Jennifer A. Parker and other LSC staff

Legislative Service Commission

Bill Analysis

Sub. H.B. 699*

126th General Assembly
(As Passed by the House)

Reps. Calvert, Peterson, Flowers, J. McGregor, Hartnett, Chandler, D. Stewart, Skindell, S. Patton, Ujvagi, Carmichael, Collier, Combs, Core, C. Evans, D. Evans, Faber, Fende, Hagan, Koziura, Law, Mitchell, Reinhard, Schaffer, Seaver, Seitz, Setzer, J. White, Woodard

BILL SUMMARY

- Continues reimbursement of certain life insurance premiums for active duty members of the Ohio National Guard only if the Adjutant General determines the members are ineligible for that reimbursement under federal law.

- Prohibits any bid for a state public improvement contract that is greater than $100,000 from being accepted unless the submitting contractor has a drug-free workplace policy that meets the standards the Director of Administrative Services establishes by rule.

- Includes in the definition of "FutureGen Project" in the Air Quality Development Authority Law related projects that support the development and operation of the buildings, equipment, and real property constituting the project, thus making such research projects eligible for funding under that Law.

- For purposes of the Ohio Building Authority's control or management of state capital facilities, removes the requirement that the facilities be those for which OBA is authorized to issue obligations.

---

* *This analysis does not address appropriations, fund transfers, and similar provisions. See the Legislative Service Commission's Fiscal Note and Capital Bill Analysis for H.B. 699 for an analysis of such provisions.*

- Authorizes OBA to manage, allocate space in, and have general custodial care and supervision of capital facilities it does not own *if* the facilities contain at least 200,000 square feet of space.

- In relation to the transfer to the Director of Budget and Management in Am. Sub. H.B. 530 of the 126th General Assembly of the functions of the Auditor of State related to the drawing of warrants for the payment or transfer of money from the state treasury, makes corrective changes.

- Eliminates from the Revised Code some of the specific requirements for experience, education, and testing for licensure as a real estate appraiser, and enables the Real Estate Appraiser Board to establish requirements in those areas by rule.

- Allows registered professional engineers and surveyors to electronically seal and sign documents.

- Modifies the definition of "authorized communications equipment" for purposes of the Nonprofit Corporation Law by removing the requirement that the articles, regulations, or bylaws of a nonprofit corporation, or the regulations, constitution, or other fundamental agreement of an unincorporated society or association, must permit the use of the communications equipment for the purpose of giving notice of meetings or any notice required by that Law, attending and participating in meetings, giving a copy of any document or transmitting any writing required or permitted under that Law, or voting.

- Provides that, *unless the articles or regulations of a nonprofit corporation provide otherwise*, a member is considered in attendance at a meeting of voting members if the member is present in person (existing law), by the use of authorized communications equipment, by mail, or, if permitted, by proxy, and *unless the articles or regulations provide otherwise*, a director is considered in attendance at a meeting of directors if the director is present in person (existing law) or by the use of authorized communications equipment.

- Specifies that, *unless the articles or regulations provide otherwise*, the voting members and proxyholders who are not physically present at a meeting of voting members may attend the meeting by the use of authorized communications equipment and, *unless the articles or regulations provide otherwise*, voting at elections and votes on other

matters may be conducted by mail or by the use of authorized communications equipment.

- At a meeting held for any of the following purposes, generally allows voting members to be present in person or, if permitted, by proxy (existing law) or by the use of authorized communications equipment or by mail (the governing documents of a nonprofit corporation are not required to specifically permit the use of authorized communications equipment or mail): the amendment of the regulations or the adoption of new regulations, the incorporation of an unincorporated society or association, the fixing or changing of the number of directors, the amendment of the articles, the disposition of all or substantially all of the assets of a mutual benefit corporation, the disposition of the assets of a certain value of a public benefit corporation, the voting on an agreement of merger or consolidation, and the acceptance of the provisions of the Nonprofit Corporation Law.

- Revises requirements of debt adjusting companies.

- For purposes of the Ohio Cultural Facilities Commission's financing authority, adds tennis facilities with a primary purpose of providing a site or venue for the presentation to the public of professional tennis tournaments as an eligible Ohio sports facility so long as the facility provides certain contractual commitments to assure occurrence of the tournaments.

- Authorizes the Ohio Cultural Facilities Commission to delegate to its executive director authority regarding the provision of construction and building services for certain Ohio cultural facilities and sports facilities and the expenditure of state funds on those facilities.

- Creates the Third Frontier Research and Development Taxable Bond Fund in the state treasury to receive proceeds of federally taxable obligations issued to fund Third Frontier Commission research and development projects.

- Exempts public improvements undertaken by, or under contract for, political subdivisions from the commercial prevailing wage law if the total overall project cost is estimated to be less than $400,000.

- Requires the Director of Commerce to annually adjust the project cost described immediately above according to the average increase or decrease for each of the two years immediately preceding the adjustment as set forth in the U.S. Census Bureau's implicit price deflator for construction.

- Exempts public housing projects that are exempt from the residential prevailing wage law from the commercial prevailing wage law.

- Modifies the definition of "sponsored" for purposes of determining whether a specified type of public housing project qualifies for an exemption, to specify that a general partner of a limited partnership described under continuing law is not required to be the sole general partner of the limited partnership.

- Adds to the definition of "sponsored" described immediately above that a limited liability company that meets the bill's requirements may be a sponsor of the project, for purposes of determining whether a specified type of public housing project qualifies for an exemption.

- Refines the calculation of the "state aid offset" for purposes of paying state reimbursement of school districts for revenue losses due to electric utility deregulation and the phase-out of the tangible personal property tax.

- Codifies and makes permanent the Autism Scholarship Program.

- Specifies that any portion of Ohio's volume of private activity bonds that is allocated for issuance of student loan notes may be awarded only to the Treasurer of State or the single nonprofit secondary market operation designated by the Governor.

- Increases, from 21 years to 25 years, the maximum age to apply for a War Orphans Scholarship.

- Requires the Governor's Residence Advisory Commission to establish the heritage garden at the Governor's residence, defines "heritage garden" as the botanical garden of native plants established at the Governor's residence, and states that the heritage garden must be officially known as "The Heritage Garden at the Ohio Governor's Residence."

- Exempts from the foreign insurers tax: (1) professional or medical liability insurance policies procured on behalf of an entity that manufactures, packages, and sells pharmaceutical products, and (2) insurance policies with an initial period longer than three years that are obtained to cover known past events related to environmental remediation.

- Changes the tax rate applicable to reciprocal or interinsurance indemnity contracts of insurance.

- Expands the definition of "caucus" for purposes of the Open Meetings Law.

- Changes from the General Revenue Fund to the Joint Legislative Ethics Committee Fund the fund to which registration fees and late filing fees paid by lobbyists and their employers must be credited.

- Permits the money, interest, and earnings of the Joint Legislative Ethics Committee Fund to be used for the purchase of data storage and computerization facilities for retirement system lobbyist expenditure statements.

- Eliminates the $25 fee to be paid upon the approval of a lottery sales agent license application, and instead requires the Director of the State Lottery Commission to determine the amount of the application fee by rule and with the Controlling Board's approval.

- Establishes a lottery sales agent license renewal fee, and requires the Director to establish its amount by rule and with the Controlling Board's approval.

- Requires a lottery sales agent license to be complete, accurate, and current at all times, and authorizes the Director (1) to establish by rule and with the Controlling Board's approval and (2) to assess an administrative fee not to exceed the actual cost of administering and processing changes to update an original license application or renewal application.

- Eliminates the option for a lottery sales agent license applicant to be required to file a fidelity bond with the State Lottery Commission, and instead generally authorizes an applicant to obtain a surety bond in an

amount the Director determines or, with the Director's approval, to deposit the same amount into a dedicated account for the benefit of the State Lottery.

- Authorizes the Director to forward fingerprint cards for an applicant for a lottery sales agent license and for holders of such a license to the Bureau of Criminal Identification and Investigation, or to the Federal Bureau of Investigation, or to both Bureaus for purposes of criminal records checks.

- Delays until June 30, 2007 (from January 1, 2007), the deadline for the Director of Job and Family Services to seek federal approval for the ICF/MR Conversion Pilot Program.

- Expressly includes crisis intervention services as community mental health services for which the Ohio Department of Mental Health must provide assistance to counties.

- Requires that each community mental health plan cover crisis intervention services for individuals in emergency situations.

- Eliminates the prohibition against a board of alcohol, drug addiction, and mental health services (ADAMHS board), and an entity under contract with an ADAMHS board, from discriminating in matters relating to the provision of services, employment, or contracts on the basis of inability to pay.

- Limits the Director of Mental Health's authority to certify community mental health services by specifying that the services must be for individuals whose focus of treatment is a mental disorder according to the Diagnostic and Statistical Manual of Mental Disorders, including such services for individuals who have a mental disorder and a co-occurring substance use disorder, substance-induced disorder, chronic dementing organic mental disorder, mental retardation, or developmental disability.

- Stipulates that the Department of Mental Health may provide state and federal funding for services included in a board of alcohol, drug addiction, and mental health services' community mental health plan only if the services are for individuals whose focus of treatment or prevention is a mental disorder according to the Diagnostic and Statistical Manual of Mental Disorders, including such services for individuals who have a

mental disorder and a co-occurring substance use disorder, substance-induced disorder, chronic dementing organic mental disorder, mental retardation, or developmental disability.

- Permits the State Treasurer to issue obligations under Article VIII, Section 16 of the Ohio Constitution, in addition to obligations under Section 2i of the same article, to pay for mental hygiene and retardation patient housing facilities.

- Permits nonprofit corporations specifically chartered to provide mental health or mental retardation services and that can receive state capital grants to work in concert with certain limited partnerships and limited liability companies in order to use low-income housing credits to provide housing facilities for mental hygiene and retardation patients.

- Requires nonprofit corporations providing mental retardation services to obtain written approval from the Director of Mental Retardation and Developmental Disabilities before working in concert with the limited partnerships or limited liability companies to provide such housing facilities.

- Maintains current provisions that permit certain employees in the unclassified service of the Bureau of Workers' Compensation, the Department of Mental Health, the Department of Mental Retardation and Developmental Disabilities, and the Department of Youth Services to exercise their right to resume a previously held position in the classified service, regardless of the number of unclassified positions the employee has held, but provides that those employees (1) may only exercise their right to resume a prior classified position if their employer demotes them to a lower pay range or revokes their appointment to the unclassified position and (2) forfeit their right to resume a prior classified position if they are removed due to any specified type of misconduct or they transfer to a different agency.

- Requires that prior to proposing the conveyance of any canal lands, the Director of Natural Resources consider the local government needs and economic development potential with respect to the canal lands and the recreational, ecological, and historical value of the canal lands, and requires that the conveyance of canal lands be conducted in accordance with the Director's policies governing the protection and conservation of canal lands established under current law.

- Revises the total principal amount of obligations that may be issued for purposes of the Clean Ohio Conservation Fund, the Clean Ohio Agricultural Easement Fund, and the Clean Ohio Trail Fund by stating that not more than $200 million principal amount of obligations for conservation purposes may be outstanding at any one time rather than that the total principal amount of obligations issued cannot exceed $200 million, as in current law; states that not more than $50 million principal amount of obligations, plus the principal amount of obligations that in any prior fiscal year could have been, but were not issued within the $50 million fiscal year limit, may be issued in any fiscal year for conservation purposes; and makes identical changes in the statute governing the Clean Ohio Revitalization Fund.

- Modifies the membership of the Hamilton County public works integrating committee and the number of affirmative votes required for committee action.

- Changes Public Utilities Commission authority to regulate motor carrier safety to reflect programmatic changes at the federal level.

- Creates the North East Ohio Universities Collaboration and Innovation Study Commission to recommend collaborations among certain state universities and develop a more unified approach to the delivery of higher education in Northeast Ohio.

- Requires the Board of Regents, in conjunction with the Department of Education, to create a system of "pre-college stackable certificates" and "college-level certificates."

- Eliminates the requirement that the Director of Rehabilitation and Correction obtain the Governor's approval in order to change the purpose for which a state correctional facility is used.

- Requires the Director of Rehabilitation and Correction to contract for the private operation of at least two state correctional facilities.

- Eliminates the Federal Program Purposes Fund and creates a Federal Justice Programs Fund for each federal fiscal year.

- Provides that each judge of a court of record, except for Supreme Court justices, must take the oath of office on or before the first day of the

judge's official term; specifies the form of the oath that a judge should substantially take; modifies the requirements for transmitting a certificate of oath; and applies those requirements generally to judges of courts of record.

- Decreases the size of the official seal of the Supreme Court from 1.75 inches in diameter to 1.50 inches in diameter.

- Provides that the judges of the Morrow County Court of Common Pleas also have jurisdiction over the Probate Division of the Court.

- Specifies the salary of the members of the Senate elected Majority Floor Leader, Assistant Majority Floor Leader, and Majority Whip for the 127th General Assembly.

- Expands the membership of the Ohio Turnpike Commission to include the Director of Budget and Management and the Director of Development as ex officio, nonvoting members.

- Requires the Turnpike Commission to notify the Governor and legislative leaders prior to increasing or temporarily decreasing tolls and also prior to acting to expand the sphere of responsibility of the Commission beyond the Ohio Turnpike.

- Requires the Turnpike Commission, upon request of the appropriate chairpersons, to appear before the House and Senate transportation committees prior to adoption of its annual budget and also during the time the General Assembly is considering the biennial transportation budget.

- Allows the chairperson of the Turnpike Oversight Committee to determine the location of Committee meetings, rather than requiring at least three of the required quarterly meetings to be held at sites located along a turnpike project as determined by the Committee chairperson.

- Renames the Turnpike Oversight Committee the Turnpike Legislative Review Committee.

- Requires the Turnpike Commission to submit to the Director of Budget and Management, for the Director's review and approval, trust

agreements and other specified information regarding any proposed sale of obligations.

- Extends the limitations period for debt collection efforts by the state and political subdivisions.

- Clarifies that the limitations period relevant to state tax collection applies only to the initial action to collect a tax debt.

- Removes authority for county auditors to charge the state fees for recording state liens and continuations of state liens.

- Incorporates changes in the Internal Revenue Code since March 30, 2006, into Ohio's tax laws.

- Permits taxpayers whose taxable year ends in 2006, and before the effective date of the incorporated changes, to elect to apply the Internal Revenue Code as it existed before that effective date.

- Makes changes to the eligibility requirements for obtaining a job creation tax credit or a job retention tax credit in regard to who qualifies as a "full-time employee," what qualifies as a "full-time employment position," who is considered to be a "new employee," and when a reduction in the percentage or term of the tax credit may take effect if the taxpayer fails to comply with the terms of the tax credit agreement.

- Extends the job training tax credit for an additional year, to cover training costs paid or incurred on or before December 31, 2007.

- Permits owners of remediated property to decline property tax exemption of improvements made to the property.

- Prescribes in statute a method for determining the true value of oil and natural gas reserves for the purposes of real property taxation.

- Exempts from sales and use taxes, sales of property, fuel, or power used in, or used to repair or maintain property used in, the foreign or interstate air transportation of passengers or property by aircraft as a common carrier for compensation, or in furtherance of transportation of mail by aircraft.

- Authorizes school districts to replace a school district income tax on a taxpayer's total taxable income with an earned income only tax.

- Exempts hedging transactions from the commercial activity tax (CAT).

- Authorizes CAT taxpayers to use an alternative to the statutory method for sourcing services for the purpose of determining whether receipts from the service are taxable.

- Exempts receipts from the CAT if they arise from transactions between members of a consolidated elected taxpayer group even when the member receiving the receipts is not a "qualifying" dealer in intangibles.

- Extends by six months the date by which a board of county commissioners may enter into an agreement with a person that is constructing an impact facility in the county, which returns to the person up to 75% of the county "piggyback" sales and use taxes collected on retail sales made by the facility.

- Modifies provisions in current law prohibiting the granting of certain tax exemptions with respect to property located in joint economic development districts (JEDDs) to provide that an exemption may be granted if the exemption is approved by all of the parties to the JEDD agreement.

- Authorizes the boards of county commissioners of "eligible counties" to finance, operate, and maintain arenas and convention centers; to enter into agreements and leases with respect to those facilities; and to utilize lodging taxes to support those facilities.

- Defines the counties eligible to exercise the powers granted by the bill with respect to arenas and convention centers as counties having a population of at least 400,000 but not more than 800,000 according to the 2000 federal census and that directly border the geographic boundaries of another state.

- Exempts the arenas and convention centers from real and tangible personal property taxes for so long as they are owned by the county.

