hospice care program may conditionally employ an individual pending the results of the criminal records check. The conditional employment must

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[5] *Revised Code §5119.611, not in the bill.*

[6] *The rule to be revised, Ohio Administrative Code §5122-29-06, does not currently address client eligibility.*

[7] *A criminal records check is not required for an individual who provides direct care as a volunteer without receiving or expecting to receive any form of remuneration other than reimbursement for actual expenses.*

terminate if the results of the check, other than the results of any request for information from the FBI, are not obtained within 60 days of the date the request for the check is made. The bill reduces to 30 the number of days the conditional employment may continue.

Criminal records check for home health agency staff

(R.C. 3701.881)

Under continuing law, a chief administrator of a home health agency must ask the Superintendent of the Bureau of Criminal Identification and Investigation to conduct a criminal records check with respect to applicants for employment with a home health agency.[8] If the person who is the subject of the check does not present proof of having been an Ohio resident for the five-year period immediately before the date on which the check is requested or does not provide evidence that within that period the Superintendent has requested information about the person from the Federal Bureau of Investigation in a criminal records check, the chief administrator must request that the Superintendent obtain information from the FBI as part of the check.

A home health agency is permitted to employ the subject of the criminal records check conditionally pending the results of the check. If the subject of the check is to hold a position involving direct care to an older adult or a position involving both direct care to an older adult and the care, custody, and control of children, the conditional employment must terminate if the results of the check, other than the results of any request for information from the FBI, are not obtained within 60 days of the date the request for the check is made.[9] The bill reduces to 30 the number of days the conditional employment may continue.

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[8] *The criminal records check is required for each person who is under final consideration for either (1) appointment or employment in a position responsible for the care, custody, or control of a child or (2) employment in a full-time, part-time, or temporary position that involves providing direct care to an older adult. The check is not required for a person who provides direct care to older adults as a volunteer without receiving or expecting to receive any form of remuneration other than reimbursement for actual expenses.*

[9] *The criminal records check must be requested not later than five business days after the conditional employment begins.*

Department of Mental Health Trust Fund transfers

(R.C. 5119.18)

Under existing law, the Department of Mental Health Trust Fund may be used for such things as providing mental health services to all residents of the state, conducting scientific research regarding the causes and prevention of mental illness, establishing programs to protect the rights of individuals receiving mental health services, and developing criteria for evaluating mental health service programs. (R.C. 5119.06(A), not in the bill.) Existing law also states that the use of moneys in the trust fund does not establish a commitment to the continuation of the trust fund or to the use of the moneys in the trust fund.

Currently, by September 1 of each year, the Director of Mental Health must certify to the Director of Budget and Management the amount of all unexpended balances of General Revenue Fund appropriations made to the Department of Mental Health during the previous fiscal year. The Director of Budget and Management is then required to transfer to the Department of Mental Health Trust Fund an amount up to, but not exceeding, the amount specified by the Director of Mental Health. The bill specifies that these transfers of unexpended balances of GRF appropriations must be cash transfers.

Community Mental Retardation and Developmental Disabilities Trust Fund transfers

(R.C. 5123.352)

Under current law, the Community Mental Retardation and Developmental Disabilities Trust Fund may be used to make grants for such purposes as staff training for county employees who serve mentally retarded or developmentally disabled persons, behavioral or short-term interventions for such persons that assist them in remaining in the community, and funding contracts with providers of residential services to care for such persons in their programs. (R.C. 5126.19, not in the bill.) Additionally, the fund is used to reimburse members of the Community Mental Retardation and Developmental Disabilities Trust Fund Advisory Council for expenses they incur in performing their official duties. (R.C. 5123.353(C), not in the bill.)

