Bill Analysis

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Legislative Service Commission

H.B. 562*

127th General Assembly
(As Introduced)

Rep. Hottinger

This analysis is arranged by state agency, beginning with the Department of Administrative Services and continuing in alphabetical order. Items that do not directly involve an agency are located under the agency that has regulatory authority over the item, or otherwise deals with the subject matter of the item. The analysis includes a Local Government category. Within each category, a summary of the items appears first (in the form of dot points), followed by a discussion of their content and operation.

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* This analysis was prepared before the fact of H.B. 562's introduction was recorded in the House Journal. Please note that the list of co-sponsors and legislative history may be incomplete. In addition, 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. 562 for an analysis of such provisions.

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DEPARTMENT OF ADMINISTRATIVE SERVICES

- Suspends the 3.5% pay increase for exempt state employees that are scheduled to take effect on the first day of the pay period that includes July 1, 2008, if the Governor issues an executive order to that effect.

- Eliminates the requirement that a state agency pay the monthly enrollee premium under Medicare Part B for its state employees and elected state officials.

- Requires the Director of Administrative Services, rather than the Governor, to appoint the State Chief Information Officer.

- Specifies that the State Chief Information Officer, instead of directing the Office of Information Technology (OIT), rather is to supervise the office as an assistant director of administrative services.

- Transfers authority for providing information services for state agencies from OIT to the Department of Administrative Services.

- Specifies that when a state agency requests to purchase information technology supplies or services, the State Chief Information Officer may review and reject the purchase because it does not comply with

information technology direction, plans, policies, standards, or project-alignment criteria.

- Exempts the Adjutant General's Department, the Bureau of Workers' Compensation, and the Industrial Commission from the state agencies that are subject to information technology oversight by OIT.

- Specifies that OIT may establish cooperative agreements for technology projects and services with state and local and federal agencies that are not under the Governor's authority only with the approval of the Director of Administrative Services.

- Authorizes the Department of Administrative Services to contract for telephone, other telecommunication, and computer services for state agencies but not to operate and superintend these services.

- Eliminates any duty OIT may have had with regard to maintaining a list of debarred vendors.

- Adds the Director of Development as a member of the Ohio Business Gateway Steering Committee.

Elimination of pay raise for exempt employees scheduled to take effect on the first day of the pay period that includes July 1, 2008

(R.C. 124.152)

Continuing law provides that certain state employees are paid a wage or salary that is determined using one of four schedules of rates. Depending upon the type of employee, there is a specific schedule of rates that applies to and establishes compensation for the employee.

Managerial and professional state employees who are permanent employees paid directly by warrant of the Director of Budget and Management, whose positions are included in the state's job classification plan, and who are exempt from the Public Employee Collective Bargaining Law ("exempt employees"), receive wages or salaries based upon the schedule of rates known as Schedule E-2.[1] Under the Schedule E-2, there are a number of different pay ranges to which

[1] Under R.C. 124.14(B), exempt employees, for purposes of R.C. 124.15 and 124.152, do not include any of the following: elected officials; legislative employees; employees of

an employee paid under that schedule is assigned. Then, for each pay range, there is a specific minimum and maximum hourly wage or annual salary that the employee may receive.

Exempt employees who are not managerial or professional employees paid under Schedule E-2 receive wages or salaries based upon the schedule of rates known as Schedule E-1. Similar to Schedule E-2, Schedule E-1 contains a number of different pay ranges to which an employee paid under that schedule is assigned. However, rather than having a minimum and maximum hourly wage and annual salary for each pay range as under Schedule E-2, pay ranges under Schedule E-1 contain a number of step values, one to which an employee is assigned, with each step providing for a specifically set hourly wage or annual salary.

The bill suspends, until the first day of the pay period that includes July 1, 2009, the 3.5% pay increase for exempt state employees included in Schedules E-1 and E-2 that is scheduled to take effect on the first day of the pay period that includes July 1, 2008, if the Governor issues an executive order to that effect. The standards for issuing such an order are the same standards specified in current law for the Governor to issue an order to reduce expenditures to maintain a balanced budget. If the Governor issues such an order, exempt employees will continue to be paid the salaries in effect on the day preceding the first day of the pay period that includes July 1, 2008. (R.C. 124.152(D), (G), and (I).)

Elimination of required state agency reimbursement of employees' monthly Medicare Part B premiums

(R.C. 124.821)

The bill eliminates the requirement of current law that a state agency pay the monthly enrollee premium under Medicare Part B for state employees and elected state officials who are employed by or serve in the agency, are paid directly by warrant of the Director of Budget and Management, are 65 years of age or older, and are participating in Medicare.

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the Legislative Service Commission; employees in the Governor's office; employees who are in the unclassified civil service and exempt from collective bargaining coverage in the office of the Secretary of State, the Auditor of State, the Treasurer of State, or the Attorney General; employees of the Supreme Court; employees of a county children services board that establishes its own compensation rates; any position for which the authority to determine compensation is given by law to an individual or entity other than the Department of Administrative Services; and employees of the Bureau of Workers' Compensation whose compensation the Administrator of Workers' Compensation establishes.

Office of Information Technology

(R.C. 125.18 and 3353.02)

Duties of Office of Information Technology

Current law establishes the Office of Information Technology (OIT) within the Department of Administrative Services (DAS). Generally, OIT can make contracts for, operate, and superintend technology supplies and services for state agencies[2] and can establish cooperative agreements with federal and local government agencies and state agencies that are not under the authority of the Governor for the provision of technology services and the development of technology projects. OIT has the same authority DAS has, under specified purchasing of supplies and services statutes, for the purchasing of information technology supplies and services for state agencies.

The bill removes OIT's authority to make contracts for and superintend technology supplies and its purchasing authority. Thereby, OIT's authority is limited to the operation of technology services. However, with the approval of the Director of Administrative Services, OIT retains the authority to establish cooperative agreements with federal and local government agencies and state agencies that are not under the authority of the Governor for the provision of technology services and the development of technology projects.

State Chief Information Officer

Currently, OIT is under the supervision of a Chief Information Officer, who serves as the Director of OIT and is appointed by and serves at the pleasure of the Governor. Among the duties of the Director of OIT is advising the Governor regarding the superintendence and implementation of statewide information technology policy. Additionally, the Director serves on the eTech Ohio Commission as an ex officio voting member.

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[2] "State agency" currently means every organized body, office, or agency established by Ohio laws for the exercise of any function of state government, other than any state-supported institution of higher education, the office of the Auditor of State, Treasurer of State, Secretary of State, or Attorney General, the Public Employees Retirement System, the Ohio Police and Fire Pension Fund, the State Teachers Retirement System, the School Employees Retirement System, the State Highway Patrol Retirement System, the General Assembly or any legislative agency, or the courts or any judicial agency. The bill adds the Adjutant General's Department, the Bureau of Workers' Compensation, and the Industrial Commission to the state agencies that are exempt from OIT oversight.

The bill changes the title of the Chief Information Officer to the State Chief Information Officer who is appointed by and serves at the pleasure of the Director of Administrative Services. The State Chief Information Officer is made an assistant director of administrative services.

The bill generally places the duties of the Director of OIT, including serving on the eTech Ohio Commission, with the State Chief Information Officer, but removes the duty to advise the Governor regarding the superintendence of statewide information technology. Specifically, under the direction of the Director of Administrative Services, the State Chief Information Officer must lead, oversee, and direct state agency activities related to information technology development and use. In that regard, the State Chief Information Officer must do all of the following:

- Coordinate and superintend statewide efforts to promote common use and development of technology by state agencies. OIT must establish policies and standards that govern and direct state agency participation in statewide programs and initiatives.

- Establish policies and standards for the acquisition and use of information technology by state agencies, including, but not limited to, hardware, software, technology services, and security, with which state agencies must comply.

- Establish criteria and review processes to identify state agency information technology projects or purchases that require alignment or oversight. As appropriate, DAS must provide the Governor and the Director of Budget and Management with notice and advice regarding the appropriate allocation of resources for those projects. The State Chief Information Officer can require state agencies to provide, and can prescribe the form and manner by which they must provide, information to fulfill the State Chief Information Officer's alignment and oversight role.

Additionally, the bill permits the State Chief Information Officer to review and reject a requested purchase from a state agency for information technology supplies or services for noncompliance with information technology direction, plans, policies, standards, or project-alignment criteria.

Authority to contract for telecommunication services

(R.C. 125.021)

Under current law, OIT may contract for, operate, and superintend telephone, other telecommunication, and computer services for state agencies.[3] Additionally, current law authorizes OIT to enter into a contract to purchase and make bulk long distance telephone services available at cost to members of the immediate family of persons deployed on active duty[4] so that those family members can communicate with the deployed persons. The bill places this authority under the Department of Administrative Services and limits OIT's authority to contracting for the telephone, other telecommunication, and computer services by removing the authority to operate and superintend those services.

Authority to debar vendor

(R.C. 125.25)

Under ongoing law, the Director of Administrative Services can debar a vendor from consideration for contract awards upon a finding based upon a reasonable belief that the vendor has engaged in certain behavior. The Director must send the vendor a notice of proposed debarment and determine the length of the debarment period. Current law requires the Director, through OIT and the Office of Procurement Services, to maintain a list of all vendors currently debarred. The bill removes any duty OIT may have had with regard to maintaining the list of debarred vendors.

Ohio Business Gateway Steering Committee

(R.C. 5703.57)

Current law creates the Ohio Business Gateway Steering Committee to direct the continuing development of the Ohio Business Gateway and to oversee its operations. Among other members, the Director of OIT or the Director's designee serves on the Committee.

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[3] OIT does not have this authority for the military department, the General Assembly, the Bureau of Workers' Compensation, the Industrial Commission, and institutions administered by boards of trustees. However, current law states that the Bureau and the Commission may contract with OIT to contract for, operate, or superintend these services.

[4] "Active duty" means active duty pursuant to a presidential order, a Congressional Act, or a gubernatorial order.

The bill specifies that, in place of the Director of OIT, the State Chief Information Officer or the Officer's designee serves on the Committee. The bill also adds the Director of Development or the Director's designee to the Committee.

AUDITOR OF STATE

- Specifies services that are included in the amount due from a public office if the Auditor of State fails to receive payment from a public office for auditing services performed.

- Permits the Auditor, if the Auditor fails to receive payment for penalties not paid within one year from the required filing date for delinquent financial reports, to recover the penalties by certifying them to the Office of Budget and Management for collection.

- Modifies the method used to biennially adjust the amount that a qualified wrongfully imprisoned individual is entitled to recover for each full year of imprisonment in a state correctional institution.

Recovering costs of audits by Auditor of State

(R.C. 117.13)

Current law provides a process by which the costs of audits of state agencies, private institutions receiving public money, and local public offices are to be recovered by the Auditor of State. If the Auditor fails to receive payment, the Auditor can seek payment through the Office of Budget and Management. Upon certification by the Auditor to the Director of Budget and Management of any amount due, the Director must withhold from the public office and promptly pay to the Auditor any amount available from any funds under the Director's control that belong to or are lawfully payable or due to the public office. If the Director determines that no funds due and payable to the public office are available or that insufficient amounts are available, the Director must withhold and pay to the Auditor the amounts available and, in the case of a local public office, certify the remaining amount to the appropriate county auditor. In that case, the county auditor must withhold from the local public office any amount available from any funds under the county auditor's control and belonging to or lawfully payable or due to the local public office. The county auditor must promptly pay any amount withheld to the Auditor of State.