- Authorizes the Governor to convey to a buyer or buyers to be determined at a later date five parcels that the Adjutant General has determined are

no longer required for armory or military purposes in Ashtabula County, Franklin County, Knox County, Clark County, and Champaign County.

- Authorizes the conveyance of several parcels and easements in Franklin County to the city of Columbus for varying purchase prices.

- Authorizes the Adjutant General to give effect to reversionary clauses in the original deeds of several parcels in Knox County and Champaign County.

- Authorizes the conveyance of state-owned real estate in the following counties: (a) Allen County to an interested state entity, the Board of County Commissioners of Allen County, the city of Lima, or another purchaser determined by public auction, (b) Athens County to O'Bleness Memorial Hospital, (c) Warren County to the Warren County Historical Society, (d) Union County to a purchaser or purchasers to be determined, (e) Wayne County to the village of Apple Creek and the Board of Township Trustees of East Union Township, (f) Coshocton County to the Three Rivers Fire District, and (g) Lucas County by a contract negotiated by the Board of Trustees of the University of Toledo with a purchaser or purchasers to be determined.

- Corrects an error in the description of land conveyed to the Board of Education of the Columbus City School District in Section 6 of Sub. H.B. 139 of the 126th General Assembly.

TABLE OF CONTENTS

CONTENT AND OPERATION

Adjutant General's office: elimination of certain premium reimbursements

(R.C. 5919.31)

Current law requires the Adjutant General to reimburse premiums paid by an active duty member of the Ohio National Guard who chooses to purchase life insurance pursuant to the federal Servicemembers' Group Life Insurance Act.[1] However, certain active duty members of the Ohio National Guard apparently are eligible under federal law to receive the same or a similar reimbursement of premiums *from the federal government*.

The bill consequently provides for Adjutant General reimbursement of the life insurance premiums only for active duty members of the Ohio National Guard who the Adjutant General determines are *ineligible for federal reimbursement* of premiums associated with the described life insurance coverage.

Drug-free workplace and state public improvement projects

(R.C. 153.74)

The bill prohibits any bid for a state public improvement contract that is greater than $100,000 from being accepted unless the submitting contractor has a drug-free workplace policy that meets the standards the Director of Administrative Services establishes by rule. Although the bill applies to state contracting authorities generally, some state authorities are exempt from the Public Improvements Law (R.C. Chapter 153.) and thus would be exempt from the bill's requirements. Some examples of the exempted authorities include the Capitol Square Review and Advisory Board and the Ohio Cultural Facilities Commission (for certain contracts) (R.C. 105.41, 3383.07, and 3383.08, not in the bill).

Air Quality Development Authority Law: definition of "FutureGen Project"

(R.C. 3706.01)

Current law defines "FutureGen Project" in the Air Quality Development Authority Law to mean the buildings, equipment, and real property and functionally related buildings, equipment, and real property designated by the United States Department of Energy and the FutureGen Industrial Alliance, Inc.,

[1] *The reimbursement is in an amount equal to the monthly premium paid for each month or part of a month by the Ohio National Guard member under the Act while he or she is an active duty member.*

as the coal-fueled, zero-emissions power plant designed to prove the technical and economic feasibility of producing electricity and hydrogen from coal and nearly eliminating carbon dioxide emissions through capture and permanent storage. The bill includes in the definition related projects that support the development and operation of the buildings, equipment, and real property constituting the project, thus making such research projects eligible for funding under that Law.

Powers and duties of the Ohio Building Authority with respect to capital facilities

(R.C. 152.09, 152.18, 152.19, 152.21, 152.24, and 152.26)

Background

Under the Ohio Building Authority Law (R.C. Chapter 152.), the Ohio Building Authority (OBA) is authorized to issue obligations of the state to cover the "cost of capital facilities" designated by the General Assembly for housing state agencies. For these purposes:

--"**Capital facilities**" is defined as buildings, structures, equipment, and real estate for housing of branches and agencies of state government for which OBA is authorized by Chapter 152. to issue obligations. The term includes capital facilities used for housing personnel, equipment, or functions, as well as any related storage or parking facilities.

--"**Cost of capital facilities**" means the costs of acquiring, constructing, reconstructing, rehabilitating, remodeling, renovating, enlarging, improving, altering, maintaining, equipping, furnishing, repairing, painting, decorating, managing, or operating capital facilities, and the financing of them. The term includes all expenses necessary or incident to planning or determining the feasibility of capital facilities.

Current law also permits OBA to acquire, construct, rehabilitate, remodel, renovate, maintain, equip, furnish, paint, decorate, manage, and operate capital facilities for the use of state agencies. The Department of Administrative Services (DAS), or the state agency using the capital facility, is generally required to lease the facility. OBA may choose to manage and have general custodial care and supervision of its capital facilities or enter into contracts with DAS or the using state agency or governmental entity for those purposes.

The bill

The bill modifies the definition of "**capital facilities**" by removing the requirement that the facilities be those for which OBA is authorized by Chapter 152. to issue obligations. Consequently, OBA's authority to control or manage

capital facilities is expanded to capital facilities it does not own. Such facilities do not, however, include capital facilities for institutions of higher education.

The bill permits OBA to "assess" and "plan" capital facilities for the use of state agencies. It also provides that the costs associated with such assessments and plans are to be considered a "**cost of capital facilities**" and, therefore, an expense that can be paid from proceeds of obligations issued by OBA.

While retaining current law with respect to the management and custodial care and supervision of OBA's own capital facilities, the bill permits OBA to manage, allocate space in, and have general custodial care and supervision of capital facilities it does not own *if* the facilities contain at least 200,000 square feet of space. A state agency or governmental entity that receives OBA's services, or DAS, is required to pay OBA for those services. The payment amount must be specified in an agreement entered into by the parties.

Warrant-writing function of the Office of Budget and Management

(R.C. 9.37, 101.83, 169.13, 4503.068, 4728.03, 5107.12, 5115.06, and 5741.101)

Prior to Am. Sub. H.B. 530 of the 126th General Assembly, money could not be paid or transferred out of the state treasury except on the warrant of the Auditor of State. Under H.B. 530, the Director of Budget and Management replaced the Auditor of State--effective December 1, 2006--in all matters relating to the drawing of warrants for the payment or transfer of money from the state treasury.

The bill makes corrective changes relating to the drawing of warrants for the payment or transfer of money from the state treasury to the Director of Budget and Management to ensure consistency throughout Ohio law. The corrections are necessary because H.B. 530 omitted several references in the Revised Code to the Auditor's warrant-writing function.

Real estate appraisal licensing requirements

(R.C. 4763.03, 4763.05, and 4763.06)

Existing law contains specific requirements for the experience, education, and testing for licensure as a real estate appraiser. The bill deletes some of the specifications from the Revised Code, and instead enables the Real Estate Appraiser Board to establish by rule the licensure requirements for experience, education, and testing. The bill specifies that any rule the Board adopts cannot exceed requirements specified in federal law or regulations.

Registered professional engineers and surveyors

(R.C. 4733.14)

Under current law, a registered professional engineer or a registered professional surveyor must seal, sign, and date any plans, specifications, plats, reports, or other engineering and surveying work completed by that engineer or surveyor. If the engineer or surveyor uses a computer-generated seal on final original drawings sent to a client or a government agency, the engineer or surveyor must hand-sign and date next to or across the seal. If the engineer or surveyor wants to transmit the documents electronically to a client or a government agency, the engineer or surveyor must remove the electronic seal before sending the document. A document sent this way also must have the following inserted in place of a signature: "This document was originally issued by ……. (name of registrant) on …….. (date). This document is not considered a sealed document.

The bill allows registered professional engineers and surveyors to electronically seal and electronically sign documents and to transmit them electronically without hand-signing the computer-generated seal, removing the seal, or placing any insert in lieu of a signature that declares the document an unsealed document. Under the bill, a document containing a computer-generated seal, an electronic signature, and a date is considered a sealed document in the same way that a document containing a stamp seal, hand signature, and date is a sealed document.

Nonprofit Corporation Law

Contents of regulations; definition of "authorized communications equipment"

(R.C. 1702.01(Q) and 1702.11(A)(4))

Existing law. Existing law provides that without limiting the generality of such authority, the regulations, whether designated a constitution or rules, or by some other term, may include provisions with respect to specified matters, including the rights of members or classes of members, or of their elected representatives or delegates, to vote and the manner of conducting votes of members on matters, including any right to vote by mail, by the use of "authorized communications equipment" if permitted by the Nonprofit Corporation Law, or by proxy. As used in the Nonprofit Corporation Law, "authorized communications equipment" currently means any communications equipment *to which both of the following apply: (1) the articles, regulations, or bylaws, or the regulations, constitution, or other fundamental agreement if R.C. 1702.08 (incorporation of an*

unincorporated society or association) applies, permit the use of the communications equipment for the purpose of giving notice of meetings or any notice required by the Nonprofit Corporation Law, attending and participating in meetings, giving a copy of any document or transmitting any writing required or permitted under that Law, or voting and (2) the communications equipment provides a transmission, including, but not limited to, by telephone, telecopy, or any electronic means, from which it can be determined that the transmission was authorized by, and accurately reflects the intention of, the member or director.

Operation of the bill. The bill modifies the contents of the regulations as described above with respect to the manner of conducting votes of members on matters, including voting (instead of right to vote) by mail, by the use of authorized communications equipment (the bill deletes if permitted by the Nonprofit Corporation Law), or by proxy. It removes from the definition of "authorized communications equipment" the requirement in (1) in the preceding paragraph that *the articles, regulations, or bylaws, or the regulations, constitution, or other fundamental agreement if R.C. 1702.08 applies, must permit the use of the communications equipment for the purpose of giving notice of meetings or any notice required by the Nonprofit Corporation Law, attending and participating in meetings, giving a copy of any document or transmitting any writing required or permitted under that Law, or voting*.

Amendment of regulations or adoption of new regulations

(R.C. 1702.11(B)(1))

Existing law provides that in the absence of provisions in the articles or the regulations with respect to the method of changing the regulations, the regulations may be amended, or new regulations may be adopted, by the voting members at a meeting held for such purpose, if a quorum is present, by the affirmative vote of a majority of the voting members present in person or, *if permitted, by mail, by the use of authorized communications equipment, or by proxy*.

Under the bill, in the absence of provisions in the articles or the regulations with respect to the method of changing the regulations, the regulations may be amended, or new regulations may be adopted, by the voting members at a meeting held for such purpose, if a quorum is present, by the affirmative vote of a majority of the voting members present in person, *by the use of authorized communications equipment, by mail, or, if permitted, by proxy*.

Incorporation of society or association

(R.C. 1702.08(A))

Existing law provides if no vote is specified in the regulations, constitution, or other fundamental agreement of an unincorporated society or association for an amendment to that fundamental agreement, the incorporation of the society or association must be authorized by a majority vote of the voting members present in person or, *if permitted, by mail, by proxy, or by the use of authorized communications equipment*, at a duly convened meeting the purpose of which is stated in the notice of the meeting.

The bill provides if no vote is specified in the regulations, constitution, or other fundamental agreement of an unincorporated society or association for an amendment to that fundamental agreement, the incorporation of the society or association must be authorized by a majority vote of the voting members present in person, *by the use of authorized communications equipment, by mail, or, if permitted, by proxy*, at a duly convened meeting the purpose of which is stated in the notice of the meeting.

Attendance at meetings of voting members or directors

(R.C. 1702.19(C))

Existing law provides that a member *or director* is considered in attendance at a meeting of voting members or directors if the member *or director* is present in person or, *if permitted by the regulations, is present by the use of authorized communications equipment*.

The bill provides that, *unless the articles or regulations provide otherwise*, a member is considered in attendance at a meeting of voting members if the member is present in person, by the use of authorized communications equipment, *by mail, or, if permitted, by proxy. Unless the articles or regulations provide otherwise, a director is considered in attendance at a meeting of directors if the director is present in person or by the use of authorized communications equipment.*

Meetings of voting members

(R.C. 1702.17(C))

Existing law provides that *if authorized by the directors*, the voting members and proxyholders who are not physically present at a meeting of voting members may attend the meeting by the use of authorized communications equipment that enables the voting members and proxyholders an opportunity to

participate in the meeting and to vote on matters submitted to the voting members, including an opportunity to read or hear the proceedings of the meeting, participate in the proceedings, and contemporaneously communicate with the persons who are physically present at the meeting.

The bill provides that *unless the articles or regulations provide otherwise*, the voting members and proxyholders who are not physically present at a meeting of voting members may attend the meeting by the use of authorized communications equipment as described in the preceding paragraph.

Quorum

(R.C. 1702.22(A)(1))

Existing law provides that unless the articles or the regulations otherwise provide, the voting members present in person or, *if permitted, by mail, by proxy, or by the use of authorized communications equipment* at any meeting of voting members constitute a quorum for the meeting. The bill provides that unless the articles or regulations otherwise provide, the voting members present in person, *by the use of authorized communications equipment, by mail, or, if permitted, by proxy* at any meeting of voting members constitute a quorum for the meeting.

Voting by members

(R.C. 1702.20(B))

Existing law provides that the *articles or the regulations may provide* that voting at elections and votes on other matters may be conducted by mail or by the use of authorized communications equipment. The bill provides that *unless the articles or the regulations provide otherwise*, voting at elections and votes on other matters may be conducted by mail or by the use of authorized communications equipment.

Fixing or changing number of directors

(R.C. 1702.27(A)(2)(a))

Existing law provides that, subject to the provision that no reduction in the number of directors may of itself have the effect of shortening the term of any incumbent director, unless the articles or the regulations fix the number of directors or provide the manner in which that number may be fixed or changed by the voting members, the number may be fixed or changed at a meeting of the voting members called for the purpose of electing directors, if a quorum is present, by the affirmative vote of a majority of the voting members present in person or, *if*

permitted, by mail, by the use of authorized communications equipment, or by proxy.

Under the bill, subject to the provision that no reduction in the number of directors may of itself have the effect of shortening the term of any incumbent director, unless the articles or the regulations fix the number of directors or provide the manner in which that number may be fixed or changed by the voting members, the number may be fixed or changed at a meeting of the voting members called for the purpose of electing directors, if a quorum is present, by the affirmative vote of a majority of the voting members present in person, *by the use of authorized communications equipment, by mail, or, if permitted, by proxy*.

Amendment of articles

(R.C. 1702.38(C)(1))

Existing law provides that the voting members present in person or, *if permitted, by mail, by proxy, or by use of authorized communications equipment,* at a meeting held for that purpose may adopt an amendment of the articles by the affirmative vote of a majority of the voting members present if a quorum is present or, if the articles or the regulations provide or permit, by the affirmative vote of a greater or lesser proportion or number of the voting members, and by the affirmative vote of the voting members of any particular class that is required by the articles or the regulations.

Under the bill, the voting members present in person, *by use of authorized communications equipment, by mail, or, if permitted, by proxy* at a meeting held for that purpose, may adopt an amendment of the articles by a vote as described in the preceding paragraph.

Disposition of assets of mutual benefit corporation

(R.C. 1702.39(A)(1))

Under existing law, a lease, sale, exchange, transfer, or other disposition of all, or substantially all, the assets of a mutual benefit corporation may be made only when that transaction is also authorized, either before or after authorization by the directors, by the voting members present in person or, *if permitted, by mail, by proxy, or by the use of authorized communications equipment,* at a meeting held for that purpose, by the affirmative vote of a majority of the voting members present, if a quorum is present, or, if the articles or the regulations provide or permit, by the affirmative vote of a greater or lesser proportion or number of the voting members, and by the affirmative vote of the voting members of any particular class that is required by the articles or the regulations.

The bill provides that a lease, sale, exchange, transfer, or other disposition of all, or substantially all, the assets of a mutual benefit corporation may be made only when that transaction is also authorized, either before or after authorization by the directors, by the voting members present in person, *by the use of authorized communications equipment, by mail, or, if permitted, by proxy* at a meeting held for that purpose by a vote as described in the preceding paragraph.

Disposition of assets of public benefit corporation

(R.C. 1702.39(B)(1)(b)(i))

Existing law precludes a public benefit corporation from disposing of its assets with value equal to more than 50% of the fair market value of the net tangible and intangible assets, including goodwill, of the corporation over a period of 36 consecutive months in a transaction or series of transactions, including the lease, sale, exchange, transfer, or other disposition of those assets, that are outside the ordinary course of its business or that are not in accordance with the purpose or purposes for which the corporation was organized, as set forth in its articles or the terms of any trust on which the corporation holds such assets, unless one or more of specified conditions apply. One of these conditions is that the corporation has provided written notice of the proposed transaction, including a copy or summary of the terms of such transaction, at least 20 days before consummation of the lease, sale, exchange, transfer, or other disposition of the assets, to the Attorney General's Charitable Law Section and to the members of the corporation, and the proposed transaction has been approved by the voting members present *in person or, if permitted, by mail, by proxy, or by the use of authorized communications equipment*, at a meeting held for that purpose, by the affirmative vote of a majority of the voting members present if a quorum is present, or, if the articles or regulations provide or permit, by the affirmative vote of a greater or lesser proportion or number of the voting members, and if the articles or regulations require, by the affirmative vote of the voting members of any particular class.