Existing law requires that, no later than 60 days after the end of each fiscal year, the Director of Mental Retardation and Developmental Disabilities must certify to the Director of Budget and Management the amount of all unexpended General Revenue Fund appropriations made to the Department of Mental Retardation and Developmental Disabilities (not including rental payments to the Ohio Public Facilities Commission), plus the amounts of any excess balances of

any other funds of the department. Generally, the Director of Budget and Management must then transfer to the trust fund an amount up to, but not exceeding, the amount certified by the Director of Mental Retardation and Developmental Disabilities. The bill specifies that these transfers of unexpended GRF appropriations, plus the excess balances of other department funds, must be cash transfers.

Elimination of Farm Service Agency Electronic Filing Fund

(R.C. 901.85; Section 61)

Under existing law, the Farm Service Agency Electronic Filing Fund may be used by the Department of Agriculture to pay the Secretary of State for fees that the Secretary of State charges in advance for the electronic filing, by the federal Farm Service Agency, of financing statements related to agricultural loans that the Farm Service Agency disburses. The fund consists of any money reimbursed to the fund by the Farm Service Agency together with any money appropriated to the fund by the General Assembly.

The bill eliminates the Farm Service Agency Electronic Filing Fund and specifies that the balance of the fund should be transferred to the Cooperative Contracts Fund. The bill expands the use of money in the Cooperative Contracts Fund to include payment of the electronic filing fees. Additionally, the bill specifies that the Cooperative Contracts Fund can also include revenues from the Farm Service Agency.

Auctioneer's Fund

(R.C. 4707.05)

Currently, if the balance of the Auctioneer's Fund at the end of each fiscal year (which consists of all fees collected by the Department of Agriculture in the administration of the Auctioneers' Licensing Law) is greater than $300,000, the Director of Budget and Management, upon request by the Director of Agriculture, must transfer 25% of the balance to the Auction Recovery Fund (a separate fund created to compensate persons damaged by an auctioneer's misconduct as defined in the Licensing Law). The bill limits the transfer to 25% of only that portion of the balance that is in excess of $300,000.

Annual fees for hazardous waste facility installation and operation permits

(R.C. 3734.02)

Current law generally prohibits anyone from establishing or operating a hazardous waste facility, or using a solid waste facility for the storage, treatment,

or disposal of hazardous waste, without a hazardous waste facility installation and operation permit. The term of a permit cannot exceed five years; permits may be renewed. The requirement to obtain a permit or renewal permit does not apply to a facility that will operate or is operating in accordance with a permit by rule or that is not subject to permit requirements under rules adopted by the Director of Environmental Protection.

In addition to establishing a maximum application fee of $1,500, current law also establishes annual permit fees that must be paid by permit holders on the anniversary of the dates of issuance of their permits or renewal permits. Money from the fees is credited to the Hazardous Waste Facility Management Fund. A permit holder's fee is determined in accordance with a statutory schedule and is based on the type of a facility and the type of basic management unit at the facility (see "***Hazardous waste disposal and treatment fees***," below). Fees range from $500 to $40,000. The bill exempts from the annual permit fee a hazardous waste disposal facility that disposes of hazardous waste by deep well injection and that pays the annual permit fee for an injection well operating permit under the Water Pollution Control Law unless the Director of Environmental Protection determines that the facility is not in compliance with applicable requirements established under the Solid, Infectious, and Hazardous Waste Law and rules adopted under it.

Hazardous waste treatment and disposal fees

(R.C. 3734.02 and 3734.18)

Current law levies fees on the treatment and disposal of hazardous waste at facilities in this state. Money from the fees is credited to the Hazardous Waste Facility Management Fund. The fees are based on the type of facility and, in the case of disposal fees, the method of disposal that is used. Currently, the types of facilities are defined by reference to the types of facilities on which hazardous waste facility installation and operation permit fees are based (see "***Annual fees for hazardous waste facility installation and operation permits***," above). The bill instead includes the definitions in the statute that establishes treatment and disposal fees and slightly revises two of them as discussed below.