The bill specifies that if the Auditor of State certifies to the Office of Budget and Management for collection, any amount due for which the Auditor has failed to receive payment, the amount due includes fines, fees, and costs, and also includes any amounts due to an independent public accountant with whom the Auditor has contracted to perform services, all costs and fees associated with participation in the Uniform Accounting Network, and all costs associated with the Auditor's provision of local government services.

Certification of amounts due to Auditor of State

(R.C. 117.38)

Existing law requires that each public office, other than a state agency, make a financial report for each fiscal year to the Auditor of State within 60 days after the close of the fiscal year, except that if the public office files pursuant to generally accepted accounting principles, the report must be filed within 150 days after the close of the fiscal year. Any public office that does not file a timely financial report must pay a penalty of $25 to the Auditor for each day the report remains unfiled. However, the penalty payments cannot exceed $750. The Auditor can waive all or any part of a penalty when the past due report has been filed. Current law permits the Auditor to deduct penalties not paid within one year from the required filing date from any funds under the Auditor's control belonging to the public office. If funds are withheld from a county because of the failure of a taxing district located in whole or in part within the county to file, the county can deduct the penalty amount from any revenues due the delinquent district.

The bill, instead of allowing the Auditor or a county to deduct penalty amounts due as described above, allows the Auditor to recover the penalties by certifying them to the Office of Budget and Management for collection through that office as described above.

Formula for calculating changes to the amount recovered by wrongfully imprisoned individuals

The bill changes the formula used to adjust the amount of money that a wrongfully imprisoned individual is entitled to receive for each full year of imprisonment in a state correctional institution. Under existing law unchanged by the bill, the Auditor of State adjusts the amount received by wrongfully imprisoned individuals in January of each odd-numbered year, based on the yearly average of the previous two years of the consumer price index for all urban consumers or its successive equivalent as determined by the United States Department of Labor, Bureau of Labor Statistics, or its successor in responsibility.

The bill provides that, using the yearly average of the consumer price index, as described in the preceding paragraph, for the immediately preceding even-numbered year as the base year, the Auditor must compare the most current average consumer price index with that determined in the preceding odd-numbered year and determine the percentage increase or decrease in the consumer price index. The Auditor must multiply the percentage increase or decrease either by the actual dollar figure ($40,330) specified in the Court of Claims Law governing civil actions against the state for wrongful imprisonment (R.C. 2743.48(E)(2)(b)) or the actual dollar figure determined under this provision of the Court of Claims Law for the previous odd-numbered year, and then add the product to or subtract the product from its corresponding actual dollar figure, as applicable, for the previous odd-numbered year. (R.C. 2743.49(A)(1).)

DEPARTMENT OF COMMERCE

- Permits a person licensed as a real estate broker or real estate salesperson under the Real Estate Brokers Law to apply to the Superintendent of Real Estate and Professional Licensing to have the licensee's license placed on voluntary hold or a resigned status.

- Defines "voluntary hold" status and "resigned" status for purposes of the bill.

- Permits a licensee whose license is placed on voluntary hold to reactivate the license if the licensee satisfies specified requirements.

- Specifies that if a licensee whose license is placed on voluntary hold fails to apply to reactivate the license or fails to satisfy the requirements during the 12 months after the license is placed on voluntary hold, the license is considered resigned.

- Permits a licensee whose license has been suspended for reasons other than for failing to comply with all requirements contained in a final citation issued by the Superintendent under continuing law or an order from the Ohio Real Estate Commission to apply to place that license on voluntary hold or a resigned status.

- Prohibits the Superintendent from reactivating a resigned license.

- Specifies that a licensee whose license is on a resigned status may obtain a new license by complying with the normal requirements to obtain the license sought.

- Prohibits a business entity from providing services that require a license if the licensee's license is on voluntary hold or a resigned status and from employing a person in specified positions if the person's license is placed on voluntary hold or a resigned status.

- Requires a broker, if placing the broker's license on voluntary hold or a resigned status will result in closure of the broker's brokerage, to notify each salesperson associated with that broker in writing of that fact within three days after applying to the Superintendent to place the license on voluntary hold or a resigned status.

- Allows the Commission to adopt rules to define any additional license status that the Commission determines is necessary and that is not otherwise defined in the Real Estate Broker Law and to establish the process by which a licensee places the licensee's license in a status defined by the Commission in rules.

Placing a real estate broker's or salesperson's license on voluntary hold or resigned status

(R.C. 4735.01, 4735.02, 4735.10, 4735.13, 4735.14, 4735.141, and 4735.142)

The bill permits any person licensed as a real estate broker or real estate salesperson under the Real Estate Brokers Law (R.C. Chapter 4735.), at any time prior to the date the licensee is required to file a notice of renewal under continuing law, to apply to the Superintendent of Real Estate and Professional Licensing to place the licensee's license on voluntary hold or a resigned status. The bill defines "voluntary hold" as the license status in which a license (1) is in the possession of the Division of Real Estate and Professional Licensing for a period of not more than 12 months, (2) is not renewed in accordance with the requirements specified in the Real Estate Brokers Law or rules adopted pursuant to it, and (3) is not associated with a real estate broker. The bill defines "resigned" as the license status in which a license (1) has been voluntarily surrendered to or is otherwise in the possession of the Division, (2) is not renewed in accordance with the requirements specified in the Real Estate Brokers Law or rules adopted pursuant to it, and (3) is not associated with a real estate broker.

The bill prohibits a licensee whose license has been suspended because the licensee failed to comply with all requirements contained in a final citation issued by the Superintendent under continuing law or due to disciplinary action ordered by the Ohio Real Estate Commission from placing the licensee's license on voluntary hold or a resigned status. The bill requires the Commission to adopt reasonable rules to specify the process by which a licensee may place the licensee's license on voluntary hold or a resigned status.

Continuing law prohibits any person, partnership, association, limited liability company, limited liability partnership, or corporation from doing either of the following:

- Providing services that require a license under the Real Estate Brokers Law if the licensee's license is inactive, suspended, or a broker's license on deposit, or if the license has been revoked;

- Employing as an officer, director, manager, or principal employee any person previously holding a license as a real estate broker, real estate salesperson, foreign real estate dealer, or foreign real estate salesperson, whose license has been placed in inactive status, suspended, or revoked and who has not thereafter reactivated the license or received a new license.

The bill also prohibits those entities from providing the services described immediately above or employing a person described immediately above if the licensee's or person's license has been placed on voluntary hold or a resigned status.

Continuing law specifies that a license is valid without further recommendation or examination until it is placed in an inactive status, is suspended or revoked, or expires by operation of law. The bill specifies that a license also is valid until it is placed on voluntary hold or a resigned status. Under continuing law, the license of each real estate salesperson must be mailed to and remain in the possession of the licensed broker with whom the salesperson is or is to be associated until the licensee places the license on inactive status or the salesperson leaves the brokerage or is terminated. The bill adds that such a license must remain with the licensed broker until the salesperson places a license on voluntary hold or a resigned status. A licensee who has placed the licensee's license on voluntary hold or a resigned status is not subject to the requirements specified in continuing law concerning renewal or continuing education.

Under the bill, if the Superintendent has placed a license on voluntary hold pursuant to a request made under the bill, the licensee who made that request may apply to the Superintendent to reactivate that license within 12 months after the

date the license is placed on voluntary hold. The Superintendent must reactivate that license if the licensee complies with the requirements for such reactivation that are specified in rules adopted by the Commission and satisfies all of the following requirements:

(1) The licensee complies with the postlicensure education requirements specified in continuing law for real estate brokers and real estate salespersons, as applicable;

(2) The licensee complies with the continuing education requirements specified in continuing law;

(3) The licensee renews the licensee's license in accordance with the requirements specified in continuing law and, if applicable, pays the annual brokerage assessment fee in accordance with the requirements specified in rules adopted by the Commission.

If a licensee does not apply to reactivate a license on voluntary hold under the bill during that 12-month period or does not satisfy the requirements specified immediately above during that 12-month period, the Superintendent must consider that license to be in a resigned status. The Superintendent must not reactivate a resigned license. The resignation of a license is considered to be final without the taking of any action by the Superintendent. If a person whose license is in a resigned status pursuant to this division wishes to obtain an active license, the person must apply for an active license in accordance with the applicable requirements specified in continuing law to obtain the applicable license.

A licensee, at any time during which a license has been suspended by the Superintendent for reasons other than because the licensee failed to comply with all requirements contained in a final citation issued by the Superintendent under continuing law or by order of the Commission for a disciplinary action, may apply to the Superintendent on a form prescribed by the Superintendent to voluntarily resign the licensee's license. The resignation of a license is considered to be final without the taking of any action by the Superintendent. If a person whose license is in a resigned status pursuant to this request wishes to obtain an active or inactive license, the person must apply for such a license in accordance with the normal requirements specified in continuing law or rules adopted by the Commission, as applicable.

If placing a broker's license on voluntary hold or a resigned status will result in the closure of the broker's brokerage, the broker, within three days after applying to the Superintendent to place the license on voluntary hold or a resigned status, must provide to each salesperson associated with that broker a written notice stating that fact.

Additional license statuses

The bill permits the Commission to adopt reasonable rules in accordance with the Administrative Procedure Act to define any additional license status that the Commission determines is necessary and that is not otherwise defined in the Real Estate Brokers Law and establishing the process by which a licensee places the licensee's license in a status defined by the Commission in the rules the Commission adopts.

DEPARTMENT OF DEVELOPMENT

- Authorizes the Department of Administrative Services to contract for reports on energy conservation in state buildings, including buildings of state institutions of higher education, with an energy services company, contractor, architect, professional engineer, or other experienced person rather than with the Office of Energy Efficiency in the Department of Development.

Department of Administrative Services' contracts for reports on energy conservation in state buildings

(R.C. 156.02)

Current law authorizes the Director of Administrative Services to contract with the Office of Energy Efficiency in the Department of Development for a report containing an analysis and recommendations pertaining to the implementation of energy conservation measures that would significantly reduce energy consumption and operating costs in any building owned by the state and, upon request of its board of trustees or managing authority, any building owned by a state institution of higher education.

The bill instead authorizes the Director to contract for these reports with an energy services company, contractor, architect, professional engineer, or other person experienced in the design and implementation of energy conservation measures rather than with the Office of Energy Efficiency. (R.C. 156.02.)

- Requires the written consent of 75% of the affected property owners when a school district proposes on its own initiative to transfer five or more acres of its territory to an adjoining school district.

- Permits a school district that has entered into an agreement with one or more other districts for joint or cooperative operation of an educational program to charge fees or tuition to its resident students who participate in the program.

- Permits the Department of Education to have access to student data verification codes to administer the Cleveland Scholarship Program and the Autism Scholarship Program and to verify the accuracy of payments to county boards of mental retardation and developmental disabilities (county MR/DD boards) for special education services, but generally prohibits the Department from releasing the codes to any other party.

- Specifies that documents held by the Department relative to the scholarship programs or county MR/DD board services that contain both a student's name or other personally identifiable information and the student's data verification code are not public records.

- Permits a start-up community school to be located in multiple facilities and to assign students of the same grade to different facilities, if (1) the contract with the school's sponsor was filed with the Superintendent of Public Instruction on or before May 15, 2008, (2) the school was not open prior to July 1, 2008, (3) the school's governing authority has contracted with a nonprofit organization that provides programmatic oversight and support to the school and that retains the right to terminate its affiliation with the school for failure to meet the organization's quality standards, and (4) the school's performance rating does not fall below continuous improvement for two consecutive years.