The bill requires the proposed transaction described in the preceding paragraph to have been approved by the voting members present in person, *by the use of authorized communications equipment, by mail, or, if permitted, by proxy* at a meeting described in that paragraph.

Meeting to vote on agreement of merger or consolidation

(R.C. 1702.42(B)(1))

Current law provides that in order to be adopted, an agreement of merger or consolidation, including any amendments or additions to the agreement proposed

at each meeting, must receive the affirmative vote of a majority of the voting members of each constituent corporation present at that meeting in person or, *if permitted, by mail, by proxy, or by the use of authorized communications equipment*, if a quorum is present, or, if the articles or regulations of that corporation provide or permit, the affirmative vote of a greater or lesser proportion or number of the voting members, and the affirmative vote of the voting members of any particular class that is required by the articles or regulations of such corporation.

The bill provides that in order to be adopted, an agreement of merger or consolidation, including any amendments or additions to the agreement proposed at each meeting, must receive the affirmative vote of a majority of the voting members of each constituent corporation present at that meeting in person, *by the use of authorized communications equipment, by mail, or, if permitted, by proxy* if a quorum is present or, if the articles or regulations of that corporation provide or permit, the affirmative vote of a greater or lesser proportion or number of the voting members, and the affirmative vote of the voting members of any particular class that is required by the articles or regulations of such corporation.

Meeting to accept provisions of Nonprofit Corporation Law

(R.C. 1702.58(E)(1))

Under current law, a corporation created before September 1, 1851, and actually carrying on its activities in Ohio, and which prior to October 11, 1955, has not taken specified action that would make it subject to the Ohio Constitution and laws passed under the Ohio Constitution, may accept the provisions of the Nonprofit Corporation Law (R.C. 1702.01 to 1702.58) at a meeting of voting members held for that purpose, by a resolution to that effect adopted by the affirmative vote of a majority of the voting members present in person or, *if permitted, by mail, by proxy, or by the use of authorized communications equipment,* if a quorum is present, and by filing in the Office of the Secretary of State a copy of the resolution certified by any authorized officer of the corporation, for which filing the Secretary of State charges and collects a fee of $5. Thereafter the corporation is deemed to exercise its corporate privileges under the Ohio Constitution and the laws passed in pursuance of the Ohio Constitution, and not otherwise.

Under the bill, a resolution to accept the provisions of the Nonprofit Corporation Law as described in the preceding paragraph must be adopted by the affirmative vote of a majority of the voting members present in person, *by the use of authorized communications equipment, by mail, or, if permitted, by proxy* if a quorum is present.

Debt adjusting companies

(R.C. 4710.02)

Under current law, a person engaged in debt adjusting generally must disburse funds within 30 days and maintain a separate trust account for the receipt of any funds from debtors and the disbursement of the funds to creditors on behalf of the debtors. The bill additionally requires that a person engaged in debt adjusting also charge or accept only reasonable fees or contributions, and establish and implement a policy that allows, under certain circumstances, for the waiver or discontinuation of fees or contributions if the debtor is unable to pay such fees or contributions.

Cultural and sports facilities

(R.C. 3383.01 and 3383.07)

Tennis facility eligibility

Under current law, the Ohio Cultural Facilities Commission oversees construction, renovation, use, and state financing of cultural and sports facilities. Funding for Ohio sports facilities can be provided through direct appropriations from the General Revenue Fund, from appropriations made from moneys derived from the sale of state bonds, and from other specified funding sources.

An "Ohio sports facility" is a facility with a primary purpose of providing a site or venue for the public presentation of motorsports events, or major or minor league professional athletic or sports teams events that are associated with Ohio or with a city or region of Ohio. Current law requires the facility to, in the case of a motorsports complex, be owned by a state or governmental agency, or in all other instances, be owned by or located on real property owned by Ohio or a governmental agency. The bill adds tennis facilities with a primary purpose of providing a site or venue for the presentation to the public of professional tennis tournaments as an Ohio sports facility eligible to receive Commission assistance.

Under current law, the state funding component of an Ohio sports facility cannot be used to pay or reimburse more than 15% of the initial estimated construction cost of the facility. Also, the Commission must determine a regional need for the facility, must receive a satisfactory financial and development plan, and must be specifically authorized by the General Assembly to participate in the financing. If state bond proceeds are being used, the state or a governmental agency must own or have a property interest in the facility or the portion of the facility financed with those proceeds.

The bill maintains these requirements for tennis facilities. Additionally, the bill prohibits state bond proceeds from being spent on a tennis facility unless the facility's owner or manager provides contractual commitments from a national or international professional tennis organization in a form acceptable to the Commission that assures that one or more sanctioned professional tennis events will be presented at the facility during each year that the bonds remain outstanding.

Delegation of authority

The bill authorizes the Commission to delegate to its executive director the authority to approve, but not disapprove, the provision of construction and general building services by a governmental agency or cultural or nonprofit organization for an Ohio cultural facility or Ohio sports facility that receives a state appropriation of $50,000 or less (except that the Ohio Building Authority can continue to elect to provide general building services for cultural facilities financed with proceeds of bonds it issues).

And, for such cultural facilities (but not, under current law and the bill, state historical facilities) receiving $50,000 or less, the bill also allows such delegation in determining, but only in the affirmative, the regional need for a facility and the adequacy of the local share; and allows such delegation in making those determinations, as well as the determination of the adequacy of the local financial and development plan, for an Ohio sports facility receiving $50,000 or less. These determinations are necessary to allow state funds to be spent on any such facility.

Third Frontier Research and Development Taxable Bond Fund

(R.C. 151.01, 151.10, and 184.191)

Current law requires the Ohio Public Facilities Commission to issue general obligations of the state to pay costs of research and development projects. A "**project**" means a research and development project or facility acquired, constructed, or operated by a person doing business in Ohio or by an educational or scientific institution located in Ohio with all or part of the cost of the project being paid from a grant or loan from the Third Frontier Research and Development Fund, or a loan guaranteed under the law governing the Third Frontier Commission, including all buildings and facilities determined necessary for the operation of the project, together with all property, rights, easements, and interests that may be required for the operation of the project.[2] Net proceeds of the

[2] *"Research and development project" is defined under current law to mean projects or activities in support of Ohio industry, commerce, and business, including (1) research*

obligations are deposited into the Third Frontier Research and Development Fund created in the state treasury. Moneys in the fund are to be used to finance the Third Frontier Commission's research and development activities and for associated administrative expenses. All investment earnings of the fund are credited to it.

The bill creates a new fund in the state treasury called the Third Frontier Research and Development Taxable Bond Fund that will consist of net proceeds of the obligations issued as described under current law that are federally taxable; proceeds from non-federally taxable obligations will continue to be deposited in the existing fund described above. Investment earnings of the new fund must be credited to it and the money in the fund must be used in accordance with the law governing the Third Frontier Commission's fostering and funding of research and development projects, as well as for associated administrative expenses. The bill also amends the definition of "project" to permit the cost of a project to be paid from a grant or loan from the Third Frontier Research and Development Taxable Bond Fund.

Exemptions from commercial prevailing wage law

(R.C. 176.05 and 4115.04)

Background

Ohio's commercial prevailing wage law (R.C. 4115.03 to 4115.16) requires that any public authority wishing to engage in construction of a public improvement ensure that the workers employed on the project are paid the "prevailing rate of wages." The prevailing wage is the sum of the basic hourly rate of pay, contributions by a contractor or subcontractor to a fund, plan, or program,

---

and product innovation, development, and commercialization through efforts by, and may include collaboration among, Ohio business and industry, state and local public entities and agencies, public and private institutions, research organizations, or other in-state entities specifically formed for the sole purpose of both investing in and providing direct management support to any one or combination of any of the foregoing entities or any other in-state entities, and (2) projects and activities supporting any and all matters related to research and development purposes including: (a) attracting researchers and research teams by endowing chairs or otherwise, (b) developing and commercializing products and processes, (c) promoting, developing, and securing intellectual property matters and rights such as copyrights and patents, (d) promoting, developing, and securing property interests, including time sharing arrangements, and (e) promoting, developing, and securing financial rights and matters such as royalties, licensing, and other financial gain or sharing resulting from research and development. (R.C. 184.10, not in bill.)

and the costs to the contractor or subcontractor in providing various fringe benefits (unless the benefits are required under federal, state, or local law). The requirement to pay the prevailing wage applies to any officer, board, or commission of the state, any political subdivision, and any institution supported in whole or in part by public funds. The law applies to any new construction of a public improvement fairly estimated to cost more than $69,843, and any renovation of a public improvement estimated to cost more than $20,955 and if the construction or renovation is performed by other than full-time employees of the political subdivision of the governmental public authority who are not in the classified service of the public authority.

The residential prevailing wage law (R.C. 176.05) applies to public housing projects. The following public housing projects are exempt from the residential prevailing wage requirements:

(1) The single-family mortgage revenue bonds homeownership program under the Housing Financing Agency Law (R.C. Chapter 175.), including owner-occupied dwellings of one to four units;

(2) Projects consisting of fewer than six units developed by any entity that is not a nonprofit organization exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code;

(3) Projects of fewer than 25 units developed by any nonprofit organization that is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code;

(4) Programs undertaken by any municipal corporation, county, or township, including lease-purchase programs, using mortgage revenue bond financing;

(5) Any individual project sponsored or developed by a nonprofit organization that is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code, for which the federal government or any of its agencies furnishes by loan, grant, low-income housing tax credit, or insurance more than 12% of the costs of the project.

For the purposes of (5) above, current law defines sponsored to mean that the general partner of a limited partnership owning the project is either a nonprofit organization that is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code or a person in which such a nonprofit organization maintains controlling interest.

The bill

The bill exempts public improvements that are undertaken by, or under contract for, a political subdivision of the state, the total overall project cost of which is estimated to be less than $400,000 from the commercial prevailing wage law. Beginning on January 1, 2008, the Director of Commerce must adjust that amount annually according to the average increase or decrease for each of the two years immediately preceding the adjustment as set forth in the United States Department of Commerce, Bureau of the Census implicit price deflator for construction.

The bill also exempts the projects listed in (1) to (5) immediately above from the commercial prevailing wage law. The bill also modifies the definition of sponsored for the purposes of (5) immediately above. Under the bill, "sponsored" means that *a* general partner of a limited partnership owning the project, instead of *the* general partner under current law, is either a nonprofit organization exempt from the federal income tax or a person or limited liability company in which such a nonprofit organization maintains a controlling interest. The bill expands the definition of "sponsored" to include limited liability companies. Thus, under the bill, a project described under (5) immediately above is sponsored by a limited liability company where a managing member of the limited liability company owning the project is either a federally tax-exempt nonprofit organization or a person or limited liability company in which such a nonprofit organization maintains a controlling interest may sponsor a project. The bill specifies that, for purposes of this provision, neither a general partner that is a nonprofit organization or a managing member of a limited liability company that is a nonprofit organization must be the sole general partner of the limited partnership or the sole managing member of the limited liability company.

Calculation of school district reimbursement for tax changes

(R.C. 5727.84)

The bill refines the calculation of the state reimbursement provided to school districts for revenue losses resulting from electric utility deregulation and the phase-out of the tangible personal property tax. This reimbursement temporarily holds districts harmless for their net tax revenue losses, after accounting for the "state aid offset," which is the increase in state education subsidies attributable to the districts' lower tax valuations. (That is, the utility deregulation and tangible personal property tax phase-out not only reduced school districts' property tax revenues, they also reduced tax valuations, which in turn should increase state payments under the school funding formulas.)

The bill's refinement pertains to the calculation of this state aid offset. Whereas current law refers simply to state funds paid under the school funding laws, the bill itemizes the specific state subsidies and adjustments that should be accounted for. These consist of the subsidies and adjustments accounted for on the Department of Education's "SF-3" form to school districts, including deductions for school choice programs such as open enrollment, community schools, Educational Choice scholarships, and the Autism Scholarship Program. Therefore, the bill prescribes that the state aid offset is the state education aid paid to a district, less amounts deducted for school choice programs.

Autism Scholarship Program

(R.C. 3310.41, 3317.013, 3317.022, 3317.029, 3317.0217, and 3317.03)

The bill codifies, renames, and makes permanent the Pilot Project Special Education Scholarship Program. The new name is the Autism Scholarship Program. The bill codifies the statute authorizing the program and amends the school funding laws to codify the funding mechanism.

This program was established as a pilot program through fiscal year 2007 by the budget acts for the 2003-2005 and 2005-2007 biennia. It pays scholarships of up to $20,000 to the parents of autistic children for services at public and nonpublic special education programs in lieu of enrolling them in the programs of their resident school districts. Each child is counted in the enrollments of the child's resident school district (thereby crediting the district with state funding), and the amount of each scholarship is deducted from the district's state aid account. Because the program authorizes scholarships for preschoolers, as well as school-age children, the amendments to the school funding laws that codify the payment mechanism direct that preschoolers receiving scholarships also be counted in school districts' enrollment and figured into the calculation of their state payments.

Volume cap allocation for student loan notes

(R.C. 133.021)

The bill states that any portion of Ohio's volume of private activity bonds that is allocated for issuance of student loan notes may be awarded only to either (1) the Treasurer of State, for the state student loan secondary market program, or (2) the single nonprofit secondary market operation designated by the Governor to operate in Ohio under federal higher education law.

Background

A federal income tax exemption is available to investors who purchase state or local government bonds issued to finance certain nongovernmental activities that are determined to fulfill a public purpose. These bonds are referred to as tax-exempt private activity bonds. The federal government imposes a limit, or cap, on the volume of private activity bonds that can be issued in each state each year.

War Orphans Scholarship eligibility

(R.C. 5910.03)

The bill increases, from 21 years to 25 years, the maximum age to apply for a War Orphans Scholarship. The War Orphans Scholarship Program provides college scholarships to children of (1) deceased or disabled veterans who served during periods of war, (2) veterans who were killed or permanently and totally disabled on active duty, or (3) veterans who were declared prisoners of war or missing in action during armed conflict.

Governor's residence heritage garden

(R.C. 107.40)

Current law requires the Governor's Residence Advisory Commission to be responsible for the care, provision, repair, and placement of furnishings and other objects and accessories of the grounds and public areas of the first story of the Governor's residence and for the care and placement of plants on the grounds. In exercising the responsibility, the Commission must preserve and seek to further establish the authentic ambiance and décor of the historic era during which the Governor's residence was constructed and the grounds as a representation of Ohio's natural ecosystems. The bill adds that the Commission also must preserve and seek to establish the heritage garden for all of the following purposes: (1) to preserve, sustain, and encourage the use of native flora throughout the state, (2) to replicate the state's physiographic regions, plant communities, and natural landscapes, (3) to serve as an educational garden that demonstrates the artistic, industrial, political, horticultural, and geologic history of the state through the use of plants, and (4) to serve as a reservoir of rare species of plants from the physiographic regions of the state. The bill defines "heritage garden" as the botanical garden of native plants established at the Governor's residence. Finally, the bill states that the heritage garden must be officially known as "The Heritage Garden at the Ohio Governor's Residence."

Foreign insurers tax

(R.C. 3901.36)

Under existing law, all of the following entities are subject to a 5% tax on the gross premiums, membership fees, assessments, dues, and other considerations paid or received on all insurance contracts covering subjects of insurance resident, located, or to be performed in Ohio: (1) any foreign or alien insurer not authorized to transact business in Ohio that transacts insurance business in Ohio, (2) any nonresident person acting on behalf of an insurer who transacts insurance business in Ohio, (3) any nonresident insurance agent who transacts insurance business in Ohio, and (4) any association, company, corporation, or other person that enters into any agreements with any insurance company not authorized to do business in Ohio.

Existing law also exempts certain transactions and persons from the foreign insurers tax. Under existing law, none of the following are subject to the tax: (1) transactions in Ohio involving a policy solicited, written, and delivered outside of Ohio that covers only subjects of insurance not resident, located, or to be performed in Ohio at the time of issuance, provided such transactions are subsequent to the issuance of the policy, (2) attorneys adjusting claims or losses on behalf of their clients, (3) transactions involving policies issued by a captive insurer, and (4) professional or medical liability insurance procured by a hospital.