Current law defines "on-site facility" as a facility that stores, treats, or disposes of hazardous waste that is generated on the premises of the facility. The bill retains that definition for the purpose of permit fees, but removes "stores" from it for the purpose of treatment and disposal fees. Current law also defines "off-site facility" as a facility that stores, treats, or disposes of hazardous waste that is generated off the premises of the facility and includes such a facility that is also an on-site facility. Again, the bill retains that definition for the purpose of permit fees, but modifies it for the purpose of treatment and disposal fees. First, the bill removes "stores" from the definition as well as the inclusion of a facility

that is also an on-site facility. It then states that a treatment or disposal facility that is subject to those fees may be both an on-site facility and an off-site facility. The determination of whether an on-site facility fee or an off-site facility fee is to be paid for a hazardous waste that is treated or disposed of at the facility must be based on whether that hazardous waste was generated on or off the premises of the facility.

Current law defines "satellite facility" as any of the following: (1) an on-site facility that also receives hazardous waste from other premises owned by the same person who generates the waste on the facility premises, (2) an off-site facility operated so that all of the hazardous waste it receives is generated on one or more premises owned by the person who owns the facility, or (3) an on-site facility that also receives hazardous waste that is transported uninterruptedly and directly to the facility through a pipeline from a generator who is not the owner of the facility. The bill retains that definition for the purpose of permit fees and applies it without change for the purpose of treatment and disposal fees.

Under existing law, disposal fees must be collected at each disposal facility to which a hazardous waste facility installation and operation permit or renewal of a permit has been issued. The bill also requires disposal fees to be collected at each hazardous waste disposal facility that is operating in accordance with a permit by rule under rules adopted by the Director of Environmental Protection. Current law requires the owner or operator of an off-site facility to collect disposal fees in accordance with rules adopted by the Director. The owner or operator of an on-site or satellite facility must collect disposal fees and pay them to the Director annually on the anniversary of the date of issuance of the owner's or operator's installation and operation permit or renewal permit. The bill adds that the fees also must be paid on the anniversary of the date of a permit by rule.

Current law requires treatment fees to be levied on the treatment of hazardous waste at treatment facilities that are not on-site or satellite facilities to which a hazardous waste facility installation and operation permit or renewal permit has been issued or that are not subject to hazardous waste facility permit requirements under rules adopted by the Director. The bill also requires treatment fees to be levied at such treatment facilities whose owner or operator is operating in accordance with a permit by rule.

Finally, existing law also levies additional hazardous waste treatment and disposal fees at the rate of 10% of the applicable fees discussed above for the purpose of paying the costs incurred by municipal corporations and counties for conducting specified activities generally related to hazardous waste facilities within their jurisdictions. The owner or operator of a facility must pay the additional fees to the appropriate local official annually on the anniversary date of the date of issuance of the installation and operation permit and any renewal

permit. The bill adds that the fees also must be paid annually on the anniversary of the date of a permit by rule or the date on which the facility became exempt from hazardous waste facility installation and operation permit requirements under rules adopted by the Director.

Late payment of solid waste disposal fees

(R.C. 3734.57)

Current law levies solid waste disposal fees to provide funding to pay specified costs that are incurred by the Environmental Protection Agency. The owner or operator of a solid waste disposal facility must collect the fees as a trustee for the state and file with the Director of Environmental Protection monthly returns indicating the total tonnage of solid wastes received for disposal at the facility and the total amount of the fees collected. Not later than 30 days after the last day of the month to which a return applies, the owner or operator must mail it to the Director together with the fees. However, an owner or operator may request an extension of not more than 30 days for filing the return and remitting the fees if specified conditions are met, including approval by the Director.

Currently, if the fees are not remitted within 60 days after the last day of the month during which they were collected, the owner or operator must pay a late penalty of 50% of the amount of the fees for each month that they are late. The bill instead provides that if the fees are not remitted within 30 days after the last day of the month during which they were collected or are not remitted by the last day of an approved extension, the owner or operator must pay the late penalty.

HISTORY

ACTION	DATE	JOURNAL ENTRY
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