- Waives hours or days a community school was closed for certain calamities in the 2007-2008 school year, as long as the school provided at least 920 hours of learning opportunities to students.

- Requires the Seniors to Sophomores program to permit students of nonpublic high schools, both chartered and nonchartered, to participate.

- Qualifies an educational service center (ESC) to receive per pupil state funds in fiscal year 2009 for services provided to a "city" or "exempted village" school district, if the ESC assumes the obligation to provide services to the district from another ESC that (1) ceased to operate because all of the "local" school districts constituting its territory severed from the ESC and (2) had entered into the original agreement with the district by January 1, 1997.

- Specifies that a current Early Learning Initiative provider that, in fiscal year 2006 or 2007, incurred an obligation to repay a start-up grant from the former Title IV-A Head Start or Head Start Plus program must make the repayment by June 30, 2009.

- Requires the Department of Education to adjust a school district's state funding for operations and its facilities assistance rankings for fiscal years 2007 and 2008 to correct certifications of tax-exempt property erroneously treated as taxable property.

- Waives the requirement for a school district to make up days or hours a school was closed during the 2007-2008 school year because of flooding from a burst water pipe, if (1) the flooded school was closed only one day in excess of the five "calamity days" allowed by law, (2) the other district schools did not have any excess calamity days, and (3) the flooded school has a regularly scheduled school day that exceeds the required minimum number of hours by at least one-half hour.

Transfer of school district territory

(R.C. 3311.24)

Under current law, a city, exempted village, or local school district may transfer part of its territory to an adjoining city, exempted village, or local school district, if the board of education considers the transfer advisable and the State Board of Education approves the transfer. The bill specifies that, if the portion of the territory proposed for transfer is five or more acres, the district must obtain written consent to the transfer from 75% of the property owners within that portion of the district prior to submitting its proposal to the State Board for approval. The county auditor must check the sufficiency of the property owners' signatures. The State Board is prohibited from approving the transfer until it receives evidence of the consent of affected property owners. As in current law,

however, the transfer is not complete unless a majority of the full membership of the board of education of the receiving district adopts a resolution accepting the transfer.

Tuition for jointly operated educational programs

(R.C. 3313.842)

Continuing law permits two or more school districts to enter into an agreement to jointly or cooperatively establish and operate an educational program, including any course or program that is part of a district's graded course of study. Districts that are party to the agreement may contribute funds to support the program. The bill further allows a district that is party to the agreement to charge fees or tuition to its resident students who participate in the program.

Access to student data verification codes

(R.C. 3301.0714(D)(2), 3310.42, 3313.978, and 3317.20)

Each school district or community school in which a student initially enrolls must assign that student a unique data verification code for purposes of reporting individual student performance data to the Education Management Information System (EMIS). Currently, except as necessary to assign the data verification code, personally identifiable student information may not be reported to any person, except someone who is employed (1) by a school district, community school, or information technology center and authorized to have access to that information or (2) by a company hired by the Department of Education to score the achievement tests.[5]

The bill grants the Department of Education access to student data verification codes for the purposes of (1) administering the Pilot Project Scholarship Program (the Cleveland voucher program) and the Autism Scholarship Program[6] and (2) verifying the accuracy of payments to county boards

[5] R.C. 3301.0714(D). Information technology centers provide administrative computer services, including EMIS data reporting, to school districts and other education entities.

[6] The Pilot Project Scholarship Program provides scholarships to attend alternative schools, including private schools, and tutorial assistance grants to certain students who reside in any school district that is or has been under a federal court order requiring supervision and operational management of the district by the Superintendent of Public Instruction (R.C. 3313.975, not in the bill). The Autism Scholarship Program provides scholarships for certain autistic children to pay for services at public or nonpublic special education programs that are not operated by or for the child's resident school district (R.C. 3310.41, not in the bill).

of mental retardation and developmental disabilities (county MR/DD boards) for special education services provided to children. Access to the data verification codes will allow the Department to match a student's name with the student's data verification code. Therefore, these provisions are an exception to the general prohibition in continuing law against the Department having access to information that would enable a data verification code to be matched to personally identifiable student data.

In the case of the two scholarship programs, the Department will have access to data verification codes in the same manner it currently does for the Educational Choice Scholarship Pilot Program.[7] Specifically, the Department may request a scholarship applicant's data verification code from (1) the resident school district, (2) the community school in which the student is enrolled, if applicable, or (3) the independent contractor hired by the Department to create and maintain data verification codes. In the case of county MR/DD boards, the bill requires each county MR/DD board to report to the Department the name of each child for whom the board provides special education services and the child's school district. The Department then may request the child's data verification code from either the child's school district or the contractor that manages the codes.

Districts and community schools must provide a student's data verification code to the Department in a manner specified by the Department.[8] If a student has not yet been assigned a data verification code, the resident school district must assign a code to the student prior to submission. If the district does not assign the code by a date specified by the Department, the Department must assign the code. Each year, the Department must provide school districts with the name and data verification code of each scholarship student or MR/DD student living in the district who has been assigned a code by the Department.

The Department may not release a student's data verification code to any person, unless such release is otherwise authorized by law. Furthermore, documents held by the Department relating to the scholarship programs or special education services provided by a county MR/DD board are not public records if they contain both a student's name or other personally identifiable information and the student's data verification code.

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[7] The Educational Choice Scholarship Pilot Program provides scholarships to pay tuition at chartered nonpublic schools for students who do not reside in the Cleveland Municipal School District and who are assigned to certain underperforming districts or schools (R.C. 3310.02 and 3310.03, neither section in the bill).

[8] In the case of the scholarship programs, they must also provide the code to the parent of a scholarship applicant, upon request.

Community schools

Background

Community schools (often called "charter schools") are public schools that operate independently from any school district under a contract with a sponsoring entity. Community schools often serve a particular educational purpose or a limited number of grades. They are funded with state funds that are deducted from the state aid accounts of the school districts in which the enrolled students are entitled to attend school. They may not charge tuition.

A conversion community school, created by converting an existing school district school, may be located in and sponsored by any school district in the state. On the other hand, a "start-up" community school may be located only in a "challenged school district." A challenged school district is any of the following: (1) a "Big-Eight" school district, (2) a school district in academic watch or academic emergency, or (3) a school district in the original community school pilot project area (Lucas County).[9]

The sponsor of a start-up community school, which generally must be approved by the Department of Education, may be any of the following:

(1) The school district in which the school is located;

(2) A school district located in the same county as the district in which the school is located has a major portion of its territory;

(3) A joint vocational school district serving the same county as the district in which the school is located has a major portion of its territory;

(4) An educational service center serving the county in which the school is located or a contiguous county;

(5) The board of trustees of a state university (or the board's designee) under certain specified conditions; or

(6) A federally tax-exempt entity under certain specified conditions.[10]

The Department of Education may take over sponsorship of community schools, but only in specified exigent circumstances.

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[9] R.C. 3314.02(A)(3), not in the bill. The "Big-Eight" districts are Akron, Canton, Cincinnati, Cleveland, Columbus, Dayton, Toledo, and Youngstown.

[10] R.C. 3314.015(B)(1) and 3314.02(C)(1)(a) through (f), latter section not in the bill.

Use of multiple facilities

(R.C. 3314.05)

Current law prohibits a community school from being located in multiple facilities under the same contract with a sponsor, unless space limitations make it impossible to serve all students in a single facility. In that case, the school may not place students of the same grade in different facilities. The bill creates an exception to these prohibitions.

Under the exception, a start-up community school may be located in multiple facilities under the same contract and may assign students in the same grade to different facilities, if the following conditions are met:

(1) The school's governing authority filed a copy of its contract with the school's sponsor with the Superintendent of Public Instruction on or before May 15, 2008.

(2) The school was not open for operation before July 1, 2008.

(3) The school's governing authority has entered into and maintains a contract with an operator that is a nonprofit organization that provides programmatic oversight and support to the school and that retains the right to terminate its affiliation with the school for failure to meet the organization's quality standards. (Continuing law prohibits the establishment of new start-up community schools after June 30, 2007, unless the school's governing authority contracts with an operator that manages other schools in the United States that perform at a level higher than academic watch.[11] The school must have an operator since it would be opening after that date, but the operator also must be the type described to qualify the school to use multiple facilities.[12])

(4) The school's performance rating does not fall below continuous improvement for two or more consecutive years.

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[11] R.C. 3314.016(A). The operator hired by a new start-up community school must have fewer contracts with start-up schools established after June 30, 2007, than the number of schools managed by the operator in the United States that perform at a level better than academic watch.

[12] Under continuing law, an operator also may be an individual or organization that manages the school's daily operations, but this type of operator would not qualify a community school for the bill's exception (R.C. 3314.014(A)(1)).

Excused time for calamities

(Section 733.20)

The bill waives the number of hours or days a community school was closed for certain calamities during the 2007-2008 school year, as long as the school was open for instruction with students in attendance for the statutory minimum of 920 hours.[13] Under the bill, community schools do not have to make up hours or days they were closed for (1) disease epidemic, (2) hazardous weather conditions, (3) inoperability of school buses or other necessary equipment, (4) damage to the school building, or (5) utility failure.[14] For purposes of funding community schools in the 2007-2008 school year, the Department of Education must treat time a community school was closed for one of these reasons as time the school was open for instruction. Therefore, under the bill, a community school will not lose fiscal year 2008 funding for the time its students missed during the 2007-2008 school year because of a calamity, provided the students received at least 920 total hours of instruction.

Seniors to Sophomores program

(R.C. 3365.15)

The bill requires that students of chartered and nonchartered nonpublic high schools be permitted to participate in the Seniors to Sophomores program. The Seniors to Sophomores program is a dual-enrollment program for academically qualified high school seniors to earn a year's worth of high school and college credit simultaneously in one year. Students who successfully complete the program could be qualified to enter into the University System of Ohio as college sophomores. The program is an administrative initiative, operated through the Board of Regents using a fiscal year 2009 earmark from line-item 200-536, Ohio Core Support, providing funds "to public school districts for supplemental post-secondary enrollment option participation." According to the University System of Ohio's web site, 42 school districts have been awarded a total of $4 million in "early adopter" grants for the 2008-2009 school year.[15]

[13] See R.C. 3314.03(A)(11)(a) and 3314.08(L)(3).

[14] These are the same reasons for which school districts receive five excused "calamity days" under continuing law (R.C. 3317.01(B)).

[15] http://universitysystem.ohio.gov/seniorstosophomores/index.php.

Educational service center payments

(Section 269.50.30 of Am. Sub. H.B. 119 of the 127th General Assembly, amended in Sections 610.40 and 610.41)

Educational service centers (ESC) provide some oversight and specified services to the "local" school districts that make up its service territory, for which the ESC receives both state and district funds. In addition, an ESC may contract with "city" and "exempted village" school districts, generally with student populations of less than 13,000, to provide similar services and may qualify to receive state and district funding for those services.[16] In each case, the state funding is up to $37 per pupil for a single county ESC and up to $40.52 for an ESC made up of the merger of at least three smaller ESCs.[17] However, uncodified law, currently effective for FY 2008 and FY 2009, prohibits an ESC from receiving the per pupil state funds for services to "city" or "exempted village" school districts unless the ESC had entered into an agreement for those services by January 1, 1997.