The bill adds two additional exemptions from the foreign insurers tax. It exempts insurance for professional or medical liability insurance procured on behalf of an entity that manufactures, packages, and sells, as more than 50% of the entity's business, pharmaceutical products for human use where the production, packaging, and sale of such products are regulated by an agency of the United States. The bill also exempts insurance for which the initial policy period lasts longer than three years and that is procured to cover known events related to environmental remediation that occurred prior to the effective date of that insurance.

Reciprocal or interinsurance tax rates

(R.C. 3931.07)

Current law requires the Superintendent of Insurance to compute a two per cent tax on the gross amount of premiums for reciprocal or interinsurance contracts, with an additional three quarters of one per cent for fire insurance. The tax law for such insurers requires a one and four-tenths per cent tax, with an additional three quarters of one per cent for fire insurance. (R.C. 5729.03 and 3737.71, not in the bill.) The bill reduces the tax the Superintendent must

calculate to one and four-tenths per cent, with an additional three quarters of one per cent for fire insurance.

Open Meetings Law: definition of "caucus"

(R.C. 101.15)

Under current law, for the purposes of the Open Meetings Law, "caucus" means all of the members of either house of the General Assembly who are members of the same political party. Meetings of a caucus are not subject to the requirement that all meetings of any General Assembly committee be open to the public at all times or to the related provisions requiring prior notice of committee meetings, invalidating actions of a committee not taken in an open meeting, and authorizing court actions to enforce the requirement. The bill expands the definition of "caucus" to include members of a committee of the House of Representatives who are members of the same political party.

Joint Legislative Ethics Committee Fund

(R.C. 101.34, 101.72, 101.92, and 121.62)

Within ten days after an employer engages a legislative agent, executive agency lobbyist, or retirement system lobbyist, the lobbyist and the employer are required to file registration statements with the Joint Legislative Ethics Committee. Updated registration statements that confirm the continuing existence of the engagement, and that identify the specific items on which the lobbyist is advocating, must be filed not later than the last day of January, May, and September of each year.

The Joint Legislative Ethics Committee is required to charge a registration fee of $25 for filing the initial registration statement. There is no registration fee required to be paid when filing the updated statements. If, however, a legislative agent, executive agency lobbyist, retirement system lobbyist, or employer fails to file a registration statement or, when required, an amended registration statement, the Committee is required to assess a late filing fee of up to $12.50 per day, up to a maximum of $100, upon that person. The Committee may waive this late fee for good cause shown.

Existing law requires these fees to be deposited into the General Revenue Fund. The bill changes the fund into which these fees must be deposited. Under the bill, lobbyist registration fees and late filing fees must be deposited into the state treasury to the credit of the Joint Legislative Ethics Committee Fund. Under existing law, money credited to the fund, and any interest and earnings from the fund, must be used solely for the operation of the Joint Legislative Ethics

Committee and the Office of Legislative Inspector General and for the purchase of data storage and computerization facilities for legislative agent and executive agency lobbyist expenditure statements. The bill also permits the money, interest, and earnings to be used for the purchase of data storage and computerization facilities for retirement system lobbyist expenditure statements.

Changes in Lottery Sales Agent Licensing Law

(R.C. 3770.05 and 3770.073(A)(1))

Application and renewal of license fees

Current law requires each applicant for a lottery sales agent license to pay a $25 fee upon approval of the application. The bill eliminates this $25 fee and instead requires an *application fee* in an amount that the Director of the State Lottery Commission determines in a rule adopted under the Administrative Procedure Act and that the Controlling Board approves, and mandates that the applicant pay the fee to the Commission *at the time the application is submitted*, rather than when the application is approved.

The bill also provides that before the Commission *renews* a lottery sales agent's license, the agent must submit a *renewal fee* to the Commission in the amount that the Director determines by rule adopted under the Administrative Procedure Act and that the Controlling Board approves. The renewal of the license is effective for up to one year, and the amount of the renewal fee cannot exceed the actual cost of administering the license renewal and processing changes reflected in the renewal application. Current law does not require payment of a license renewal fee.

The bill further requires that a lottery sales agent's license be complete, accurate, and current at all times during the term of the license. Any changes to an original license application or a renewal application may subject the applicant or lottery sales agent, as applicable, to paying an *administrative fee* (1) that must not exceed the actual cost of administering and processing the changes to the application and (2) that is in the amount the Director determines by rule adopted under the Administrative Procedure Act and that the Controlling Board approves.

Bonds and dedicated accounts

Applicants. Current law requires that, before a lottery sales agent license application is approved, the applicant must obtain a surety bond, or, if required, a fidelity bond, in an amount to be determined by the Director. The bond may be with any company that complies with Ohio's bonding and surety laws and the requirements established by Commission rules.

The bill eliminates the option for an applicant to be required to file a fidelity bond with the Commission and instead authorizes an applicant to obtain a *surety bond* in an amount the Director determines by rule adopted under the Administrative Procedure Act or, alternatively, with the Director's approval, to deposit the same amount into a *dedicated account* (see below) for the benefit of the State Lottery. The Director also may approve the submission of a surety bond to cover part of the amount required, together with a dedicated account deposit to cover the remainder of the amount required.

A dedicated account deposit must be conducted in accordance with policies and procedures the Director establishes. And, a dedicated account, a surety bond, or both, as applicable, may be used (1) to pay for a lottery sales agent's failure to make prompt and accurate payments for lottery ticket sales, for missing or stolen lottery tickets, or for damage to equipment or materials issued to the agent, or (2) to pay for expenses the Commission incurs in connection with the agent's license.

Renewals. Current law requires a licensed lottery sales agent, at the time the agent renews the agent's license, to provide evidence to the Director that *the surety bond* required by law has been renewed, and the Director must certify to the Commission that the agent has the required bond. The bill instead requires the agent to provide evidence to the Director, at the time of license renewal, that the surety bond, dedicated account deposit, or both, required under the bill has been renewed or is active, whichever applies. It also repeals the requirement for Director certification to the Commission.

Criminal records check

Current law (1) requires the Director of the State Lottery Commission to request the Bureau of Criminal Identification and Investigation in the Office of the Attorney General, the Department of Public Safety, or any other state, local, or federal agency to supply the Director with the criminal records of any applicant for a lottery sales agent license and (2) authorizes the Director to periodically request criminal records concerning any person to whom such a license has been issued. Upon or before making a request described in (1) or (2) above, the Director must require an applicant or licensee to obtain fingerprint impressions on fingerprint cards prescribed by the Superintendent of the Bureau of Criminal Identification and Investigation at a qualified law enforcement agency, and the Director must cause those fingerprint cards to be forwarded to the Bureau of Criminal Identification and Investigation *and* the Federal Bureau of Investigation.

The bill instead requires the fingerprint cards to be forwarded to the Bureau of Criminal Identification and Investigation, *or* to the Federal Bureau of Investigation, *or to both Bureaus*.

ICF/MR Conversion Pilot Program

(R.C. 5111.88)

Current law requires the Director of Job and Family Services to seek federal approval for a Medicaid waiver authorizing the operation of the ICF/MR Conversion Pilot Program under which intermediate care facilities for the mentally retarded (ICFs/MR) may volunteer to convert in whole or in part from providing ICF/MR services to providing home and community-based services. Up to 200 individuals with mental retardation or a developmental disability who are eligible for ICF/MR services would be permitted to receive instead home and community-based services. The Director must also seek federal approval to be able, beginning on the first day that the program begins implementation, to refuse to enter into or amend a Medicaid provider agreement with the operator of an ICF/MR if the provider agreement or amendment would authorize the operator to receive Medicaid payments for more ICF/MR beds than the operator receives on the day before the day the program begins implementation. However, an ICF/MR is permitted to reconvert beds to providing ICF/MR services after the program terminates unless the program is later implemented statewide, the facility no longer meets the requirements for certification as an ICF/MR, or no longer meets the requirements for licensure as a residential facility or nursing home.

Current law requires the Director to seek federal approval for the ICF/MR Conversion Pilot Program and authority to limit the number of ICF/MR beds covered by Medicaid provider agreements by January 1, 2007. The bill delays the deadline to seek the federal approval until June 30, 2007.

Community mental health services

(R.C. 340.03, 340.09, 340.12, and 5119.611)

Background

The state is divided into alcohol, drug addiction, and mental health service districts. Generally, each county or combination of counties having a population of at least 50,000 is to serve as a district, but the Director of Mental Health and Director of Alcohol and Drug Addiction Services may approve a district comprised of a single county or combination of counties with a smaller population.[3]

Most districts have a single board to serve as the planning agency for the district's mental health services and its alcohol and drug addiction services. This

[3] *R.C. 340.01.*

type of board is called a board of alcohol, drug addiction, and mental health services (ADAMHS board). However, a district comprised of a county that had a population of 250,000 or more on October 10, 1989, may have two separate boards; one to serve as the planning agency for mental health services (community mental health board) and another to serve as the planning agency for alcohol and drug addiction services (alcohol and drug addiction services board).[4]

One duty of an ADAMHS board or community mental health board is to establish an annual community mental health plan. The plan lists the district's community mental health needs and the institutional and community mental health services that are or will be in operation in the district to meet those needs. Each board's plan is subject to the Director of Mental Health's approval.[5]

A board is to contract with community mental health agencies for the provision of community mental health services included in the board's approved plan. With the Director of Mental Health's approval and under limited circumstances, a board may itself provide community mental health services for a limited period of time.[6] A board's plan may also provide for the Ohio Department of Mental Health to operate community mental health services for the board.[7]

Crisis intervention services

(R.C. 340.03(A)(1)(c) and 340.09)

A community mental health plan must state which services listed in statute the ADAMHS board or community mental health board intends to provide or purchase.[8] Currently, the statute expressly includes, among other services, outpatient, inpatient, rehabilitation, and emergency services. The statute also includes "[o]ther services approved by the board and Director of Mental Health."[9]

---

[4] *R.C. 340.02 and 340.021.*

[5] *R.C. 340.03(A)(1)(c).*

[6] *R.C. 340.03(A)(8).*

[7] *R.C. 340.03(A)(3)(c).*

[8] *Under the bill, a community mental health plan must state which services the board intends to make available, rather than provide or purchase.*

[9] *The Ohio Department of Mental Health is required to assist counties in the provision of the services listed in the statute. (R.C. 340.09.)*

The bill adds crisis intervention to the services in the statute. The Director has adopted rules governing crisis intervention services.[10]

The bill requires that a plan include crisis intervention services for individuals in emergency situations. Each board must explain how the board intends to make the crisis intervention services available.

Discrimination on basis of inability to pay

(R.C. 340.12)

Current law prohibits ADAMHS boards, community mental health boards, alcohol and drug addiction services boards, and entities under contract with a board from discriminating in matters regarding provision of services under its authority, employment, or contracts on the basis of race, color, sex, creed, disability, national origin, or inability to pay. The bill eliminates the prohibition against discrimination on the basis of inability to pay.

Certification of community mental health services

(R.C. 340.03(A)(8)(a) and 5119.611)

The community mental health services for which an ADAMHS board or community mental health board contracts with a community mental health agency must be certified by the Director of Mental Health. The bill stipulates that the Director may certify a community mental health service only if the service is for individuals whose focus of treatment is a mental disorder according to the current edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders. This is to include such services for individuals who have a mental disorder and a co-occurring substance use disorder, substance induced disorder, chronic dementing organic mental disorder, mental retardation, or developmental disability. This is not to include services that are for individuals whose focus of treatment is solely a substance use disorder, substance-induced disorder, chronic dementing organic mental disorder, mental retardation, or developmental disability. The bill also expressly conditions the Director's certification of a service on the payment of the certification review fee established by current law.

[10] *Ohio Administrative Code §5122-29-10.*

Funding for services in plan

(R.C. 340.03(A)(1)(c))

An ADAMHS board or community mental health board must submit an allocation request for state and federal funds along with the board's community mental health plan. Eligibility for financial support is contingent on the Department of Mental Health's approval of the plan or relevant part of the plan.[11] The bill permits the Department to provide state and federal funding for services included in the plan only if the services are for individuals whose focus of treatment or prevention is a mental disorder according to the current edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders. This may include such services for individuals who have a mental disorder and a co-occurring substance use disorder, substance-induced disorder, chronic dementing organic mental disorder, mental retardation, or developmental disability. This is not to include services that are for individuals whose focus of treatment is solely a substance use disorder, substance-induced disorder, chronic dementing organic mental disorder, mental retardation, or developmental disability.

Housing for mental hygiene and retardation patients

Issuing obligations for housing

(R.C. 154.02 and 154.20; Sections 401.03, 401.04, 415.10, 415.11, and 503.20)

Under current law, the Ohio Treasurer is authorized to issue revenue obligations on behalf of the Public Facilities Commission (PFC) to raise money for capital facilities designated by the General Assembly for, among other purposes, mental hygiene and retardation. The authority for issuance of the obligations comes from Article VIII, Section 2i of the Ohio Constitution. Under that authority, the Treasurer has been authorized by Am. Sub. H.B. 16 of the 126th General Assembly to issue $20 million worth of obligations. Am. Sub. H.B. 530, also of the 126th General Assembly, added another $5 million that may be issued for reappropriations.

Under the bill, the Treasurer's issuance authority under Section 2i is expanded to permit issuance of obligations for housing for mental hygiene and retardation patients. The bill also permits the obligations that provide for patient housing to be issued under Article VIII, Section 16 of the Ohio Constitution,

---

[11] *The bill stipulates that eligibility for state and federal funding, rather than financial support, is contingent on the Department of Mental Health's approval.*

which section permits the issuance of revenue obligations to fund the provision of housing in the state for individuals and families. The bill also provides that the $20 million and $5 million issuing authorizations described above may fall under the authority of Section 16.

Finally, with regard to the obligations, the bill provides that the amendments described above regarding housing capital facilities for mental hygiene and retardation patients apply to any proceedings commenced after those amendments become effective, and, so far as those amendments support the actions taken, also apply to any proceedings that are pending, in progress, or completed, and to the securities authorized or issued or obligations entered into under or pursuant to those proceedings, notwithstanding the applicable law previously in effect or any provision to the contrary in a prior resolution, order, notice, or other proceeding. Any proceedings pending or in progress when the amendments become effective, and securities sold, issued, and delivered, or obligations entered into under or pursuant to those proceedings, must be deemed to have been taken, and authorized, sold, issued, delivered, and entered into, in conformity with those amendments.

Leasing, subleasing, purchase, or use of the housing facilities

(R.C. 154.20)

Under current law, any capital facilities for mental hygiene and retardation may be leased by the PFC to the Departments of Mental Health, Mental Retardation and Developmental Disabilities, or Alcohol and Drug Addiction Services. In addition, the PFC may make other agreements for the use, lease, sublease, or purchase of the facilities with one or more of the Departments or other governmental agencies. With respect to other governmental entities, the use or purchase agreement regarding the capital facilities may also include provisions requiring the agency, or a nonprofit corporation providing mental hygiene and retardation services under contract with the agency, to transmit receipts from treatment and care of mental hygiene and retardation patients to the Mental Health Bond Service Trust Fund (amounts in the fund are pledged to repay the debt incurred by the obligations).

The bill provides that the capital facilities that may be leased, subleased, used, or purchased, include housing facilities for mental hygiene and retardation patients.

Use of Mental Health Facilities Improvement Fund money

(R.C. 154.20)

Current law provides for the establishment in the state treasury of the Mental Health Facilities Improvement Fund, which is comprised of the proceeds of the sale of the obligations discussed above and various other amounts such as gifts, grants, and appropriated money. The money in the fund may be applied only to paying the costs of capital facilities for mental hygiene and retardation and for participating in capital facilities for mental hygiene and retardation with the federal government, municipal corporations, counties, or other governmental agencies, or nonprofit corporations specifically chartered to provide mental health or mental retardation service. The participation may be by grants or contributions to those entities.

The bill permits the fund money to be used for paying for, or participating in, capital facilities housing mental hygiene and retardation patients.

Limited partnerships and limited liability companies acting in concert with nonprofit corporations

(R.C. 154.20)

The bill permits nonprofit corporations specifically chartered to provide mental health or mental retardation service and that are participating in housing for mental hygiene and retardation patients to act in concert with limited partnerships or limited liability companies eligible to participate in the nonprofit set-aside established in the Internal Revenue Code and the Ohio Housing Finance Agency's housing tax credit program for the purpose of making use of low-income housing tax credits in support of housing for mental hygiene and retardation patients.[12] Prior to acting in concert, however, a nonprofit corporation providing a mental retardation service must obtain written approval from the Director of Mental Retardation and Developmental Disabilities. With respect to this approval, the Director is permitted to issue one blanket approval for all such nonprofit corporations.