The bill qualifies an ESC to receive those per pupil state funds in fiscal year 2009 for services provided to a "city" or "exempted village" school district, if that ESC "assumes" the obligation to provide services to the district from another ESC that (1) ceased to operate because all of the "local" school districts constituting its territory severed from the ESC (thus, dissolving its territory) and (2) entered into the original agreement by January 1, 1997. In other words, the bill permits the ESC that takes over those service obligations to receive the state funds even through it did not enter the agreement prior to January 1, 1997, as long as the ESC that is closing did so.

Background

The territory of an ESC, from which its governing board members are elected, is the territory of only the "local" school districts that belong to the ESC and receive statutory services from the ESC. The territory does not include the territory of the other "city" and "exempted village" districts that may receive services from the ESC.[18] A local school district may by resolution, subject to approval of the State Board of Education and referendum by petition of the district's voters, sever from the ESC to which it currently belong and annex to an

[16] R.C. 3313.843, not in the bill.

[17] R.C. 3317.11(F), not in the bill.

[18] R.C. 3311.05, not in the bill.

adjacent ESC.[19] If all of the local school districts that belongs to an ESC sever from it, that ESC is left without any electoral territory and it appears that the ESC likely cannot continue to operate. In that case, the other districts that have received services from the ESC also need to find another provider, which likely may be another ESC.

Repayment of Head Start start-up grants

(Section 269.40.50 of Am. Sub. H.B. 119 of the 127th General Assembly, amended in Sections 610.40 and 610.41)

The bill eliminates a potential discrepancy, in the budget language for fiscal years 2008 and 2009, concerning the obligation of providers under the former Title IV-A Head Start and Head Start Plus programs to repay state start-up grants from fiscal years 2004 and 2005. On one hand, the budget language currently states that if a provider was obliged to make a repayment in fiscal year 2006 or 2007, but failed to repay the full amount by June 30, 2007, the provider has until June 30, 2009, to make the repayment before the debt is referred to the Attorney General for collection. On the other hand, the language also currently states that if a provider under the former program will be a provider for the Early Learning Initiative in both fiscal years 2008 and 2009, the provider may "retain any amount of the start-up grant it received."

The bill clarifies that the second stipulation does not cancel a previously incurred repayment obligation. That is, if a current Early Learning Initiative provider had incurred an obligation to repay a Head Start start-up grant in fiscal year 2006 or 2007, the provider must make the repayment by June 30, 2009.

Background

In fiscal years 2004 and 2005, the state implemented two early childhood programs known as Title IV-A Head Start and Title IV-A Head Start Plus. Although the programs were financed with federal TANF money, they included start-up grants from the state General Revenue Fund. The budget act for fiscal years 2004 and 2005 stipulated that providers must repay the start-up grants if the programs were terminated or ceased to be financed with federal TANF funds, or if the provider ceased to participate in the programs.[20]

The programs, in fact, were terminated after fiscal year 2005 and were replaced by the Early Learning Initiative. The budget act for fiscal years 2006 and

[19] R.C. 3311.059, not in the bill.

[20] Section 41.06 of Am. Sub. H.B. 95 of the 125th General Assembly.

2007 stipulated that the obligation to repay a start-up grant could be reduced or cancelled if a former Head Start provider became an Early Learning Initiative provider, depending on the number of children the provider served. If the provider served the same number of children as anticipated by the start-up grant, the repayment could be cancelled. If the provider served fewer children, the repayment could be reduced, but not outright cancelled.[21] Subsequently, the budget act for fiscal years 2008 and 2009 gave an extension, until June 30, 2009, for providers to fulfill their repayment obligations.[22]

Adjustments in erroneously reported tax value for certain school districts

(Section 733.10)

A school district's tax valuation is used to determine its share of combined state and district funding for operating the district.[23] It is also used to calculate the district's priority for classroom facilities funding and its share of a state-assisted facilities project. The district's tax valuation is generally the aggregate taxable valuation of the real and tangible personal property in the district. It does not include property that is exempt from taxation. In the case of both operating funding and facilities funding, all other things being equal, the higher a district's taxable valuation the less state funding it will receive.

The bill requires the Department of Education to recalculate a district's taxable valuation for purposes of operating funding and facilities funding for fiscal years 2007 and 2008, if the initial valuation calculated for the district for both fiscal years erroneously included at least $10 million of tax exempt public utility property (both real property or tangible personal property). Including that amount of exempt property by error could have caused the district to receive less state funding than it otherwise was eligible to receive.

For each fiscal year, the Department must recompute each component of operating funding for the district that is affected by the recomputed tax valuation. For fiscal year 2007, the Department must pay the district the resulting increase in state operating funding within 45 days after the bill's effective date. (The

[21] Section 206.09.54 of Am. Sub. H.B. 66 of the 126th General Assembly.

[22] Section 269.40.50 of Am. Sub. H.B. 119 of the 127th General Assembly.

[23] Continuing law presumes that each city, exempted village, and local school district will levy at least 23 mills against its taxable valuation as its share of base-cost funding for the district. That 23 mills times its valuation, plus a portion of the valuation reflected in payments the district receives in lieu of taxes due to tax abatements, constitutes the district's "charge-off." (R.C. 3317.012, 3317.02, and 3317.022, none in the bill.)

Department must make the fiscal year 2007 payments from money appropriated for school funding for fiscal year 2008.) For fiscal year 2008, the Department must pay the district the increase in equal amounts divided among the remaining payments to be made during the fiscal year after the bill's effective date.

Also, the Department, within 45 days after the bill's effective date, must recertify to the School Facilities Commission a new percentile ranking for the school district that reflects the adjusted tax valuations. If the district is already receiving state funding for a facilities project, the Commission must reduce the district's portion of its project cost to reflect the district's new percentile rank.

School district calamity days

(Section 733.21)

The bill waives the requirement for certain school districts to make up days or hours a school was closed during the 2007-2008 school year due to flooding from a burst water pipe. This waiver applies only if (1) the flooding caused the school to be closed for just one day in excess of the five excused "calamity days" allowed by law (see below), (2) the other district schools did not have any excess calamity days, and (3) the flooded school has a regularly scheduled school day that exceeds the required minimum number of hours by at least one-half hour. The minimum school day for school districts is five hours, excluding a lunch period, in grades 1 to 6 (including two 15-minute recesses) and five and one-half hours, excluding a lunch period, in grades 7 to 12 (R.C. 3313.48, not in the bill). The waiver relieves the district of the responsibility to implement its contingency plan to make up the excess calamity day for the flooded school, as otherwise required by current law. Each district that qualifies for a waiver is considered to have complied with the minimum school year requirements for the 2007-2008 school year and is eligible for state funding in fiscal year 2009.

Background on minimum school year

Continuing law requires a minimum school year of 182 days for school districts. Toward this minimum, a school may count up to four days when classes are dismissed a half-day early for individual parent-teacher conferences or reporting periods, up to two days for teacher professional meetings, and up to five days for a public calamity, which includes: (1) disease epidemic, (2) hazardous weather conditions, (3) inoperability of school buses or other necessary equipment, (4) damage to a school building, or (5) other temporary circumstances

because of a utility failure that renders a building unfit for use. (R.C. 3313.48 and 3317.01(B) (neither section in the bill).)[24]

Each school district must adopt a contingency plan for making up at least five full days in case it is necessary to close schools for more than the five excused calamity days (R.C. 3313.482(A), not in the bill).[25] In addition, continuing law provides a procedure to make up days missed in excess of the total of the five excused calamity days and the days set aside in a district's contingency plan. Under that provision, if a school is closed for more days than the five excused days plus those make-up days prescribed in the contingency plan, the district may add half-hour increments to the remaining days in the school year to make up those excess days (R.C. 3313.482(C), not in the bill).[26] For example, if a district's contingency plan provides for making up 5 days and the district closes for 12 days because of snow, the district could make up 2 of those days by adding time to other school days (12 – (the 5 excused calamity days + the 5 days in the contingency plan) = 2). A district may start increasing the length of school days prior to actually making up any of the days covered by its contingency plan. Nevertheless, it still must fully implement the contingency plan.

ENVIRONMENTAL PROTECTION AGENCY

- Requires at least 65% of the money collected from the levy of a 50¢ per-tire fee on the sale of tires, which is scheduled to sunset on June 30, 2011, to be used for clean-up and removal activities at the Goss tire site in Muskingum County or other tire sites in the state rather than the Kirby tire site in Wyandot County as in current law.

[24] Nonpublic schools, both chartered and nonchartered, are required to comply with these provisions by rules of the State Board of Education. See rules 3301-35-08 and 3301-35-12 of the Administrative Code. Community ("charter") schools are not subject to the 182-day requirement, but instead must offer learning opportunities to each student for at least 920 hours per year (see R.C. 3314.03(A)(11)(a), not in the bill).

[25] A school day that is reduced by two hours or less due to hazardous weather does not count as a missed calamity day (R.C. 3317.01(B), not in the bill).

[26] This provision became effective March 24, 2008.

Use of fee on tire sales

(R.C. 3734.821)

The bill requires that beginning on the effective date of this provision and ending on June 30, 2011, at least 65% of the money collected from the current 50¢ per-tire fee on the sale of tires and credited to the existing Scrap Tire Management Fund must be expended for clean-up and removal activities at the Goss tire site in Muskingum County or other tire sites in the state rather than at the Kirby tire site in Wyandot County as in current law. The fee on the sale of tires is scheduled to sunset on June 30, 2011 under current law.

DEPARTMENT OF HEALTH

Physician Loan Repayment Program

- Requires the Department of Health to exclusively oversee the administration of the Physician Loan Repayment Program, rather than participate in a joint effort with the Board of Regents.

- Increases the amount of the repayment from not more than $20,000 in each of the four years of repayment, to up to $25,000 in each of the first two years and up to $35,000 in each of the last two years.

- Includes additional primary care specialties in those that qualify a physician for participation in the Program.

- Makes changes to specific provisions of the application and repayment contract.

Dentist Loan Repayment Program

- Requires the Department of Health to exclusively oversee the implementation and administration of the Dentist Loan Repayment Program, rather than participate in a joint effort with the Board of Regents.

- Requires the Department to repay all or part of the principal and interest of a government or other educational loan taken by an individual for certain dental college expenses and mail annual statements to the recipient summarizing the principal and interest repaid by the Department in the preceding year.

- Requires the Director of Health to use the Dental Health Resource Shortage Area and Dentist Loan Repayment funds for the implementation and administration of the Dentist Loan Repayment Program.

Physician Loan Repayment Program

(R.C. 3333.04, 3333.044, 3702.71, 3702.72, 3702.73, 3702.74, 3702.75, 3702.78, 3702.79, and 3702.81)

The Physician Loan Repayment Program provides loan repayments, for the principal and interest on a loan, to primary care physicians who meet certain criteria. The Ohio Board of Regents and the Department of Health jointly administer the Program. The bill removes the Board from the law governing the Program, making the Department exclusively responsible for overseeing the administration of the Program. As a result of the change, the Department will be solely responsible for repaying all or part of the principal and interest on the loans.

Generally, a primary care physician who meets certain criteria, which may include being enrolled in the final year of a fellowship program in a primary care specialty, may apply to participate in the Program. The primary care specialties that qualify a physician are general internal medicine, pediatrics, obstetrics and gynecology, psychiatry, and family practice. The bill adds child and adolescent psychiatry, adolescent medicine, geriatric psychiatry, combined internal medicine and pediatrics, and geriatrics as qualifying specialties. The bill also adds a requirement that, if applicable, an applicant include with the information that accompanies the application the facility or institution where the applicant's fellowship was completed or is being performed and date of completion to the information.