Effect on administrative rules

(Section 503.21)

The bill provides that the Directors of the Departments of Mental Health and of Mental Retardation and Developmental Disabilities must amend any rules

[12] *Section 42(h)(5) of the Internal Revenue Code.*

that either Director previously adopted regarding the use of capital facilities to the extent necessary to conform to the amendments described above.

Fallback rights for employees who moved from a classified to an unclassified position in the Bureau of Workers' Compensation, Department of Mental Health, Department of Mental Retardation and Developmental Disabilities, or the Department of Youth Services

(R.C. 4121.121, 5119.071, 5123.08, and 5139.02)

The Civil Service Law--in general

Current law generally authorizes an appointing authority whose employees are paid by warrant of the Director of Budget and Management to appoint a person who holds a certified position in the classified service within the appointing authority's agency to a position in the unclassified service in that agency.[13] A person appointed to a position in the unclassified service in this manner retains the qualified right (see next paragraph) to resume the position and status the person held in the classified service immediately before the person's appointment to the position in the unclassified service, regardless of the number of positions the person held in the unclassified service. These provisions of current law as well as the provisions of current law described in the following paragraph *do not apply* to employees in positions in the unclassified service of the Bureau of Workers' Compensation or the Departments of Mental Health, Rehabilitation and Correction, Mental Retardation and Developmental Disabilities, Youth Services, and Transportation who, *under specific statutes* applicable to the Bureau and those departments, have the right to resume positions in the classified service. (R.C. 124.11(D)--not in the bill.)

Current law provides that an employee's right to resume a position in the classified service may *only be exercised when* an appointing authority demotes the employee to a pay range lower than the employee's current pay range or revokes the employee's appointment to the unclassified service. And, an employee *forfeits* the right to resume a position in the classified service when the employee is removed from the position in the unclassified service due to incompetence, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination,

[13] *The Civil Service Law (a) requires that employees in the classified service be hired and promoted through competitive and noncompetitive examinations, (b) grants them appeal rights when they are suspended, demoted, removed, reduced in pay or position, or laid off, and (c) limits their participation in partisan political activities. These provisions do not apply to employees in the unclassified service, who serve at the pleasure of their appointing authority.*

discourteous treatment of the public, neglect of duty, violation of the Civil Service Law or the rules of the Director of Administrative Services, any other failure of good behavior, any other acts of misfeasance, malfeasance, or nonfeasance in office, or conviction of a felony. An employee also *forfeits* the right to resume a position in the classified service upon transfer to a different agency. (R.C. 124.11(D), not in the bill.)

Changes proposed by the bill

As noted above, current law grants (1) an employee holding a certified position in the classified service in the Bureau of Workers' Compensation, the Department of Mental Health, or the Department of Mental Retardation and Developmental Disabilities who is appointed to an unclassified position in the Bureau or the Department and (2) an employee holding a certified position in the classified service in the Department of Youth Services who is appointed to the position of managing officer in the Department, the right to resume a previously held position in the classified service regardless of the number of unclassified positions the employee has held.[14] The provisions of current law *described* under "***The Civil Service Law--in general***," above, that govern an unclassified employee's right to resume a position in the classified service, however, *do not apply* to these employees of the Bureau and the Departments.

The bill applies to these employees of the Bureau and the Departments the provisions of current law described under "***The Civil Service Law--in general***," above, that govern the right of most unclassified employees to resume a position in the classified service. In addition, these employees would forfeit their right to resume a position in the classified service if they are removed from their position in the unclassified service due to (1) a violation of an applicable Bureau or Department law (thus, in addition to a violation of the Civil Service Law) or (2) a violation of the rules of the Administrator of Workers' Compensation or of the Director of the department in question (thus, in addition to a violation of the rules of the Director of Administrative Services).

---

[14] *"Managing officer" means the Assistant Director, a Deputy Director, an Assistant Deputy Director, a Superintendent, a Regional Administrator, a Deputy Superintendent, or the Superintendent of Schools of the Department of Youth Services, a member of the Release Authority, the Chief of Staff of the Release Authority, and the Victims Administrator of the Office of Victim Services (R.C. 5139.02(A)(1)).*

Sale of canal lands

(R.C. 1520.02)

Under current law, the Director of Natural Resources has the authority to sell, lease, exchange, give, or grant all or part of the state's interest in any canal lands in accordance with state law. The bill requires that prior to proposing the conveyance of any canal lands, the Director consider the local government needs and economic development potential with respect to the canal lands and the recreational, ecological, and historical value of the canal lands. In addition, the bill requires that the conveyance of canal lands be conducted in accordance with the Director's policies governing the protection and conservation of canal lands established under current law.

Total principal amount of obligations issued for Clean Ohio Conservation Fund, Clean Ohio Agricultural Easement Fund, Clean Ohio Trail Fund, and Clean Ohio Revitalization Fund

(R.C. 151.09 and 151.40)

Current law requires the issuing authority to issue general obligations of the state to pay costs of conservation projects pursuant to Section 2o of Article VIII of the Ohio Constitution and specified statutes of the Public Facilities Commission Law.[15] The issuing authority, upon the certification to it by the Ohio Public Works Commission of amounts needed in and for the purposes of the Clean Ohio Conservation Fund, the Clean Ohio Agricultural Easement Fund, and the Clean Ohio Trail Fund, must issue obligations in the amount determined by the issuing authority for those purposes. The total principal amount of obligations issued cannot exceed $200 million. The bill revises the total principal amount of obligations that may be issued for the purposes of the Clean Ohio Conservation Fund, the Clean Ohio Agricultural Easement Fund, and the Clean Ohio Trail Fund by stating that not more than $200 million principal amount of obligations for conservation purposes *may be outstanding at any one time*. In addition, the bill states that not more than $50 million principal amount of obligations, plus the principal amount of obligations that in any prior fiscal year could have been, but were not issued within the $50 million fiscal year limit, may be issued in any fiscal year for conservation purposes. The bill makes identical changes in the statute

[15] *"Issuing authority" means the Ohio Public Facilities Commission for obligations issued for conservation purposes, or the Treasurer of State, or the officer who by law performs the functions of that office, for obligations issued for revitalization purposes (R.C. 151.01(A)(7), not in the bill).*

governing the Clean Ohio Revitalization Fund, which is used to pay costs of revitalization projects.

Hamilton County Public Works Integrating Committee

(R.C. 164.04)

For the purpose of allocating funds made available to finance public infrastructure capital improvement projects of local governments through the issuance of general obligations by the Ohio Public Facilities Commission, the state currently is divided into 19 districts. And in each district, a public works integrating committee is established. The bill modifies the membership of the public works integrating committee for district two (Hamilton County) by removing the county commissioners' authority to appoint *either* a county commissioner *or* a county engineer of the district as a member and, instead, requiring that the member be the county engineer of the district. The bill also changes, from seven to six, the number of affirmative votes required for any action taken by a vote of the committee.

Motor carrier safety

(R.C. 4919.76)

Under current law, the Public Utilities Commission (PUCO) must adopt rules governing the registration of motor carriers which must be consistent with pertinent federal rules. The current federally prescribed program under which the PUCO registers carriers and enforces state and federal motor safety standards is the Single State Insurance Registration Program. Pursuant to federal law, the Single State program is being replaced with the Uniform Carrier Registration Program as of January 1, 2007 (but there will be a transition period while the new program is being finalized through the Federal Motor Carrier Safety Administration).

The bill removes an express reference to the Single State program but continues the PUCO's authority to adopt rules governing motor carrier registration.

North East Ohio Universities Collaboration and Innovation Study Commission

(Section 235.60.70)

With regard to the University of Akron, Cleveland State University, Kent State University, the Northeastern Ohio Universities College of Medicine, and Youngstown State University, the bill establishes the North East Ohio Universities Collaboration and Innovation Study Commission. The purpose of the Commission is to develop a plan and to make legislative or other logistical

recommendations for the following: (1) strategic and purposeful collaboration among the institutions, (2) partnering among the institutions of both undergraduate and graduate academic programs, (3) sharing of at least some governance mechanisms, particularly as they relate to common basic functions, among the institutions, and (4) development of a unified approach to public higher education in Northeast Ohio whereby the institutions, while maintaining their separate identities, will share academic, administrative, and student support resources and programs. The ultimate goal of the recommendations is to promote lower costs and greater access for students and an overall improved quality of higher education in Northeast Ohio.

Commission membership

The Commission is to consist of 15 members comprised as follows: (1) two members appointed by the board of trustees of each of the institutions described above, (2) two members appointed by the Ohio Board of Regents, (3) one member appointed by the Speaker of the House of Representatives, (4) one member appointed by the President of the Senate, and (5) one member appointed by the Governor. The members must be appointed not later than 30 days after the effective date of the bill and a vacancy on the Commission must be filed in the same manner as the original appointment. Commission members are to receive no compensation for their services.

Commission officers and employees

The member appointed by the Governor is the chairman. In addition, the Commission may employ an executive director and such other staff as it determines necessary to carry out its duties.

Commission report and termination

The Commission must submit its plan and recommendations to the Governor and the General Assembly in writing not later than 12 months after the bill's effective date. The Commission will cease to exist upon making the submission.

Pre-college and college level certificates

(R.C. 3333.34)

The bill directs the Board of Regents and the Department of Education to create a system of "pre-college stackable certificates," which allow adults to earn college credit, before enrolling in college, through nontraditional means such as adult career centers, specialized training programs, and employment experience. The Board and the Department are responsible for creating a system that is

uniform across the state; is open to a variety of providers including adult career centers, institutions of higher education, and employers; establishes standards for earning certificates; and establishes transferability of certificates to college credit.

The bill also requires that the Board develop "college-level certificates" for adults enrolled in college that can be transferred to college credit in different subject areas based on competencies and experience and not classroom seat time.

State correctional facilities

Change of purpose

(R.C. 5120.03(A))

Existing law authorizes the Director of Rehabilitation and Correction to change the purpose for which a state correctional facility is used by executive order and with the approval of the Governor. The bill eliminates the requirements that a change be effected by executive order and that the Governor's approval be obtained. The bill also makes a change of purpose subject to the requirement that the Director contract for the private operation of at least two correctional facilities (see below).

Private operation

(R.C. 5120.03(C))

Existing law authorizes but does not require the Director of Rehabilitation and Correction to contract for the private operation of state correctional facilities. The bill requires the Director to contract for the private operation of at least two state correctional facilities unless the contractor managing and operating a facility is not in substantial compliance with the material terms and conditions of its contract and no other person or entity is willing and able to satisfy the obligations of the contract.

Justice programs funds

(R.C. 5502.62)

Under existing law, the Division of Criminal Justice Services of the Department of Public Safety must deposit money from certain federal grants into the Federal Program Purposes Fund unless the grants are intended to provide funding for local criminal justice programs. Money from grants meant to fund local criminal justice programs are deposited into the Federal Justice Programs Fund. The bill eliminates the Federal Program Purposes Fund, strikes the word "local" as it applies to the Federal Justice Programs Fund, and requires that money

from grants intended to fund criminal justice programs be deposited into a Federal Justice Program Fund. The bill requires that a Federal Justice Program Fund be established for each federal fiscal year.

Oath of office of a judge; certificate of oath

Existing law

Current law provides that a person may be sworn in any form that the person deems binding on the person's conscience (R.C. 3.21).

The oath of office of each judge of a court of record is to support the United States Constitution and the Ohio Constitution, to administer justice without respect to persons, and faithfully and impartially to discharge and perform all the duties incumbent on the person as such judge, according to the best of the person's ability and understanding (R.C. 3.23).

The Secretary of State must transmit each commission issued by the Governor to a judge of the court of appeals or a judge of the court of common pleas to the clerk of the court of common pleas of the county in which that judge resides. The clerk must receive the commission and forthwith transmit it to the person entitled to it. *Within 20 days after the person has received the commission*, the person must take the oath required by Section 7 of Article XV, Ohio Constitution and R.C. 3.22 and 3.23, *and transmit a certificate of the oath to the clerk, signed by the officer administering the oath. If such certificate is not transmitted to the clerk within 20 days, the person entitled to receive the commission is deemed to have refused to accept the office, and that office is considered vacant. The clerk forthwith must certify the fact to the Governor who must fill the vacancy*. (R.C. 2701.06.)

Operation of the bill

(R.C. 3.21 and 3.23)

The bill provides that *subject to any section of the Revised Code that prescribes the form of an oath* (added by the bill), a person may be sworn in any form the person deems binding on the person's conscience.

The bill retains the above provision in existing law pertaining to the transmission to the Secretary of State of each commission issued by the Governor to a judge of the court of appeals or a judge of the court of common pleas. It modifies the requirements for the transmission of a certificate of oath (italicized language under "***Existing law***," above) and applies these modified requirements generally to judges of courts of record. The bill provides that, except for justices of the Supreme Court as provided in R.C. 2701.05 (commission issued by the

Governor to a justice of the Supreme Court), each judge of a court of record must take the oath of office (see 2nd paragraph under '***Existing law***," above) on or before the first day of the judge's official term. The judge must transmit a certificate of oath, signed by the person administering the oath, to the clerk of the respective court and must transmit a copy of the certificate of oath to the Supreme Court. The certificate of oath must state the term of office for that judge, including the beginning and ending dates of that term. If the certificate of oath is not transmitted to the clerk of the court within 20 days from the first day of the judge's official term, the judge is deemed to have refused to accept the office, and that office is considered vacant. The clerk of the court forthwith must certify that fact to the Governor and the Governor must fill that vacancy.

The oath of office of a judge must be taken in a form that is substantially similar to the following:

> "I, (name), do solemnly swear that I will support the Constitution of the United States and the Constitution of Ohio, will administer justice without respect to persons, and will faithfully and impartially discharge and perform all of the duties incumbent upon me as (name of office) according to the best of my ability and understanding. [This I do as I shall answer unto God.]"

Size of the official seal of the Supreme Court

(R.C. 5.10)

Under current law the official seal of the Supreme Court consists of the Ohio coat of arms within a circle that is 1.75 inches in diameter and that is surrounded by the words "THE SUPREME COURT OF THE STATE OF OHIO." The bill decreases the size of the circle from 1.75 inches in diameter to 1.50 inches in diameter. The bill makes no other changes to the composition of the seal.

Morrow County Court of Common Pleas

(R.C. 2301.02)

Under current law, generally judges of the Probate Division of the Court of Common Pleas are judges of the Court of Common Pleas but are elected pursuant to R.C. 2101.02 and 2101.021. In Morrow County, the successors to the judge of the Morrow County Court of Common Pleas elected in 1956 also serve as judge of the Probate Division. Current law, as amended by Sub. H.B. 336 of the 126th General Assembly, provides that there are two judges in the Morrow County Court

of Common Pleas, one to be elected in 1956, term to begin January 1, 1957, and one to be elected in 2006, term to begin January 1, 2007. The bill provides that both judges of the Morrow County Court of Common Pleas also perform the duties and functions of the judge of the Probate Division.

Salary of certain Senate majority leadership positions

(Section 501.20)

Existing law prescribes the salary of members of the Senate and of the House of Representatives, including those members who are elected to leadership positions. The Senate is required to elect a President, President Pro Tempore, and Assistant President Pro Tempore, and the salaries of those officers, as well as that of the Senate Majority Whip, are set forth in statute (along with the salaries of the Senate minority leaders and the leaders elected by the House). (R.C. 101.02 and 101.27, not in the bill.)

The bill states that, despite the above, the members of the Senate elected Majority Floor Leader, Assistant Majority Floor Leader, and Majority Whip for the 127th General Assembly are to receive an annual salary equal to the salary prescribed by current law for the members of the House elected Majority Floor Leader, Assistant Majority Floor Leader, and Majority Whip for the 127th General Assembly.

Ohio Turnpike Commission

Membership

(R.C. 5537.02)

Under current law the Ohio Turnpike Commission consists of seven members: four members appointed by the Governor, the Director of Transportation as an ex officio member, and two nonvoting legislative members. The bill expands the membership of the Ohio Turnpike Commission to include the Director of Budget and Management and the Director of Development as ex officio members, bringing the total number of members to nine, but the bill specifies that these two new members are nonvoting members.

Notice of proposed activities

(R.C. 5537.26)

Current law requires the Ohio Turnpike Commission to give notice and hold at least three public hearings prior to voting to increase any part of the toll rate structure that is applicable to vehicles operating on a turnpike project and

prior to voting to take any "action that expands, has the effect of expanding, or will to any degree at any time in the future have the effect of expanding the sphere of responsibility of the commission" beyond the existing Ohio Turnpike. No increase in the toll rate structure or action to expand the sphere of responsibility of the Commission may become effective unless the Commission complies with the prescribed notice and hearing requirements.

In addition to the current public notice and hearing provisions, the bill requires the Turnpike Commission to send notice to the Governor and the presiding officers and minority leaders of the Senate and House of Representatives that details the proposed increase to the toll rate structure or the expansion of the sphere of responsibility of the Commission beyond the Ohio Turnpike, including a description of and a justification for the increase or expansion.

Current law authorizes the Commission to implement a temporary decrease in the toll rate structure only if it does not exceed 18 months. Prior to instituting any decrease to the toll rate structure, current law requires the Commission to hold a public meeting to explain to members of the traveling public the reasons for the upcoming decrease, to inform them of any benefits and any negative consequences, and to give them the opportunity to express their opinions as to the relative merits or drawbacks of each toll decrease. Under the bill, the Commission must send notice to the Governor and the presiding officers and minority leaders of the Senate and House of Representatives that details the proposed decrease to the toll rate structure; the notice must be sent not less than five days prior to any public meeting on the toll decrease. The Commission is not required by current law to hold any public hearing or meeting upon the expiration of any temporary decrease in the toll rate structure, so long as it implements the same toll rate structure that was in effect immediately prior to the temporary decrease.

Budget

(R.C. 5537.17)

Current law requires the Ohio Turnpike Commission to submit a copy of its annual audit by the Auditor of State and its proposed annual budget for each calendar or fiscal year to the Governor, the presiding officers of each house of the General Assembly, the Director of Budget and Management, and the Legislative Service Commission no later than the first day of that calendar or fiscal year. The bill specifies that the Commission submit a copy of its proposed annual budget to the Governor, the presiding officers of each house of the General Assembly, the Director of Budget and Management, and the Legislative Service Commission not more than 60 nor less than 30 days before adopting its annual budget. The Office of Budget and Management must review the proposed budget and may provide recommendations to the Turnpike Commission for its consideration.

The bill also requires the Turnpike Commission, upon request of the chairperson of the appropriate standing committee or subcommittee of the Senate and House of Representatives that is primarily responsible for considering transportation budget matters, to appear at least one time before each committee or subcommittee during the period when that committee or subcommittee is considering the biennial appropriations for the Department of Transportation. At such an appearance, the Commission must provide testimony outlining its budgetary results for the last two calendar years, including a comparison of budget and actual revenue and expenditure amounts. The Commission also must address its current budget and long-term capital plan.

Turnpike Oversight Committee

The Turnpike Oversight Committee consists of three members of the Senate and three members of the House of Representatives. The Ohio Turnpike Commission reports Commission matters to the Committee at the Committee's meetings.

Meeting locations of the Turnpike Oversight Committee

(R.C. 5537.24)

Current law requires the Turnpike Oversight Committee to meet at least quarterly, and it may meet at the call of its chairperson or upon the written request to the chairperson of at least four Committee members. At least three of the quarterly meetings must be held at sites located along the Ohio Turnpike, as determined by the chairperson. The bill requires the chairperson solely to determine the location of all Committee meetings and removes the requirement that at least three of the quarterly meetings be held at sites along the Turnpike.

Renaming of the Turnpike Oversight Committee as the Turnpike Legislative Review Committee

(R.C. 5537.01, 5537.03, 5537.24, 5537.27, and 5537.28)

The bill changes the name of the Turnpike Oversight Committee to the Turnpike Legislative Review Committee.

Approval of Turnpike Commission bond issuances; disclosure of state issuers' trust agreements

(R.C. 126.11 and 5537.10)

Under current law, the Director of Budget and Management is responsible for coordinating and approving the scheduling of initial sales of publicly offered

securities of the state. For these purposes state issuers are required to submit certain information to the Director. The extent of that information, and the Director's duties with respect to it, vary, however, depending on the issuer. For example, information submitted by some issuers is subject to the approval of the Director. For other issuers the information must be mutually agreed upon. And for others, the information is submitted merely for the Director's review.

Under this provision, the only requirement currently applicable to the Turnpike Commission is the submittal of their preliminary and final offering documents, upon the documents' availability. The bill instead requires the Commission to do all of the following:

--Submit, for the Director's "review and approval," information that includes the projected sale date, amount, and type of obligations proposed to be sold; their purpose, security, and source of payment; the proposed structure and maturity schedule; and the trust agreement and any supplemental agreements for the obligations.

--Submit, for the Director's "review and comment," information that includes the authorizing order or resolution; preliminary and final offering documents; method of sale; and any reports or recommendations of financial advisors or consultants relating to the obligations.

--Submit, "promptly after each sale," the final terms; names of the original purchasers or underwriters; the final offering document; and any other pertinent information requested by the Director.

The bill also requires the Ohio Public Facilities Commission, the Ohio Building Authority, and the Treasurer of State to submit, for the Director's approval or mutual agreement, "the trust agreement and any supplemental agreements" for certain obligations proposed to be sold.

Limitation periods for state collection actions

(R.C. 131.02(F)(3), 2305.26, and 2329.07; Section 505.10)

The bill extends limitations periods for three different government collection efforts: actions by the state to collect a tax debt; actions by the state or a political subdivision to enforce a lien; and state actions to execute on a judgment or certify a judgment.

Under current law, an action by the state to collect a tax debt must be filed within seven years after an assessment is issued. If the assessment is disputed by the taxpayer and the proceedings to determine the assessment's validity continue beyond the seven-year period (because of appeals, for example), the state has four

years after the assessment becomes final to file an action to collect the debt. The bill clarifies that the four- and seven-year time limits apply only to the state's "initial" action to collect the tax debt. If the initial action to collect a tax debt is timely filed, the state may file subsequent actions to collect the tax debt for as long as the tax debt exists.

Under current law, if the state or a political subdivision obtains a lien on real or personal property, the state or political subdivision must file an action to enforce the lien within 12 years after the date of the lien. Alternatively, the state or political subdivision may file with the county recorder a notice of continuation of lien, in which case the limitations period is extended to 12 years from the date the notice of continuation is recorded. These 12-year limitations periods are extended by the bill to 15 years. The new 15-year periods apply to liens obtained and continuations recorded before, on, or after the effective date of the bill.

Under current law, if the state obtains a judgment it must execute on or certify the judgment within ten years after the date of the judgment. The ten-year period continues to apply if the state neither executes on nor certifies a judgment. If, however, the state executes on or certifies a judgment, the ten-year period is extended by the bill to 15 years. The new 15-year period applies to judgments issued and certifications issued and filed before, on, or after the effective date of the bill.

Under current law, county recorders are authorized to charge the state recording fees for services provided in recording state liens and continuations of state liens. The bill removes this authorization. The removal applies with regard to state liens and continuations of state liens regardless of when they were recorded, whether before, on, or after the effective date of the bill.

Incorporation of changes to Internal Revenue Code

(R.C. 5701.11)

Under current law, a reference in the tax title of the Revised Code to the Internal Revenue Code (IRC) or other laws of the United States means those laws as they existed on March 30, 2006, unless the Revised Code section containing the reference has been amended since that date.

Under the bill, all changes to the IRC or other laws of the United States since March 30, 2006, will be incorporated into all references to them in the tax title of the Revised Code, except references to the IRC or federal laws as of a date certain specifying the day, month, and year.

The bill also authorizes taxpayers whose taxable year ends in 2006, and before the effective date of the incorporated changes, to irrevocably elect to apply to the taxpayer's state tax calculation the federal tax law provisions that applied before that effective date. The bill also specifies that similar elections made under previous versions of the tax laws remain effective for the taxable years to which they apply.

Job creation tax credit and job retention tax credit

Full-time employees or positions

(R.C. 122.17(A)(1) and 122.171(A)(3))

The Ohio Tax Credit Authority may grant two tax credits to foster job creation and job retention in Ohio. One of the eligibility requirements for receiving the credits is that, under the job creation tax credit, full-time employee jobs must be created, and under the job retention tax credit, the credit is based on income tax withheld from employees occupying full-time employment positions. In general, under current law, a "full-time employee" or "full-time employment position" is where someone is employed for consideration at least 35 hours a week or renders service generally accepted by custom or specified by contract as full-time employment.

The bill provides that a full-time employee or full-time employment position is where someone is employed for *an average of* 35 hours a week, and adds to the definitions someone who is employed for consideration for such time or renders such service but is on active duty reserve or Ohio National Guard service.

New employees

(R.C. 122.17(A)(2)(b))

An employer receiving a job creation tax credit must hire for a proposed project "new employees" who generate additional income tax revenue for the state and must retain those new employees under the terms of an agreement with the Tax Credit Authority, which sets the parameters for receiving the tax credit. Basically, a "new employee" is a full-time employee first employed by the employer after the employer enters into the tax credit agreement, or after the Authority approves the project for a tax credit in a public meeting.

Under the bill, a full-time employee may be considered a new employee, despite previously having been employed by a related member (for example, a stockholder that owns a large portion of the employer's outstanding stock) of the employer, if all of the following apply:

(1) The related member is a party to the tax credit agreement at the time the employee is first employed with the employer;

(2) The related member will remain subject to the state domestic or foreign insurance, corporation franchise, income, or commercial activity tax for the remainder of the term of the tax credit, and the tax credit is taken against liability for that same tax through the remainder of the term of the tax credit;

(3) The employee was considered a new employee of the related member prior to employment with the employer.

Notice

(R.C. 122.17(E) and 122.171(F))

If an employer receiving either the job creation or job retention tax credit fails to comply with the agreement that establishes the terms of receiving the credit, the Authority may amend the agreement to reduce the percentage or term of the tax credit. Under current law, the reduction must take effect in the taxable year immediately following the taxable year in which the Authority amends the agreement or in the first tax period beginning in the calendar year immediately following the calendar year in which the Authority amends the agreement. The bill adds that the reduction also may take effect in the taxable year immediately following the taxable year in which the Director of Development notifies the employer in writing of such failure or in the first tax period beginning in the calendar year immediately following the calendar year in which the Director notifies the employer in writing of such failure. The bill also provides that if the employer fails to annually report information required under the agreement within the time required by the Director, the reduction of the percentage or term of the tax credit may take effect in the current taxable year.

Job training tax credit

(R.C. 5725.31, 5729.07, 5733.42, and 5747.39)

Under current law, the job training tax credit may be taken for training costs paid or incurred on or before December 31, 2006. Continuing law provides that the job training tax credit is a nonrefundable credit that may be claimed by taxpayers that are corporations, financial institutions, dealers in intangibles, and income tax taxpayers who invest in pass-through entities (sole proprietorships, partnerships, S corporations, or limited liability companies), domestic insurance companies, and foreign insurance companies for certain job skill training costs they incur for their employees. The training costs that qualify a taxpayer for a

credit include direct instructional costs and wages paid to employees for normal working hours devoted exclusively to a training program.

The credit equals one-half of the average of a taxpayer's training costs paid or incurred over a three-year period, but the credit amount claimed by a taxpayer cannot exceed $100,000 per year. If the credit amount exceeds the taxpayer's tax liability, the excess may be carried forward for three years.

The bill extends the tax credit for an additional year, to cover training costs paid or incurred on or before December 31, 2007.

Remediated Property Tax Exemption Opt-Out

(R.C. 5709.87; Section 515.10)

Under current law, to encourage the remediation and development of contaminated property, the director of environmental protection issues a covenant not to sue, after certain conditions have been met, to an owner of remediated property. When the director issues a covenant, the director certifies to the tax commissioner that a covenant has been issued. The tax commissioner then issues an order granting the property owner an exemption from real property taxation equal to the increase in the assessed value of the property and of any improvements, buildings, fixtures, and structures on the property. The tax exemption lasts for ten years.

Under the bill, owners of remediated property for which an order granting an exemption has been issued may decline the tax exemption. The owner has 60 days after the order is issued to inform the commissioner in writing that the owner does not want the exemption. The commissioner must then issue a subsequent order rescinding the previous order granting the exemption.

The bill permits owners of remediated property that is currently subject to an order granting a tax exemption to decline the exemption. The property owner has 90 days after the effective date of the bill to notify the commissioner in writing that the owner elects to discontinue the exemption for the remainder of its term. Upon receiving such a notice, the commissioner is required to issue an order restoring the property to the tax list beginning with the year in which the notice is received.

Real property tax: determining value of oil and gas reserves

(R.C. 5713.051)

The bill prescribes the method to be used to determine the value of crude oil and natural gas reserves for real property tax purposes. The valuation method

applies to oil or gas produced from developed and producing wells. It does not apply to oil or gas produced from wells that have recently been sold in an arm's-length transaction; presumably, the recent sale price would serve as the best evidence of true value. The valuation method applies to valuations for tax lien dates beginning January 1, 2007, and thereafter.

The proposed valuation method is a form of net income capitalization valuation. Generally, the gross value of production is computed on the basis of the five-year average price of oil or gas from Ohio wells, and this gross production value is discounted over a ten-year period to determine the net present value of oil or gas. Production volume is adjusted to account for early "flush" production and production forced by using various secondary recovery methods, and an annual rate of decline in production is stipulated. Gross value is adjusted by netting out royalty expenses, capital recovery expenses, and operating expenses. The unit of production for oil is a barrel; the unit for natural gas is 1,000 cubic feet (MCF). If multiple wells share the same meter, a per-well average of production is employed.

More specifically, total annualized production from an oil or gas well is adjusted by flush production or production through secondary recovery methods if either of the adjustments applies to the well. (Both adjustments may not be made for the same well for the same period of time.) Flush production is production during the first 12 months after a well first produces oil or gas; for each unit of flush production, 42.5% is subtracted from total production. Production through secondary recovery methods is production stimulated or maintained by applying mechanically induced pressure (e.g., air, nitrogen, water, or carbon dioxide); for each unit of production through secondary recovery methods, per-unit production is reduced by 50%. The result of the adjustments to total production is "stabilized production," which equals total annual production minus 42.5% of flush production, or total annual production minus 50% of production by secondary recovery methods. Stabilized production is converted to an average daily production amount by dividing it by 365, or the number of days during the year since the well began producing oil or gas.

The gross revenue from a well's stabilized production amount is determined by multiplying the production amount by the unweighted five-year average unit price of oil or gas produced and sold from Ohio wells during the most recent five-year period leading up to the tax lien date (January 1), as reported by the Ohio Department of Natural Resources. Gross revenue per unit of production reflects a stipulated rate of decline in production of 13% per year cumulatively for a ten-year discount period, so that gross revenue per unit in the second year after flush production ends is stipulated to be 87% of gross revenue per unit for the first year after flush production ended, and so on until the tenth year after flush production

ended, when it is stipulated to be 28.6% of gross revenue per unit for the first year after flush production ended. Gross revenue per unit is computed for each year of the ten-year discount period.

Once the per-unit gross revenue from a well's oil or gas is computed for each year of the ten-year period, it is adjusted by subtracting the annual royalty expense (stipulated to be 15% of per-unit annual gross revenue), annual operating expense (stipulated to be 40% of annual per-unit gross revenue), and annual capital recovery expense (stipulated to be 30% of annual per-unit gross revenue), amounting to total expense deductions of 85% of annual gross revenue. The resulting amount for each year (i.e., 15% of that year's gross revenue per unit) is the per-unit "net income" for that year, which is then discounted at a rate of 13% per year plus the annual rate of interest owed on unpaid state taxes (8% for 2007). The discounted net income per unit for each year is totaled for the ten-year period. If a well produces an average of at least one unit of production per day in the year preceding the tax lien date (i.e., one barrel of oil or eight MCF of natural gas), the net present value per unit equals the total discounted net income per unit multiplied by 365. If a well produces less than an average of one unit per day, the net present value per unit of oil (i.e., one barrel) equals 60% of the net present value per unit of a well producing at least one unit per day; the net present value per unit of natural gas (i.e., eight MCF) equals 50% of the net present value per unit of a well producing at least one unit per day.

Under current law, all real property (including oil and gas reserves) must be assessed and taxed at its "true value in money." The method employed to assess true value can vary. For oil and gas reserves, the statutes do not specify the method, but administrative rules (Ohio Admin. Code 5703-25-11(I)) state that when oil and gas rights are separate from ownership in the fee of the soil, the rights are to be valued "in accordance with the annual entry of the tax commissioner in the matter of adopting a uniform formula in regard to the valuation of oil and gas deposits in the eighty-eight counties of the state." The tax return form (DTE 6) indicates that the value computation for oil and gas reserves subtracts either 42.5% of flush production or 50% of production by secondary recovery methods from gross production (as in the proposed valuation method), and converts this into a daily average production which is equal to the bill's average daily production amount. Average daily production is then multiplied by a "decimal working interest" and by the per-unit taxable value fixed annually by the Tax Commissioner. The result is the assessed value of the oil or gas reserve, which is then multiplied by the royalty interest owner's share to determine the owner's apportioned assessed value.