If the General Assembly has appropriated funds for the Program and the applicant is eligible, the Director of Health must approve the applicant to participate in the Program. The bill further specifies that approval of an applicant is contingent on whether funds are available in the Physician Loan Repayment Fund (see "***Funds***" below).

Currently, the loan repayment may cover the following expenses: (1) tuition, (2) educational expenses, such as fees, books, and laboratory expenses, for specific purposes and in amounts determined to be reasonable by the Director of Health, and (3) room and board, in an amount determined reasonable by the Director of Health. The loan repayment cannot exceed $20,000 in any year. The bill specifies that the loan repayment cannot exceed $25,000 in each of the first

and second years and $35,000 in each of the third and fourth years. The bill requires the Department (rather than the Board) to mail an annual statement to the physician that summarizes the amount repaid by the Department.

Loan repayment contract

Current law allows an applicant to enter into a contract with the Director of Health and the Board for loan repayment once an applicant submits a letter of intent and the Director approves the application based on certain factors. The contract specifies the obligations of both the applicant and the Board.

The contract must include the following obligations:

(1) The primary care physician agrees to provide primary care services in the health resource shortage area identified in the letter of intent for at least two years or one year per $20,000 of repayment agreed to, whichever is greater;

(2) When providing primary care services in the health resource shortage area, the primary care physician agrees to (a) provide primary care services for a minimum of 40 hours per week, (b) provide primary care services without regard to a patient's ability to pay, (c) meet certain conditions regarding Medicaid and enter into a contract with the Department of Job and Family Services (JFS) to provide primary care services to Medicaid recipients, and (d) meet the conditions established by JFS for participation in the disability medical assistance program and enter into a contract with the JFS to provide primary care services to recipients of disability medical assistance;

(3) The Board agrees, to repay, so long as the primary care physician performs the service obligation, all or part of the principal and interest of a government or other educational loan;

(4) The primary care physician agrees to pay the Board the following as damages if the physician fails to complete the service obligation if (a) the failure occurs during the first two years of the service obligation, three times the total amount the Board has agreed to repay, or (b) the failure occurs after the first two years of the service obligation, three times the amount the Board is still obligated to repay.

The contract may include any other terms agreed upon by the parties, including an assignment to the Board of the physician's duty to pay the principal and interest of a government or other educational loan taken by the physician for medical school expenses. If the Board assumes the physician's duty to pay a loan, the contract shall set forth the total amount of principal and interest to be paid, an

amortization schedule, and the amount of each payment to be made under the schedule.

The bill makes the following changes to the contract: (1) generally removes reference to the Board in the contract, including the assignment to the Board of the duty to repay the loan, (2) removes the requirement to provide primary care services for one year per $20,000 of repayment agreed to, whichever is greater, (3) provides that at least 21 of the 40 hours of primary care services must be in an outpatient or ambulatory setting, and (4) removes the damages specified under (4) above and instead requires the Department of Health to adopt rules specifying damages.

Physician Loan Repayment Advisory Board

(R.C. 3702.81)

Current law requires that the Director of Health and Ohio Board of Regents consult with the Physician Loan Repayment Advisory Board regarding the adoption of any rules needed to implement and administer the Physician Loan Repayment Program. There are ten members on the Advisory Board, one of whom is a representative of the Department of Health, appointed by the Governor. Current law also requires the Governor to designate a Board member as chairperson. The bill instead requires that the Director of Health either be on the Advisory Board or appoint an employee of the Department of Health to be on that Board. Instead of the Governor, the bill requires the Advisory Board to designate a chairperson.

The Governor, Speaker of the House of Representatives, or the President of the Senate may remove a Board member for misfeasance, malfeasance, or willful neglect of duty. The bill adds the Director of Health to the persons who may remove a Board member.

Funds

(R.C. 3702.78)

There are two funds related to the Physician Loan Repayment Program: the Physician Loan Repayment Fund and the Health Resource Shortage Area Fund. The Director of Health and Board of Regents may accept gifts of money from any source, and deposit money into the Funds, for the implementation and administration of the Program. The Director must pay gifts to the Health Resource Shortage Area Fund and the Board of Regents must pay any gifts and damages (for failure to complete a service obligation) into the Physician Loan Repayment Fund.

The bill removes the authority of the Board of Regents regarding the funding of the Physician Loan Repayment Program. The bill requires the Director to use both funds for the administration and implementation of the Physician Loan Repayment Program and deposit damages for failure to complete a service obligation in the Physician Loan Repayment Fund.

Dentist Loan Repayment Program

(R.C. 3702.85, 3702.86, 3702.91, 3702.93, and 3702.95; 3702.92, not in the bill)

The Dentist Loan Repayment Program provides loan repayments on behalf of individuals who agree to provide dental services in areas designated as dental health resource shortage areas by the Director of Health. The Department of Health is required to administer the Program in cooperation with the Board of Regents and the Dentist Loan Repayment Advisory Board. Under the Program, the Ohio Board of Regents may agree to repay all or part of the principal and interest of a government or other educational loan taken by an individual for tuition, educational expenses, and room and board. These expenses must have been incurred while the individual was enrolled in an accredited dental college or a dental college located outside of the United States that meets the standards set by the State Dental Board and must be determined reasonable by the Director of Health. The Director is required to adopt rules in consultation with the Ohio Board of Regents and the Dentist Loan Repayment Advisory Board to implement the Program.

The bill removes the Ohio Board of Regents from the law governing the Dentist Loan Repayment Program making the Department of Health exclusively responsible for overseeing the administration of the Program. Under law unchanged by the bill, the Department is to administer the Program in cooperation with the Dentist Loan Repayment Advisory Board, the Director must consult with the Advisory Board regarding rules, and one member of the Advisory Board must be a representative from the Board of Regents (appointed by the chancellor).

As a result of the change, the Department will be solely responsible for repaying all or part of the principal and interest on the loans.

Dentist Loan Repayment Advisory Board

The Dentist Loan Repayment Advisory Board is required to determine the loan repayment amounts paid to the Dentist Loan Repayment Program participants. Each participant may receive up to $20,000 a year; however the Ohio Board of Regents, at the participant's request and the approval of the Director of Health, may reimburse the participant for any tax liability the participant incurs

resulting from the loan repayment. The bill instead allows the Department of Health to make this reimbursement.

Loan repayment contract

Current law allows an applicant to enter into a contract with the Director of Health and the Ohio Board of Regents for loan repayment once an applicant submits a letter of intent and the Director approves the application based on certain factors. The contract specifies the obligations of both the applicant and the Ohio Board of Regents. The bill removes reference to the Ohio Board of Regents in the contract and adds the Department of Health.

Funds

There are two funds related to the Dentist Loan Repayment Program: (1) the Dentist Loan Repayment Fund and (2) the Dental Health Resource Shortage Area Fund. The Director of Health may accept gifts of money from any source for the administration of the Program and the Dentist Loan Repayment Advisory Board. Any gifts are to be deposited in the state treasury to the credit of the Dental Health Resource Shortage Area Fund.

The Ohio Board of Regents may accept gifts from any source for administration of the Dentist Loan Repayment Program. These gifts and all damages collected when an individual fails to complete a service obligation are to be deposited in the state treasury to the credit of the Dentist Loan Repayment Fund.

The bill removes the authority of the Ohio Board of Regents regarding the funding of the Dentist Loan Repayment Program (accepting gifts or depositing money into the Dentist Loan Repayment Fund). Instead, the bill requires the Director to deposit the damages for failure to complete a service obligation into the Dentist Loan Repayment Fund. The bill requires the Director to use both funds for the administration and implementation of the Dentist Loan Repayment Program.

DEPARTMENT OF INSURANCE

- Requires each applicant for licensure as an insurance agent to pay a $10 fee regardless of whether the applicant must pass a licensure examination.

Insurance agent licensure fee

(R.C. 3905.40)

Under current law, applicants for licensure as insurance agents must pay a $10 fee prior to admission into any examination that the Superintendent of Insurance may require the applicant to pass before licensure. The bill requires all individual applicants, except applicants for licensure as limited lines insurance agents or surplus line brokers, to pay that $10 fee for each line of authority that the applicant requests regardless of whether the applicant must pass a licensure examination. The bill also specifies that the fees collected must be credited to the Department of Insurance Operating Fund.

DEPARTMENT OF JOB AND FAMILY SERVICES

- Delays the deadlines for the Ohio Department of Job and Family Services to prepare a report containing information regarding the time limits for participation in Ohio Works First from the first day of each January and July to the last day of those months.

- Changes the minimum income eligibility requirement for the Children's Buy-In Program to an amount that exceeds 250% (rather than exceeds 300%) of the federal poverty guidelines.

- Specifies that countable family income of an individual, rather than just the individual's income, is to be used in determining eligibility requirements and minimum monthly premiums for the program.

- Specifies that the minimum monthly premium to be charged an individual made eligible for the program by the change to the income eligibility requirement is to be the same minimum to be charged an individual with countable family income exceeding 300% but not exceeding 400% of the federal poverty guidelines.

- Provides for the monthly premiums charged under the Children's Buy-In Program to be credited to the Medicaid Revenue and Collections Fund.

- Permits money credited to the Medicaid Revenue and Collections Fund to be used for the Children's Buy-In Program as well as Medicaid services and contracts.

- Requires, rather than permits, the Director of Job and Family Services (ODJFS) to adopt rules establishing co-payment requirements with the result that individuals participating in the program must be charged co-payments.

- Permits the ODJFS Director to adopt rules limiting the number of individuals who may participate in the program at one time.

- Requires that the program be operated as part of Medicaid, the Children's Health Insurance Program (CHIP), or both if the United States Secretary of Health and Human Services approves federal matching funds for the program and operating the program under Medicaid, CHIP, or both is permitted by the terms of the approval.

- Permits information received by ODJFS for the purpose of establishing third party liability under Medicaid to also be used for purposes directly connected to the Department's child support enforcement program.

- Provides that the per diem payments for nursing facilities' uncompensated capital costs are for the first three quarters of fiscal year 2008 only, rather than all of fiscal years 2008 and 2009.

- Caps the expenditures for the uncompensated capital costs at $4.2 million rather than $7 million.

- Provides that the deadline for qualifying for the payments is March 31, 2008, rather than June 30, 2008.

- Requires that the payments be made not later than June 30, 2008.

- Provides that the ceiling applicable to the fiscal year 2009 Medicaid rate for certain nursing facilities with uncompensated capital costs is to be not more than 102.75%, and the floor is to be not less than 100%, of the sum of the nursing facility's fiscal year 2008 rate and another amount reflecting uncompensated capital costs.

- Delays the application of the revised ceiling and floor to the first day of the month following the month in which the nursing facility files a three-month projected capital cost report with the ODJFS Director.

- Creates the Money Follows the Person Enhanced Reimbursement Fund into which the Director of Budget and Management is to transfer the

federal grant the state receives under the Money Follows the Person Demonstration Program.

- Adjusts the formula for child support orders to prevent duplicate inclusion of cash medical support obligations.

ODJFS reports on Ohio Works First time limits

(R.C. 5101.80)

Ohio Works First is a public assistance program that provides time-limited cash assistance to low-income families with children (known as assistance groups). Continuing state law provides, with certain exceptions, that an assistance group is ineligible to participate in Ohio Works First if it includes an individual who has participated in the program for 36 months as an adult head of household, minor head of household, or spouse of an adult head of household or minor head of household. An assistance group that has ceased to participate for at least 24 months may reapply to participate if good cause exists, such as losing employment. If a county department of job and family services is satisfied that good cause exists, the assistance group may resume participation for up to, with certain exceptions, 24 additional months. A county department may exempt a member of an assistance group from the initial 36-month time limit by issuing a waiver if the county department determines that the member has been subjected to domestic violence and imposing the time limit would make it more difficult for the member to escape domestic violence or unfairly penalize the member. A county department may exempt not more than 20% of the average monthly number of Ohio Works First assistance groups from the initial 36-month and later additional 24-month time limits on the grounds that the county department determines that the time limit is a hardship.

The Department of Job and Family Services (ODJFS) is required to prepare a report containing information on (1) individuals exhausting the time limits for Ohio Works First and (2) individuals who have been exempted from the time limits and the reasons for the exemption. ODJFS must provide copies of the report to the Governor, President and Minority Leader of the Senate, and Speaker and Minority Leader of the House of Representatives. ODJFS must also provide copies of the report to any private or government entity on request.

Current law requires ODJFS to prepare the report not later than the first day of each January and July. The bill delays the deadline to the last day of those months.

Children's Buy-In Program

(R.C. 5101.5211, 5101.5212, 5101.5213, 5101.5214, 5101.5215, and 5111.941)

Am. Sub. H.B. 119 of the 127th G.A. (the biennial budget act) establishes the Children's Buy-In Program to provide medical assistance to individuals under age 19 who meet specified eligibility requirements. One of those requirements is that the individual's countable income exceed 300% of the federal poverty guidelines. The bill reduces the minimum income eligibility requirement to an amount that exceeds 250% of the federal poverty guidelines. An individual's countable family income, rather than just the individual's income, is to be used in determining whether the individual meets the income eligibility requirement.

Premiums under the program

H.B. 119 requires the ODJFS Director to adopt rules requiring a monthly premium for participants in the Children's Buy-In Program. This premium is determined by the individual's countable income. Under the bill, an individual's countable family income, rather than just the individual's income, is to determine the premium.

The bill specifies that the minimum monthly premium to be charged an individual made eligible for the program by the change to the income eligibility requirement is to be the same as the minimum to be charged an individual with countable family income exceeding 300% but not exceeding 400% of the federal poverty guidelines. This means that the premium for individuals with countable family income exceeding 250% but not exceeding 400% of the federal poverty guidelines is:

(1) If no other member of the individual's family receives medical assistance under the program, $100;

(2) If one or more members of the individual's family receive medical assistance under the program, $150.

Current law does not specify where the premiums for the Children's Buy-In Program are to be credited.[27] The bill requires that Children's Buy-In Program premiums be credited to the Medicaid Revenue and Collections Fund. That fund, except as provided in statute or as authorized by the Controlling Board, is the fund in which the non-federal share of Medicaid-related revenues, collections, and

[27] Without a specific designation, the Office of Budget and Management would likely create a separate fund for the premiums, or the premiums would be credited to the General Services Fund or Special Revenue Fund.

recoveries are credited. Continuing law requires that ODJFS use money credited to the fund to pay for Medicaid services and contracts. The bill requires that ODJFS also use money credited to the fund to pay for the Children's Buy-In Program.

Co-payments under the program

The ODJFS Director is permitted by current law to adopt rules requiring co-payments be charged to participants of the Children's Buy-In Program. The bill requires, rather than permits, the Director to adopt rules establishing co-payment requirements with the result that individuals participating in the program must be charged co-payments.

Limits on the number of participants

The bill permits the ODJFS Director to adopt rules to limit the number of individuals who may participate in the Children's Buy-In Program at one time. If adopted, the rules are to be adopted in accordance with the Administrative Procedure Act (Revised Code Chapter 119.).

Operation under Medicaid or CHIP

Current law requires the ODJFS Director to submit to the United States Secretary of Health and Human Services an amendment to the state Medicaid plan, an amendment to the State Child Health plan (for the Children's Health Insurance Program (CHIP)), one or more requests for a federal waiver, or such an amendment and waiver requests as necessary to seek federal matching funds for the Children's Buy-In Program. The bill requires the program to be operated as part of Medicaid, CHIP, or both if the United States Secretary approves federal matching funds for the program and operating the program under Medicaid, CHIP, or both is permitted by the terms of the approval.

Third party information provided to ODJFS

(R.C. 5101.572)

For the purpose of establishing third party liability under the Medicaid program, current law requires that a third party[28] cooperate with ODJFS in

[28] "Third party" is defined under current law as (1) a person authorized to engage in the business of sickness and accident insurance under Ohio law, (2) a person or governmental entity providing coverage for medical services or items to individuals on a self-insurance basis, (3) a health insuring corporation, (4) a group health plan, (5) a service benefit plan, (6) a managed care organization, (7) a pharmacy benefit manager, (8) a third party administrator, (9) any other person or governmental entity that is, by law, contract, or

identifying covered individuals. A third party is required to provide information, or access to information, to ODJFS so that ODJFS may determine any period that an individual or individual's spouse or dependent was covered by a third party and the nature of the coverage. This information may be used only for purposes directly connected with the administration of the Medicaid program.

The bill permits information received by ODJFS for the purpose of establishing third party liability under the Medicaid program to also be used for purposes directly connected to the ODJFS's child support enforcement program.[29]

Nursing facilities' uncompensated capital costs

(Sections 610.40 and 610.41)

Background

Current law requires ODJFS to pay certain nursing facilities a quarterly per diem that is in addition to the facilities' regular Medicaid reimbursement rate. The additional per diems are to cease to be paid at the earlier of July 1, 2009, or the date that the total amount of the per diem payments equals $7 million. Four groups of nursing facilities qualify for the additional per diems.

First group. The first qualifying group consists of nursing facilities to which both of the following apply:

(1) The nursing facility, during fiscal year 2006, 2007, or 2008, obtained certification as a nursing facility from the Director of Health and began participating in the Medicaid program.

(2) An application for a certificate of need (CON) for the nursing facility was filed with the Director of Health before June 15, 2005.

The per diem payments to be made to a nursing facility in the first group of eligible facilities for fiscal year 2008 or 2009 are to equal the difference between the capital costs portion of the nursing facility's Medicaid reimbursement per diem

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agreement, responsible for the payment or processing of a claim for a medical item or service for a public assistance recipient or participant. "Third party" does not include the program for medically handicapped children. (R.C. 5101.571.)

[29] Title IV-D of the Social Security Act (42 U.S.C. §§651 *et. seq.*) provides for enforcing the support obligations owed by noncustodial parents to their children and spouse (or former spouse) with whom the child is living, locating noncustodial parents, establishing paternity, and obtaining child and spousal support.

rate for fiscal year 2008 or 2009, depending on when the payments are made, and the lesser of the following:

(1) 88.65% of the nursing facility's cost of ownership as reported on a three-month projected capital cost report divided by the greater of the number of inpatient days the nursing facility is expected to have during the period covered by the projected capital cost report or the number of inpatient days the nursing facility would have had during that period if its occupancy rate was 80%.

(2) The maximum capital per diem rate in effect for fiscal year 2005 for nursing facilities.

Second group. The second qualifying group consists of nursing facilities to which all of the following apply:

(1) The nursing facility does not qualify under the first group.

(2) The nursing facility, before June 30, 2008, completes a capital project for which a CON was filed with the Director of Health before June 15, 2005, and for which at least one of the following occurred before July 1, 2005, or, if the capital project is undertaken to comply with rules adopted by the Public Health Council regarding resident room size or occupancy, before June 30, 2007: any materials or equipment for the capital project were delivered; preparations for the physical site of the capital project, including, if applicable, excavation, began; or actual work on the capital project began.

(3) The costs of the capital project are not fully reflected in the capital costs portion of the nursing facility's Medicaid reimbursement rate on June 30, 2005.

(4) The nursing facility files a three-month projected capital cost report with the ODJFS Director not later than 90 days after the later of March 30, 2006 or the date the capital project is completed.

The per diem payments to be paid to a nursing facility in the second eligible group in fiscal year 2008 or 2009 are to equal the difference between the capital costs portion of the nursing facility's Medicaid reimbursement per diem rate for fiscal year 2008 or 2009, depending on when the payments are made, and the lesser of the following:

(1) 88.65% of the nursing facility's cost of ownership as reported on a three-month projected capital cost report divided by the greater of the number of inpatient days the nursing facility is expected to have during the period covered by the projected capital cost report or the number of inpatient days the nursing facility would have during that period if the nursing facility's occupancy rate was 95%.

(2) The maximum capital per diem rate in effect for fiscal year 2005 for nursing facilities.

Third group. The third qualifying group consists of nursing facilities that, before June 30, 2008, complete an activity to which all of the following apply:

(1) A request was filed with the Director of Health before July 1, 2005, for a determination of whether the activity is a reviewable activity and the Director determined that the activity is not a reviewable activity and, therefore, does not need a CON.

(2) At least one of the following occurred before July 1, 2005, or, if the nursing facility undertakes the activity to comply with rules adopted by the Public Health Council regarding resident room size or occupancy, before June 30, 2007: any materials or equipment for the activity were delivered; preparations for the physical site of the activity, including, if applicable, excavation, began; or actual work on the activity began.

(3) The costs of the activity are not fully reflected in the capital costs portion of the nursing facility's Medicaid reimbursement rate on June 30, 2005.

(4) The nursing facility files a three-month projected capital cost report with the ODJFS Director not later than 90 days after the later of March 30, 2006 or the date the activity is completed.

The per diem payments to be paid to a nursing facility in the third eligible group in fiscal year 2008 or 2009 are to equal the difference between the capital costs portion of the nursing facility's Medicaid reimbursement per diem rate for fiscal year 2008 or 2009, depending on when the payments are made, and the lesser of the following:

(1) 88.65% of the nursing facility's cost of ownership as reported on a three-month projected capital cost report divided by the greater of the number of inpatient days the nursing facility is expected to have during the period covered by the projected capital cost report or the number of inpatient days the nursing facility would have during that period if the nursing facility's occupancy rate was 95%.

(2) The maximum capital per diem rate in effect for fiscal year 2005 for nursing facilities.

Fourth group. The fourth qualifying group consists of nursing facilities that, before June 30, 2007, completed a renovation to which all of the following apply:

(1) The ODJFS Director approved the renovation before July 1, 2005.

(2) At least one of the following occurred before July 1, 2005, or, if the facility undertook the renovation to comply with rules adopted by the Public Health Council regarding resident room size or occupancy, before June 30, 2007: any materials or equipment for the renovation were delivered; preparations for the physical site of the renovation, including, if applicable, excavation, began; or actual work on the renovation began.

(3) The costs of the renovation are not fully reflected in the capital costs portion of the facility's Medicaid reimbursement rate on June 30, 2005.

(4) The facility files a three-month projected capital cost report with the ODJFS Director not later than 90 days after March 30, 2006 or the date the renovation is completed.

The per diem payments to be made to a nursing facility in the fourth group are to equal 85% of the nursing facility's capital costs for the renovation as reported on a three-month projected capital cost report divided by the greater of the number of inpatient days the nursing facility is expected to have during the period covered by the projected capital cost report or the number of inpatient days the nursing facility would have during that period if its occupancy rate was 95%.