Sales and use taxes: Exemption for sales of property used in air transportation

(R.C. 5739.01(P) and 5739.02(B)(42)(a)(not in the bill))

Continuing law exempts from sales and use taxes sales where the purpose of the purchaser is to use or consume the thing transferred directly in the rendition of a public utility service. "Used directly in the rendition of a public utility service" generally means property that is incorporated into and will become a part of a production, transmission, transportation, or distribution system, and that retains its classification as tangible personal property after incorporation; fuel or power used in such a system; and tangible personal property used in the repair and maintenance of such a system.

The bill provides that a public utility includes a citizen of the United States holding, and required to hold, a certificate of public convenience and necessity issued under federal law that authorizes the citizen to provide air transportation.[16] The effect of so amending the definition is that sales of property, fuel, or power used in foreign or interstate air transportation of passengers or property by aircraft as a common carrier for compensation, or in furtherance of the transportation of mail by aircraft, are exempt from sales and use taxes.

Replacement of School District Income Tax

(R.C. 5748.01, 5748.021, and 5748.081)

Under current law, the board of education of a school district, except a joint vocational school district, may propose an income tax levy to the district's voters. The board may propose to levy the income tax on either of two different tax bases:

(1) On an individual's "earned income," which consists of wages, salaries, tips, self-employment net earnings, and other employee compensation that is reported as earned income on state and federal income tax returns; or

---

[16] *Under 49 U.S.C. §§ 40102 and 41102, a certificate of convenience and public necessity may be issued for air transportation as an air carrier, temporary air transportation as an air carrier for a limited period, or charter air transportation as a charter air carrier. A "citizen of the United States" is an individual who is a United States citizen, a partnership each of whose partners is an individual who is a United States citizen, or a corporation or association organized under the laws of the United States or a state, of which the president and at least two-thirds of the board and other officers are citizens of the United States, which is under actual control of United States citizens, and in which at least 75% of the voting interest is owned or controlled by persons that are United States citizens.*

(2) On an individual's and a decedent's entire "taxable income," which consists of "earned income" plus "unearned income" (investment income, such as interest, dividends, and capital gains, and retirement benefits).

Under the bill, a school district levying a tax on "taxable income" may propose to the district's voters that the tax be replaced with one on "earned income." To propose the matter, a majority of the members of the board of education must adopt a resolution stating the necessity of raising a specified amount of money annually. This resolution is certified to the Tax Commissioner, who, within ten days after receiving the resolution, must estimate the tax rate that will be necessary to raise the amount specified in the resolution. The Tax Commissioner must certify this rate estimate to the board of education.

After the tax rate estimate is certified to the board, the board may adopt an additional resolution proposing the replacement tax to the voters. This resolution must set forth the terms of the replacement tax, including its rate (which must conform to the estimate rounded to the nearest one-fourth), its duration (which may be continuing or for a specified number of years), the date the tax will begin to be levied (which must be January 1 of the next or a later year), and its purpose (which must be the same as the existing tax). In addition, the resolution must disclose the date of the primary, general, or special election at which the question of the replacement tax will be submitted to the district's voters.

If the resolution is adopted by a majority of the members of the board, the matter is presented to the district's voters in a ballot question as stated in the resolution. The ballot must disclose the terms of the replacement tax. Notice of the election is published in one or more newspapers of general circulation in the school district, once a week for four consecutive weeks before the election.

If a majority of the district's voters voting on the question vote in favor of the replacement tax, the existing tax ceases to be levied on the date specified in the resolution, and the replacement tax begins to be levied. If, however, the ballot question is voted down, the existing income tax continues to be levied under its original authority for the remainder of its previously approved term.

The board may submit the question of a replacement tax to the district's voters no more than twice in a calendar year. And, if the board submits the question more than once, at least one of the elections at which the question is voted upon must be a general election.

CAT: exempt hedging transaction receipts

(R.C. 5751.01(F)(2)(c))

The bill adds a new exemption from the commercial activity tax for receipts arising from "hedging transactions." Hedging transactions are exempted to the extent they are entered into primarily to protect a financial position, including managing the risk of exposure to any of the following: (1) foreign currency fluctuations affecting assets, liabilities, profits, losses, equity, or investments in foreign operations, (2) interest rate fluctuations, or (3) commodity price fluctuations. The exemption does not apply if the transaction involves the actual transfer of title to real or tangible personal property.

For the purposes of the exemption, a hedging transaction is defined as any transaction that is accorded hedge accounting treatment under the Financial Accounting Standard Board's Statement 133 (which governs financial accounting and reporting of derivatives and hedging activities), or any transaction satisfying the federal tax code's definition of a hedging transaction: i.e., any transaction entered into in the normal course of a taxpayer's trade or business primarily to manage risk of price changes or currency fluctuations with respect to ordinary property, to manage risk of interest rate or price changes or currency fluctuations with respect to borrowing or ordinary obligations, or to manage such other risks as prescribed in U.S. Treasury regulations.

Current CAT law exempts receipts from selling "capital assets" as defined in the federal code, but federal law expressly excludes hedging transactions from the definition of "capital asset," meaning that receipts from hedging transactions are not currently exempted under the CAT's capital asset exemption.

Alternative sourcing rule for services

(R.C. 5751.033(I))

Current CAT law prescribes a set of "situsing" or sourcing rules governing whether gross receipts have a taxable locus in Ohio. Receipts arising from transactions situsing to Ohio are taxable; receipts arising from transactions situsing elsewhere are not taxable. Among the situsing rules is a rule for gross receipts arising from a transaction involving a service. Currently, gross receipts from most services are situsing in Ohio in proportion to the benefit the purchaser received in Ohio as compared to the benefit received everywhere. (For example, if 60% of the benefit of the service is received in Ohio, 60% of the gross receipts are situsing in Ohio, and therefore taxable under the CAT.) Current law provides that the paramount consideration in determining this proportion is the physical location "where the purchaser ultimately uses or receives the benefit." Various versions of

administrative rules have been proposed to prescribe more precise service situsing rules, including rules for various industry categories (see proposed Ohio Admin. Code rule 5703-29-17), but no rules have yet become final.

The bill authorizes a CAT taxpayer to use an alternative to the current statutory method for sourcing gross receipts from a service if the taxpayer's records do not allow the taxpayer to source the receipts on the basis of where the purchaser uses or receives the benefit of the service, so long as the alternative method is reasonable, is consistently and uniformly applied, and is supported by the taxpayer's records as those records exist when the service is provided or within a reasonable period of time thereafter. The bill substantively codifies proposed administrative rule 5703-29-17(A).

CAT exclusion for intra-group receipts: add non-qualifying dealers in intangibles

(R.C. 5751.011(C))

Under the Commercial Activity Tax (CAT) law, a consolidated elected taxpayer is a group of commonly owned or controlled companies that elect to report the tax as a single taxpayer. Companies that elect consolidated treatment are not required to pay the tax for gross receipts received from transactions between group members. These intra-group receipts are exempted from the tax, but receipts that any group member receives from transactions with persons outside the group are taxable unless the receipts qualify for exemption under one of the 27 specific exemptions. The consolidation election also means that any group member's out-of-group receipts are potentially taxable even if the member does not satisfy the CAT law's nexus standards. The nexus standards establish whether an entity is subject to the CAT based on indicia of its business presence in Ohio (see R.C. 5751.01(H) and (I)).

Under this existing exemption for intra-group receipts, a consolidated taxpayer group may exclude receipts received not only by taxable members of the group, but also receipts received by most CAT-exempt entities within the group. (There are 11 classes of "excluded persons" that are exempted from the CAT; the intra-group exemption applies to 10 of these 11 classes.) One of these classes of excluded persons is dealers in intangibles. But under current law, intra-group receipts received by a dealer in intangibles that is part of the group are tax-exempt only if the dealer satisfies two requirements: (1) the dealer is subject to the special "DIT" tax on dealers in intangibles, and (2) the dealer is a "qualifying dealer"--*i.e.*, the dealer is part of a commonly owned or controlled company group that also

includes an insurance company or a financial institution.[17] Currently, therefore, the consolidated group must pay tax on intra-group receipts received by a non-qualifying dealer even if the non-qualifying dealer is a member of the group.

The bill exempts receipts received by any dealer in intangibles that is a member of a consolidated taxpayer group if the dealer is subject to the DIT tax, regardless of whether the dealer is a qualifying dealer. However, the exemption does not apply if the receipts are received by another group member in exchange for transferring property to a non-qualifying dealer in the group if the non-qualifying dealer then delivers the same property to an entity that is not a member of the same group.

Extension of time period for entering into agreements to return county "piggyback" sales taxes to an impact facility

(R.C. 333.02 and 333.04)

Existing law authorizes a board of county commissioners to enter into an agreement before December 1, 2006, with a person that proposes to construct an "impact facility" in the county, to return to that person up to 75% of the county "piggyback" sales and use taxes collected on retail sales made by that person at the facility.[18] The sales and use taxes that are returned are only those "piggyback" taxes that are levied by a county for the purpose of providing additional general revenues for the county or supporting criminal and administrative justice services in the county.

The bill extends from December 1, 2006, to June 1, 2007, the time by which a board of county commissioners may enter into an agreement with the person that proposes to construct an impact facility in the county.

---

[17] The dealers in intangibles tax, or "DIT," is an annual tax levied on the capital of dealers in intangibles (e.g., stockbrokers, finance and loan companies, mortgage companies). The rate of tax is eight mills per dollar (0.8%). If a dealer is not a "qualifying dealer," five-eighths of the revenue is distributed to the county where the dealer has offices, and three-eighths is retained in the state GRF. If the dealer is a qualifying dealer, all revenue is retained by the GRF.

[18] In general, an "impact facility" is a permanent structure that meets five criteria, including at least $50 million must be invested in the land, building, infrastructure, and equipment at the facility over a two-year period and an average of at least 150 new positions will be maintained at the facility (R.C. 333.01).

Joint economic development districts: prohibition on tax exemptions modified

(R.C. 715.70 and 715.81)

Continuing law authorizes one or more municipalities and one or more townships to enter into an agreement to create a joint economic development district (JEDD) for the purpose of facilitating the district's economic development. An income tax may be levied within the JEDD to create a revenue stream to fund that development. Current law identifies three existing tax exemptions that political subdivisions are generally prohibited from extending to property located within a JEDD: (1) tax exemptions for property located in community reinvestment areas, (2) tax exemptions for property located in enterprise zones,[19] and (3) tax exemptions for improvements to property located in blighted areas that are being developed by community urban redevelopment corporations. The bill specifies that the prohibition against extending any of those three tax exemptions to property located in a JEDD does not apply if all of the parties to the JEDD agreement consent to the granting of an exemption.

Arena and convention center projects undertaken by "eligible counties"

(R.C. 133.07, 133.08, 133.20, 307.695, 5709.083, and 5739.09; Section 520.10)

New authority with respect to arenas and convention centers

The bill authorizes certain counties to engage in a variety of activities with respect to arenas and convention centers.[20] The bill refers to counties authorized to engage in those activities as "eligible counties" and it defines them as those counties that have a population of at least 400,000 but not more than 800,000 according to the 2000 federal decennial census and that directly border the geographic boundaries of another state.

Specifically, the board of county commissioners of an eligible county may acquire, construct, reconstruct, renovate, rehabilitate, expand, add to, equip,

---

[19] Current law authorizes a political subdivision that is a party to a JEDD agreement to grant enterprise zone tax exemptions with the consent of the other political subdivisions that are party to the JEDD agreement.

[20] Under the bill, "arenas" are defined, generally, as any structure "designed and constructed for the purpose of providing a venue for public entertainment and recreation by the presentation of concerts, sporting and athletic events, and other events and exhibitions" (R.C. 307.695(A)(1)). A "convention center" is defined as "any structure expressly designed and constructed for the purposes of presenting conventions, public meetings, and exhibitions" (R.C. 307.695(A)(2)).

furnish, or otherwise improve an arena, a convention center, or a combination of an arena and convention center. These activities are collectively referred to in the bill as a "project." Accordingly, a board is authorized to undertake, finance, operate, and maintain a project. In furtherance of the project, the board may do all of the following:

- Lease a project to a nonprofit corporation, city, port authority, or a convention facilities authority on any terms that the board determines to be in the county's best interest. The lease may be for any term not exceeding 35 years (and may be renewed for additional terms of 35 years or less). The lease may authorize the lessee to administer contracts on behalf of the board.

- Enter into any other agreement with a nonprofit corporation, city, port authority, or a convention facilities authority to administer the project.

- Enter into an agreement providing for the sale of naming rights to the project or portion of a project for a period, and for consideration, that the board determines to be in the county's best interest.

- Enter into an agreement with the owner or operator of a professional sports team that allows the owner or operator to use the project or a portion of the project for the team's offices, training, practices, and home games for a period of time, and for consideration, that the board determines to be in the county's best interest.

- Establish ticket charges or surcharges for admission to events at a project and charges for use of the project or a portion of the project, including suites and seating rights, and enter into agreements with respect to those charges and surcharges.

The leases and agreements authorized by the bill are not subject to existing laws governing contract bids on county facilities; the sale and leasing of county property; and the disposition of unneeded, obsolete, and unfit personal property owned by a county (R.C. 307.02, 307.09, and 307.12--not in the bill).

Lodging tax

The bill authorizes an eligible county to use the proceeds from its existing excise tax on hotel lodging or, alternatively, to increase that tax for the purpose of undertaking, financing, operating, and maintaining a project. As part of that authorization, the bill raises the current maximum county lodging tax rate by 2% to provide additional revenue for any county that currently levies a special lodging

tax in support of a convention center.[21] In addition to being used to support a project, proceeds from a lodging tax may also be used to make contributions to a county convention and visitors' bureau operating in the county; to promote, advertise, and market the region in which the county is located; and to pay debt charges on securities issued to support the project (see "***Securities authorized***," below).

The use of lodging taxes for arenas and convention centers must be undertaken pursuant to a resolution adopted by a majority of the eligible county's board of county commissioners. The board must adopt the resolution between January 15, 2007, and January 15, 2008. The board has the option of submitting the resolution enacting or increasing the lodging tax to the county's voters at a special election specified in the resolution. The election must take place at least 75 days after the resolution is transmitted to the board of elections and no later than January 15, 2008. If the resolution is not submitted to the voters for their approval, the county's residents may petition to have the resolution submitted to a referendum after the resolution takes effect.

The resolution takes effect upon its adoption unless it is submitted to the voters for their approval, in which case the resolution takes effect on the date the board of county commissioners is notified by the board of elections that the voters have approved the proposed tax. A lodging tax for arenas and convention centers remains in effect at the rate at which it was imposed for the duration of any lease or other agreement entered into by the board with respect to the project; the duration during which any securities issued by the board are outstanding (see "***Securities authorized***," below); or the duration of the period during which the board owns the project, whichever period of time is longest.

Securities authorized

The bill authorizes the board of county commissioners of an eligible county to issue securities for the purpose of paying the costs of a project or for refunding outstanding bonds or notes issued under existing law by or for the benefit of a convention and visitors' bureau operating in the county. The board may issue the following securities:

[21] *The maximum tax rate currently allowed varies across counties due to the enactment of special lodging taxes in some counties. Currently, the maximum rate in most counties is 6%, but in some counties the rate is as high as 8%.*

- General obligation securities under the Uniform Bond Act.[22] The resolution authorizing those securities may include covenants to make annual appropriations from lodging taxes, and covenants to continue to levy and collect those taxes, to pay debt charges on the securities.

- Special obligation securities under the Uniform Bond Act that are secured solely by lodging taxes and any other taxes and revenues specifically pledged to pay debt charges on the securities. The resolution authorizing these securities must include covenants to make annual appropriations from lodging taxes and other taxes pledged to pay debt charges and to continue to levy and collect the taxes for that purpose. The pledge is valid and binding from the time made and the taxes are subject to the lien of the pledge without any physical delivery of the taxes or other act. The lien of the pledge is valid and binding against all parties having claims of any kind against the county, regardless of whether the parties have notice of the lien. Neither the resolution issuing the securities nor any trust agreement by which the pledge is made or evidenced needs to be filed or recorded anywhere but in the board's records. Special obligation securities must contain a statement on their face that they are not general obligation securities and, unless payable from other sources, a statement that they are payable from the pledged lodging taxes.