The bill

The bill revises the law governing the additional per diem payments to be made to nursing facilities for uncompensated capital costs. Whereas current law requires that the quarterly payments cease at the earlier of July 1, 2009, and the date that the total amount of the per diem payments equals $7 million, the bill provides that the payments are to be made for only the first three quarters of fiscal year 2008 and reduces the total amount that may be spent to $4.2 million. Current law requires that any per diem payments to be made for a quarter ending before July 2008 be made not later than September 30, 2008.[30] The bill requires that the per diem payments be made not later than June 30, 2008. The ODJFS Director is required by current law to monitor the per diem payments on a quarterly basis to ensure that the expenditures for the payments do not exceed the spending limit. The bill, while maintaining the requirement that the ODJFS Director monitor the expenditures, eliminates the requirement that the expenditures be monitored on a quarterly basis. Current law provides that a change of operator of a nursing facility is not to cause the per diem payments to cease. In contrast, the bill provides that a change of operator is not to cause the per diem payments to not be made.

[30] A per diem payment for a quarter beginning after June 2008, must be made not later than three months after the last day of the quarter for which the payment is made.

As discussed in the background above, nursing facilities must have taken certain actions to qualify for the per diem payments for uncompensated capital costs. Certain of the actions must have been taken before the end of fiscal year 2008, which is June 30, 2008. Under the bill, those actions must have been taken before March 31, 2008. The following are the deadline changes:

Nursing facilities in the first qualifying group must have, among other things, obtained certification as a nursing facility and begun participation in the Medicaid program during fiscal year 2006, 2007, or 2008. The bill requires that a nursing facility have obtained certification and begun participation during fiscal year 2006, 2007, or the first three quarters of fiscal year 2008, meaning that the deadline is changed to March 31, 2008.[31]

Nursing facilities in the second group must have, among other things, completed a capital project meeting certain requirements before June 30, 2008. The bill sets the deadline for completion of the capital project as March 31, 2008.

Nursing facilities in the third group must have, among other things, completed an activity meeting certain requirements before June 30, 2008. The bill sets a March 31, 2008, deadline for completion of the activity.

Nursing facilities in the fourth group must have, among other things, completed a renovation meeting certain requirements before June 30, 2008. This deadline too is changed to March 31, 2008.

[31] The bill corrects a problem with current law governing the calculation of the per diem payment for nursing facilities in the first group. Under current law, a factor in the calculation is the capital costs portion of a qualifying nursing facility's Medicaid rate "determined under Section 309.30.20" of the biennial budget act for the 127th General Assembly, Am. Sub. H.B. 119. Section 309.30.20 governs the fiscal year 2008 Medicaid rate for nursing facilities that participated in the Medicaid program in fiscal year 2007. The problem is that some of the nursing facilities that qualify for the per diem payments for uncompensated capital costs as part of the first group may not have begun participation in the Medicaid program until fiscal year 2008 and therefore are not subject to Section 309.30.20 because they did not participate in the Medicaid program in fiscal year 2007. To correct this problem, the bill provides that the factor in the calculation for the per diem payments for uncompensated capital costs is either the capital costs portion of a qualifying nursing facility's Medicaid rate determined under Section 309.30.20 or, if that section does not apply, the capital costs portion of the nursing facility's initial rate established under state law governing initial rates for new nursing facilities.

Nursing facilities' fiscal year 2009 Medicaid rates

(Sections 610.40 and 610.41)

The amount the Medicaid program is to pay a nursing facility for services provided to a Medicaid recipient is largely set by a formula established by state law that is codified in the Revised Code. However, an uncodified section of the biennial budget act for the 127th General Assembly, Am. Sub. H.B. 119, makes adjustments to the formula applicable to fiscal year 2009 and establishes a floor and ceiling for the rate to be paid to a nursing facility after the adjustments are made.[32] The floor and ceiling provisions require ODJFS to increase or reduce a nursing facility's Medicaid reimbursement rate for fiscal year 2009 depending on what its rate turns out to be with the adjustments. If the adjusted rate turns out to be more than 102.75% of the rate the nursing facility is paid on the last day of fiscal year 2008 (in other words, 102.75% of the nursing facility's fiscal year 2008 rate), ODJFS must reduce the nursing facility's rate so that the rate is not more than 102.75% of the nursing facility's fiscal year 2008 rate. If the adjusted rate turns out to be less than 100% of the nursing facility's fiscal year 2008 rate, ODJFS must increase the nursing facility's rate so that the rate is not less than 100% of the nursing facility's fiscal year 2008 rate.

The bill increases the floor and ceiling provisions for certain nursing facilities. Instead of the ceiling being 102.75% of a nursing facility's fiscal year 2008 rate, the bill provides for the ceiling to be 102.75% of the sum of the nursing facility's fiscal year 2008 rate and an amount related to uncompensated capital costs. Instead of the floor being 100% of a nursing facility's fiscal year 2008 rate, the bill provides for the floor to be 100% of the sum of the nursing facility's fiscal year 2008 rate and an amount related to uncompensated capital costs.

The increased floor and ceiling provisions apply to three groups of nursing facilities. The first group consists of nursing facilities that receive a per diem payment for uncompensated capital costs during the first three quarters of fiscal year 2008. (See "***Nursing facilities' uncompensated capital costs***" above.) The amount added to such a nursing facility's fiscal year 2008 rate for the purpose of determining the floor and ceiling is the amount of the per diem for uncompensated capital costs for which the nursing facility qualifies.

The second group consists of nursing facilities that would have qualified for a per diem payment for uncompensated capital costs during the first three quarters of fiscal year 2008 had they taken certain actions before March 31, 2008,

[32] Another uncodified section of Am. Sub. H.B 119 includes similar provisions for fiscal year 2008.

but do not qualify because the action was not taken until June 30, 2008. For example, a nursing facility that completed a capital project meeting certain requirements before March 31, 2008, may qualify for the per diem for uncompensated capital costs but a nursing facility that does not complete the capital project until June 30, 2008, does not qualify for the per diem payments. Such a nursing facility is to have its floor and ceiling increased nonetheless. The amount added to such a nursing facility's fiscal year 2008 rate for the purpose of determining the floor and ceiling is the amount of the per diem for uncompensated capital costs for which the nursing facility would have received had it taken the required action by March 31, 2008.

The third group consists of nursing facilities that (1) complete, during either the first or second quarter of fiscal year 2009, a capital project for which the Director of Health approved a certificate of need on December 22, 2003, (2) has 192 beds, and (3) files a three-month projected capital cost report for the nursing facility with the ODJFS Director not later than 90 days after the date the capital project is completed. The amount added to such a nursing facility's fiscal year 2008 rate for the purpose of determining the floor and ceiling is the amount that is the difference between the capital costs portion of the nursing facility's fiscal year 2008 rate and the lesser of (1) 88.65% of the nursing facility's projected capital cost report divided by the greater of the number of inpatient days the nursing facility is expected to have during the period covered by the projected capital cost report or the number of inpatient days the nursing facility would have during that period if the nursing facility's occupancy rate was 95% and (2) the maximum capital per diem rate in effect for fiscal year 2005 for nursing facilities.

The bill provides that the increase to the floor and ceiling is not to take effect for a nursing facility until the later of July 1, 2008 and the first day of the month following the month in which the nursing facility files the three-month projected capital cost report for the nursing facility with the ODJFS Director.

The ODJFS Director is required to submit an amendment to the state Medicaid plan to the United States Secretary of Health and Human Services as necessary to implement the floor and ceiling increases. The amendment must be submitted not later than 60 days after the effective date of this provision of the bill. On receipt of federal approval, the ODJFS Director is required to implement the floor and ceiling increases retroactive to the effective date of the state Medicaid plan amendment.

Money Follows the Person Enhanced Reimbursement Fund

(Section 751.20)

Background

The Deficit Reduction Act of 2005 authorizes the United States Secretary of Health and Human Services to award grants to states for Money Follows the Person demonstration projects.[33] The projects are to be designed to achieve the following objectives with respect to institutional and home and community-based long-term care services under a state's Medicaid program:

(1) Increase the use of home and community-based, rather than institutional, long-term care services;

(2) Eliminate barriers or mechanisms that prevent or restrict the flexible use of Medicaid funds to enable Medicaid-eligible individuals to receive support for appropriate and necessary long-term services in the settings of their choice;

(3) Increase the ability of a state's Medicaid program to assure continued provision of home and community-based long-term care services to eligible individuals who choose to transition from an institution to a community setting;

(4) Ensure that procedures are in place to provide quality assurance for eligible individuals receiving Medicaid home and community-based services and to provide for continuous quality improvement in such services.

The Deficit Reduction Act includes federal appropriations for the Money Follows the Person grants through federal fiscal year 2011 (ending September 30, 2011). A state seeking a grant is required to apply to the United States Secretary of Health and Human Services. ODJFS submitted an application for a grant in November 2006. Ohio learned in January 2007 that its application was approved.

The bill

The bill creates the Money Follows the Person Enhanced Reimbursement Fund in the state treasury. The federal payments made to the state under federal law governing Money Follows the Person demonstration projects is to be deposited into the Fund. ODJFS is required to use the money deposited in the Fund for system reform activities related to the demonstration project.

[33] Section 6071 of the Deficit Reduction Act of 2005, Public Law No. 109-171.

Child support order formula

(R.C. 3119.023)

When parents have split parental rights and responsibilities, the parents' child support obligations are determined using a statutorily established Child Support Computation Worksheet. That worksheet determines the annual income of each of the parents and uses the parents' combined incomes to determine their basic combined child support obligation. The child support obligation is then apportioned between the parents according to their portion of income to the total combined annual income. If the parents do not provide health insurance for the child, a cash medical support obligation is determined for each parent.

Under existing law, when health insurance is not provided, the Final Child Support Figure (Line 26 of the worksheet) includes the amount determined to be the parent's cash medical support obligation (Line 20b). This amount is incorporated into the court's child support decree. The decree also separately contains a Final Cash Medical Support Figure (Line 28) that contains the amount determined to be the parent's cash medical support obligation. Thus, the amount determined to be a parent's cash medical support obligation is included twice in the decree.

The bill revises the worksheet so that a parent's cash medical support obligation is included only once.

JUDICIARY/SUPREME COURT

- Provides that when a court determines in a pending case that the offender cannot reasonably pay the driver's license reinstatement fees that the offender will have to pay at the end of the offender's driver's license suspension periods, the court may order that the offender undertake an installment payment plan or a payment extension plan for payment of those fees.

Payment of driver's license reinstatement fees

(R.C. 4510.10)

If a person's driver's or commercial driver's license or permit or nonresident operating privilege is suspended, at the end of the suspension period the person must pay a reinstatement fee in order for the license, permit, or privilege to be

reinstated and to be issued a new license or permit or to have the person's operating privileges reinstated. While the general reinstatement fee is $30 (R.C. 4507.45, not in the bill), in certain cases the Revised Code specifies a different reinstatement fee. For example, for violations of the state financial responsibility law, the reinstatement fee is either $75, $250, or $500 (R.C. 4509.101(A)(5)(a), not in the bill), while the reinstatement fee in OVI cases is $425 (R.C. 4511.191(F)(2), not in the bill). The Registrar of Motor Vehicles is prohibited from reinstating a person's driver's or commercial driver's license or permit or nonresident operating privilege until the person has paid all reinstatement fees and has complied with all conditions for each suspension, cancellation, or disqualification that the person incurred.