- Revenue securities authorized and issued under the Uniform Bond Act that are secured solely by available revenues generated by the project and pledged for debt service on the securities.

Although the Uniform Bond Act generally governs securities issued pursuant to the bill, maturity dates, interest, and other terms of securities issued to refund outstanding securities are to be set by the board of county commissioners and are not governed by the Uniform Bond Act. The final maturity date of refunding securities cannot exceed by more than ten years the final maturity of any bonds refunded by the refunding securities.

The bill prohibits a board of county commissioners from repealing, rescinding, or reducing all or any portion of any lodging taxes pledged to the payment of debt charges on any outstanding special obligation securities issued pursuant to the bill. Likewise, no lodging taxes pledged to pay debt charges on any outstanding securities issued pursuant to the bill are subject to repeal, rescission, or reduction by the county voters.

---

[22] *The Uniform Bond Act is a series of statutes codified in Chapter 133. of the Revised Code that governs the issuance of government bonds and notes.*

Tax exemption

The bill creates a tax exemption for all real and personal property comprising a project undertaken by an eligible county. Under the bill, that property is exempt from real and tangible personal property taxes for so long as it is owned by the eligible county.

New provisions applied to pending proceedings

The bill specifies that the new authority conferred by the bill upon eligible counties with respect to arenas and convention centers apply to proceedings commenced after the bill's effective date and to any proceedings commenced or in progress prior to that date. The bill specifies, further, that the authority is in addition to, and not in derogation of, any existing similar authority conferred by law.

Miscellaneous land conveyances

Conveyances of real estate no longer required for armory or military purposes

(Section 525.10)

The parcels. The bill authorizes the Governor to convey five specified parcels of real estate that the Adjutant General has determined are no longer required for armory or military purposes. The conveyances are to be made pursuant to R.C. 5911.10, which permits the Governor and Adjutant General, when authorized by an act of the General Assembly, to sell vacant armories. The conveyances are to be made to a buyer or buyers (and their successors and assigns or heirs and assigns) to be determined under the bill's procedures, and the parcels are (1) part of the Holmes Tract in Ashtabula Township, Ashtabula County, (2) the Howey Road Armory in the city of Columbus, Franklin County, (3) certain real estate in the city of Mount Vernon, Knox County, (4) certain real estate in Springfield Township, Clark County, and (5) certain real estate apparently in the city of Urbana or Salem Township, Champaign County. (Division (A).)

At the request of the Adjutant General, the Director of Administrative Services, pursuant to the procedures described below, must assist in the sale of any of the above-described parcels (division (B)).

Procedures for conveyance. The bill specifies the following procedures for the conveyance of the parcels. The Adjutant General must appraise the parcels or have them appraised by one or more disinterested persons for a fee to be determined by the Adjutant General, and must offer the parcels for sale as follows (division (C)):

- The Adjutant General first must offer a parcel for sale at its appraised value to the *municipal corporation or township* in which it is located.

- If, after 60 days, the municipal corporation or township has not accepted the offer to purchase the parcel at its appraised value or has accepted the offer but has failed to complete the purchase, the Adjutant General must offer the parcel for sale at its appraised value to the *county* in which it is located.

- If, after 60 days, the county has not accepted the offer to purchase the parcel at its appraised value or has accepted the offer but has failed to complete the purchase, a *public auction* must be held (after specified newspaper advertisement and subject to specified terms of sale and liquidated damages provisions), and the parcel generally must be sold to the highest bidder at a price acceptable to the Adjutant General. The Adjutant General may reject any and all bids for any reason whatsoever.

Costs of sale and net proceeds. Advertising costs, appraisal fees, and other costs of the sale of the parcels must be paid by the Adjutant General's Department (division (D)). The net proceeds of the sales of the parcels must be deposited in the state treasury to the credit of the Armory Improvements Fund pursuant to R.C. 5911.10 (division (F)). And, if a parcel is sold to a municipal corporation, township, or county and that political subdivision sells that parcel within two years after its purchase, the political subdivision must pay to the state, for deposit to the credit of the Armory Improvements Fund, an amount representing one-half of any net profit derived from that subsequent sale (division (G)).

Expiration date. This conveyance authority expires five years after the authority's effective date (division (H)).

First Franklin County conveyance

(Section 525.20)

The bill authorizes the Governor to execute a deed in the name of the state conveying to the *city of Columbus*, and its successors and assigns, all of the state's right, title, and interest in specified state-owned real estate in Franklin County. The consideration for the conveyance is the purchase price of $10. The city of Columbus must pay the costs of the conveyance. (Divisions (A), (B), and (E).)

Before the execution of the deed, possession of the real estate is to be governed by an existing interim lease between the Department of Administrative Services and the city of Columbus (division (C)).

This conveyance authority expires one year after the authority's effective date (division (F)).

Conveyances to give effect to original deeds' reversionary language

(Section 525.30)

When four parcels described in the bill were conveyed to the state, reversionary language in their deeds provided that each would revert back to its grantor if it was no longer used for military purposes. The bill states that the Adjutant General has determined that these parcels are no longer needed by the Ohio National Guard for armory or military purposes, and, thus, the reversionary language contained in their deeds requires that each revert back to its grantor. (Division (A).)

The bill authorizes the Adjutant General to give proper effect to the reversionary language and the Governor to execute deeds in the name of the state granting all of the state's right, title, and interest in the parcels to their original grantors. Parcels 1, 2, and 3 must revert to the city of Mount Vernon, Knox County, and Parcel 4 must revert to the city of Urbana, Champaign County. (Divisions (A), (B), and (C).)

Allen County conveyance

(Section 525.40)

The bill authorizes the Governor to execute a deed in the name of the state conveying to a buyer or buyers to be determined in the manner specified in the bill (see below), and the buyer's or buyers' successors and assigns or heirs and assigns, all of the state's right, title, and interest in certain real estate situated in Bath Township, Allen County. The real estate must be sold as an entire tract and not be subdivided. (Divisions (A) and (D).)

First, the Director of Administrative Services must offer the real estate "as is" to any *state entity* expressing an interest in obtaining it; any such state entity would obtain occupancy and possession through execution of a Transfer of Jurisdictional Control Affecting State-Owned Lands document and would assume thereafter operational control and financial responsibility of the real estate. If no state entity expresses interest, the Department of Rehabilitation and Correction (after being notified by the Director of Administrative Services of that fact) must have the real estate appraised by one or more disinterested persons, and the Director of Administrative Services must offer the real estate "as is" and at the appraised value to the *Board of County Commissioners of Allen County*. If the Board does not accept the offer within 30 days or fails to complete the purchase

within that period, the Director of Administrative Services must offer the real estate "as is" and at the appraised value to the *city of Lima*. And, if the city does not accept the offer within 30 days or fails to complete the purchase within that period, the real estate must be put up for sale at a *public auction*, after specified newspaper advertisement and subject to specified minimum bid, terms of sale, and liquidated damages provisions. The Director of Administrative Services may reject any and all bids at any auction for any reason whatsoever. (Division (B).)

Advertising costs, appraisal fees, and other costs of the sale of the real estate must be paid by the Department of Rehabilitation and Correction (division (C)).

This conveyance authority expires three years after the authority's effective date (division (F)).

Athens County conveyance

(Section 525.50)

The bill authorizes the Governor to execute a deed in the name of the state conveying to O'Bleness Memorial Hospital, and its successors and assigns, all of the state's right, title, and interest in specified real estate in the city of Athens, Athens County. The real estate must be sold as an entire tract and not in parcels. (Divisions (A) and (C).)

The consideration for the conveyance of the real estate is $340,000, to be paid to the state according to the following schedule as derived by mutual agreement reached between the state and O'Bleness Memorial Hospital through an executed Offer to Purchase: (1) the Hospital must tender a cashier's or bank check, made payable to the state, in the amount of $100,000 at the time of closing, and (2) the value of the balance of the purchase price must be credited to the Department of Mental Health to offset the cost of services provided by the Hospital to the Department as agreed to in a Shared Services Agreement executed by the parties. (Division (B).)

O'Bleness Memorial Hospital must pay the costs of the conveyance. And, before the execution of the deed to the real estate, its possession is to be governed by an existing interim lease between the Department of Administrative Services and the Hospital. (Divisions (D) and (F).)

This conveyance authority expires one year after the authority's effective date (division (G)).

Second Franklin County conveyance

(Section 525.60)

The bill authorizes the Governor to execute a deed in the name of the state conveying to the city of Columbus, and its successors and assigns, all of the state's right, title, and interest in certain real estate in that city. The real estate must be sold as an entire tract and not in parcels. (Divisions (A) and (C).)

The consideration for the conveyance of the real estate is the purchase price of $910, and the city of Columbus must pay the costs of the conveyance. The net proceeds of the sale of the real estate must be deposited in the state treasury to the credit of the Department of Rehabilitation and Corrections Fund 148 Services and Agricultural Fund (Appropriation Line Item 501-602) and must be used to offset the loss of the Department's agricultural croplands. (Divisions (B), (F), and (G).)

Before the execution of the deed to the real estate, its possession must be governed by an existing interim lease between the Department of Administrative Services and the city of Columbus (division (D)).

This conveyance authority expires one year after the authority's effective date (division (H)).

Warren County conveyance

(Section 525.70)

The bill authorizes the Governor to execute a deed in the name of the state conveying to the Warren County Historical Society, and its successors and assigns, all of the state's right, title, and interest in two specified parcels of real estate located in the village of Lebanon, Warren County. The real estate must be sold as an entire tract and not in parcels. (Divisions (A) and (D).)

The consideration for the conveyance of the real estate is $10, and the Warren County Historical Society must pay the costs of the conveyance (divisions (B) and (F)). The conveyance also is subject to specific conditions and restrictions, including rehabilitation, maintenance, demolition, alteration, and physical or structural change of historic structure restrictions on the Warren County Historical Society, certain benefits and rights reserved to the Ohio Historical Society, and certain lease, management, and cooperative use arrangements between the Warren County Historical Society and the Ohio Cultural Facilities Commission (division (C)). Further, the Ohio Historical Society, acknowledging the need for specific capital improvements to the real estate before its conveyance, is required by the bill to make full payment for the specific capital improvements to the Glendower State Memorial (the structure on

the real estate) and its premises, listed in the Offer to Purchase Real Estate executed by the Warren County Historical Society, the Director of Administrative Services, and the Ohio Historical Society in December 2005; those improvements include replacing the roof of the structure, painting of wood trim on the structure, and correcting site drainage problems, including replacing the gas and water lines.

This conveyance authority expires one year after the authority's effective date (division (G)).

Third Franklin County conveyance

(Section 525.80)

The bill authorizes the Governor to execute a deed in the name of the state *conveying* to the city of Columbus, and its successors and assigns, all of the state's right, title, and interest in *certain real estate* located on Lane Avenue in that city and described as "being part of lands owned by the State of Ohio (The Ohio State University)" (division (A)). The bill also authorizes the Governor to execute a *deed of easement* in the name of the state conveying to the city of Columbus, and its successors and assigns, three easements located on Lane Avenue in that city (division (B)).

The consideration for the conveyance of the real estate and for the conveyance of the easements is the purchase price of $1,480,000, which must be paid by the city of Columbus in certain roadway enhancements described in a May 12, 2003, real estate purchase contract. The city also must pay the costs of the conveyances. (Divisions (C) and (E).)

This conveyance authority expires one year after the authority's effective date (division (F)).

Fourth Franklin County conveyance

(Section 525.90)

The bill authorizes the Governor to execute a deed in the name of the state conveying to the city of Columbus, and its successors and assigns, all of the state's right, title, and interest in specified real estate in that city (division (A)).

The consideration for the conveyance of the real estate is the purchase price of $10,575, and the net proceeds of the sale of the real estate must be deposited in the Ohio State University General Fund. The city of Columbus is required to pay the costs of the conveyance. (Divisions (B), (D), and (E).)

This conveyance authority expires one year after the authority's effective date (division (F)).

Union County conveyance

(Section 527.10)

The bill authorizes the Governor to execute a deed in the name of the state conveying to a purchaser or purchasers, and the purchaser's or purchasers' successors and assigns or heirs and assigns, the state's right, title, and interest in certain real estate in Paris Township, Union County (division (A)).

The consideration for the conveyance of the real estate is the purchase price of $230,000, and the net proceeds of the sale of the real estate must be deposited in the Ohio State University General Fund. The purchaser or purchasers must pay the costs of the conveyance. (Divisions (B), (D), and (E).)

This conveyance authority expires one year after the authority's effective date (division (F)).

Conveyance to the village of Apple Creek and East Union Township

(Sections 527.10 and 527.20)

The bill authorizes the Governor to execute a deed in the name of the state conveying jointly to the village of Apple Creek and the Board of Township Trustees of East Union Township, Wayne County, all of the state's right, title, and interest in two parcels of real estate in East Union Township.

The consideration for the conveyance of the real estate is the purchase price of $420,000, as was agreed to by the Director of Administrative Services (on the state's behalf) and the village of Apple Creek and the Board of Township Trustees of East Union Township in an executed Offer to Purchase. The net proceeds of the sale must be deposited into the state treasury to the credit of Fund 33 Mental Health Improvement Fund.

Before the execution of the deed, possession of the real estate will be governed by an existing interim lease between the Department of Administrative Services and the village of Apple Creek and the Board of Township Trustees of East Union Township. And, the conveyance of the real estate is subject to specific restrictions, including a limitation until June 1, 2018, on the political subdivisions' usage, conveyance, or lease of the real estate to a *public purpose* recognized by the Internal Revenue Service, and a penalty for breach of that limitation tied to the Department of Mental Retardation and Developmental Disabilities' capital bond

indebtedness for the Apple Creek Developmental Center. The village and the township must pay the costs of the conveyance.

This conveyance authority expires one year after the authority's effective date. And, because the bill restructures the sale of the Apple Creek Developmental Center property, it repeals Section 4 of Sub. H.B. 139 of the 126th General Assembly, which authorized the property's sale in a different manner.

Three Rivers Fire District conveyance

(Section 527.30)

The bill authorizes the Governor to execute a deed in the name of the state conveying to Three Rivers Fire District, and its successors and assigns, all of the state's right, title, and interest in certain real estate in Keene Township, Coshocton County (division (A)).

The consideration for the conveyance of the real estate must be a purchase price based upon an appraisal and be approved by the Board of Trustees of The Ohio State University; the bill requires the Board to cause that appraisal by one or more disinterested persons at a fee the Board determines. The net proceeds of the sale must be deposited in The Ohio State University's Endowment Fund for the Ohio Agricultural Research and Development Center, and the Three Rivers Fire District must pay the costs of the conveyance. (Divisions (B), (D), and (E).)

This conveyance authority expires one year after the authority's effective date (division (F)).

Correction of error in conveyance to the Board of Education of the Columbus City School District

(Section 527.40)

The bill authorizes the Governor to execute a deed in the name of the state conveying to the Board of Education of the Columbus City School District, and its successors and assigns, all of the state's right, title, and interest in certain real estate that was intended to have been conveyed to the District in Section 6 of Sub. H.B. 139 of the 126th General Assembly, but was omitted from the description of the real estate in that act. This conveyance authority expires one year after its effective date. (Divisions (A) and (C).)

University of Toledo conveyance

(Section 527.50)

The bill authorizes the Governor to execute a deed in the name of the state conveying the state's right, title, and interest in specified University of Toledo land in the city of Toledo, Lucas County, to a purchaser or purchasers to be determined and the purchaser's or purchasers' heirs and assigns or successors and assigns (division (A)). The Board of Trustees of the University of Toledo is required by the bill to negotiate with any potential purchaser or purchasers and to contract in a specified manner for the real estate's sale and conveyance (division (B)).

The consideration for the conveyance of the real estate is a purchase price determined by the Board of Trustees that must be at least equal in amount to the real estate's appraised value as approved by the Board of Trustees; the bill requires the Board of Trustees to cause that appraisal by one or more disinterested persons at a fee determined by the Board of Trustees. The net proceeds of the sale must be paid into the state's General Revenue Fund. And, unless otherwise provided in the contract for sale, the Board of Trustees is required to pay the costs of the conveyance, except that the purchaser or purchasers must pay the appraisal fee. (Divisions (C), (E), and (F).)

This conveyance authority expires one year after the authority's effective date (division (G)).

HISTORY

ACTION	DATE
Introduced	12-05-06
Reported, H. Finance & Appropriations	12-12-06
Passed House (94-3)	12-12-06

h0699-rh-126.doc/jc