Under current law, an offender who cannot reasonably pay the specified reinstatement fee relative to a suspension that has been imposed on the offender may file a petition in the municipal court, county court, or, if the person is under 18 years of age, the juvenile division of the court of common pleas in whose jurisdiction the person resides or, if the person is not an Ohio resident, in the Franklin County Municipal Court or Juvenile Division of the Franklin County Court of Common Pleas for an order that does either of the following, in order of preference:

(1) Establishes a reasonable payment plan of not less than $50 per month, to be paid by the offender to the Bureau of Motor Vehicles in all succeeding months until the offender has paid all of the offender's reinstatement fees;

(2) If the offender, but for the payment of the reinstatement fees, otherwise would be entitled to operate a vehicle in Ohio or to obtain reinstatement of the offender's operating privileges, permits the offender to operate a motor vehicle, as authorized by the court, until a future date upon which all reinstatement fees must be paid in full. This payment extension cannot exceed 180 days, and any operating privileges granted during this extension period must be solely for the purpose of permitting the offender occupational or "family necessity" privileges in order to enable the offender reasonably to acquire the delinquent reinstatement fees that are due.

The bill retains these provisions and adds a new repayment provision for pending cases. This provision operates independently of the existing repayment plan provisions. The new provision provides that when a municipal court or county court determines in a pending case that the offender cannot reasonably pay the reinstatement fees that the offender will have to pay relative to one or more suspensions that have been or will be imposed by the BMV or by an Ohio court, the court, by order, may undertake an installment payment plan or a payment extension plan for the payment of reinstatement fees due and owing to the BMV in that pending case. The court must establish a payment installment payment plan

or a payment extension plan under this new provision in accordance with the repayment plan requirements of existing law.

LIQUOR CONTROL COMMISSION

- Creates the D-5l permit to be issued at a center for the preservation of wild animals, and exempts such a center that has been issued a D liquor permit from the operation of the Local Option Liquor Election Law.

- Increases from 150,000 to 250,000 gallons the maximum annual amount of wine that a wine manufacturer can produce and qualify for a B-2a or S permit.

- Specifies the liability of B-2a and S permit holders for collecting and paying certain wine taxes.

- Revises the laws that govern the sale and direct shipment of wine by inserting references to the B-2a and S permits in appropriate Revised Code sections.

- Clarifies the sales authority of A-2 (wine manufacturing) permit holders regarding sales to retailers and consumers.

- Makes changes relating to reporting requirements and the tax payment period for wine and mixed beverage manufacturers and wholesalers.

- Allows the Department of Taxation to share with other state agencies certain information relating to beer and liquor taxes.

- Clarifies the amount of wine that a family household can purchase in one year.

D-5l liquor permit to be issued at center for preservation of wild animals

(R.C. 4301.355, 4301.404, 4301.62, 4303.181, 4303.182, 4303.30, and 4399.12)

The bill creates the D-5l liquor permit that may be issued to either the owner or the operator of a retail food establishment or a food service operation that is licensed by the state Department of Health, that operates as a restaurant, and that is located in, or is affiliated with, a center for the preservation of wild animals

(see below). The D-5l permit authorizes the sale of beer and intoxicating liquor at retail for consumption on the premises where sold and the sale of beer and intoxicating liquor in the same manner and amounts not for consumption on the premises as may be sold by holders of D-1 (beer sales) and D-2 (wine and mixed beverage sales) permits. In addition, a D-5l permit holder may exercise the same privileges as the holder of a D-5 (night club) permit.

Under the bill, "center for the preservation of wild animals" means a conservation center located on not less than 5,000 acres of land that provides scientific, educational, and recreational resources to advance the conservation of animal populations and habitats.

A D-5l permit cannot be transferred to another location. No quota restrictions can be placed on the number of D-5l permits that may be issued. The fee for the D-5l permit is $2,344. The bill also amends several Revised Code sections to make them reflect the creation of the D-5l permit.

The bill provides that the provisions of the Local Option Liquor Control Law do not affect or prohibit the sale of beer or intoxicating liquor at a center for the preservation of wild animals if the permit holder for the premises operates pursuant to the authority of a D liquor permit. A D liquor permit allows the sale of beer, wine, mixed beverages, or spirituous liquor (depending on which type of D permit is issued to a premises) for consumption on the premises where sold. Thus, the bill authorizes the holder of a D liquor permit issued to a center for the preservation of wild animals to sell beer or intoxicating liquor Monday through Saturday in an area where the sale is prohibited under the Local Option Liquor Election Law.

Current law prohibits the sale of intoxicating liquor after 2:30 a.m. on Sunday unless the permit holder has been issued a D-6 permit authorizing Sunday sales. This permit generally is issued only in an area where Sunday liquor sales have been authorized in a local option election.

The bill requires that a D-6 liquor permit be issued to the holder of any D permit that authorizes the sale of intoxicating liquor and that is issued for a center for the preservation of wild animals to allow the sale of intoxicating liquor under the permit at the premises between the hours of 1 p.m. and midnight on Sunday whether or not such a sale has been authorized in an election that authorizes the sale of intoxicating liquor on Sunday for consumption on the premises where sold. The holder of a D permit issued for a center for the preservation of wild animals also may sell beer on Sunday whether or not the sale of intoxicating liquor has been authorized in a Sunday sales election. Current law prohibits the holder of a permit issued after April 15, 1982, from selling beer on

Sunday unless the Sunday sale of intoxicating liquor has been authorized in a Sunday sales election.

Changes relating to B-2a and S permits

(R.C. 4301.432, 4301.47, 4303.071, 4303.232, and 4303.33; Section 812.30)

Current law authorizes the B-2a permit to be issued to a person that: (1) manufactures wine if the wine manufacturer is entitled to a tax credit under a specified federal rule and produces less than 150,000 gallons of wine per year, or (2) is the brand owner or United States importer of wine or is the designated agent of a brand owner or importer of wine for all wine sold in Ohio for that owner or importer. A B-2a permit holder may sell only wine that the permit holder has manufactured to a retail permit holder and may be located outside Ohio. The bill increases from 150,000 gallons to 250,000 gallons of wine the amount that a person can manufacture and qualify to be issued a B-2a permit.

Current law authorizes an S permit to be issued to a person that: (1) manufactures wine if the wine manufacturer is entitled to a tax credit under a specified federal rule and produces less than 150,000 gallons of wine per year, or (2) is the brand owner or United States importer of wine or is the designated agent of a brand owner or importer of wine for all wine sold in Ohio for that owner or importer. An S permit holder may sell wine to a personal consumer by receiving and filling orders that the personal consumer submits to the permit holder, may sell only wine that the permit holder has manufactured, and may be located outside Ohio. The bill increases from 150,000 gallons to 250,000 gallons of wine the amount that a person can manufacture and qualify to be issued an S permit.

The bill further specifies that an S permit holder must comply with the Liquor Control Law and any rules adopted by the Liquor Control Commission.

Current law requires B-2a permit holders to collect and pay all applicable taxes relating to the delivery of wine to a retailer and S permit holders to collect and pay all applicable taxes relating to the delivery of wine to a personal consumer, including specified taxes on wine and state sales and use taxes. The bill retains the requirement that B-2a and S permit holders collect and pay the state sales and use taxes, but requires that they pay only the tax on wine that is levied by a county to pay for a sports facility and the 2¢ per gallon tax on wine that is levied to encourage Ohio grape industries, but not the general state tax on wine. The bill also makes various conforming changes to recognize the existence of the B-2a and S permits.

The bill declares that the changes relating to the taxes paid by B-2a and S permit holders are essential to implementation of a tax levy, are therefore exempt from the referendum under the Ohio Constitution, and take effect on July 1, 2008.

Sales authority of and tax payments by A-2 permit holder

(R.C. 4303.03, 4303.33, and 4303.333)

An A-2 permit may be issued to a manufacturer: (1) to manufacture wine from grapes and other fruits, (2) to import and purchase wine in bond for blending purposes, (3) to manufacture, purchase, and import brandy for fortifying purposes, and (4) to sell those products either in glass or container for consumption on the premises where manufactured, in sealed containers for consumption off the premises where manufactured, and to wholesale permit holders.

The bill prohibits an A-2 permit holder from selling directly to a retailer. In order to make sales to a retailer, the A-2 permit holder must obtain a B-2a permit or make the sale directly to a B-2a permit holder or a B-5 (wine wholesaler) permit holder for subsequent resale to a retailer. The bill further prohibits an A-2 permit holder from selling directly to a consumer unless the product is sold on the premises in the manner described above. In order to make sales to a consumer off the premises where the wine is manufactured, the manufacturer must obtain an S permit.

The bill provides that the Liquor Control Law does not prohibit an A-2 permit holder from also holding a B-2 or S permit.

Under current law, an A-2 permit holder whose total production of wine, wherever produced, does not exceed 500,000 gallons in a calendar year and is otherwise taxable, is allowed an exemption from the wine taxes levied in the following calendar year on wine produced and sold or distributed in Ohio. The exemption may be claimed monthly, and at the time the report for December is due for a calendar year during which the permit holder is eligible for an exemption, the permit holder may claim a refund of the tax paid during the calendar year. The bill requires the exemption to be claimed against current taxes and specifies that the exemption must have been claimed for the taxes to be refunded. Alternatively, at the time of making the December report, the permit holder must remit any additional taxes due because the permit holder did not qualify for the exemption.

Current law also requires various manufacturers and wholesalers of wine and mixed beverages to file monthly reports with the Tax Commissioner on amounts produced and sold in order to calculate the taxes due. Under the bill, if the Tax Commissioner determines that the quantity reported does not warrant

monthly reporting, the Tax Commissioner may authorize the filing of returns and payment of the required tax for a period longer than one month.

Department of Taxation information about beer and liquor taxes

(R.C. 4301.441 and 5703.21)

Current law prohibits, subject to various exceptions, an agent of the Department of Taxation from divulging information that the agent acquired as to the transactions, property, or business of any person while acting or claiming to act under the Department's orders. The bill allows the disclosure to the appropriate state agency of information in the Department's possession that is necessary to verify a liquor permit holder's total gallonage or noncompliance with taxes levied on beer or intoxicating liquor although the information must not be disclosed publicly by the agency receiving the information except for purposes of enforcement, to deny renewal of a liquor permit, or to report the information to the Alcohol and Tobacco Tax and Trade Bureau in the United States Department of the Treasury.

Clarification of amount of wine that may be sold to family household each year

(R.C. 4303.233)

Current law prohibits any family household from purchasing more than 24 cases of nine-liter bottles of wine in one year. The bill instead prohibits any family household from purchasing more than 24 cases of twelve 750-milliliter bottles of wine in one year.

LOCAL GOVERNMENT

- Changes from unanimous to majority the vote required of a board of county commissioners or a board of township trustees to deny or modify the zoning amendments recommended by a county or township zoning commission.

- Clarifies that a contract between a board of health of a health district and a board of county commissioners for plumbing inspections can designate that the county department inspect buildings if the department contracts with a certified plumbing inspector to complete the inspection.

- Revises the Sewer Districts Law to authorize the construction and use of prevention or replacement facilities and projects for the prevention of

combined sewer overflows, and defines "prevention or replacement facilities" and "combined sewer" for purposes of that Law.

- Authorizes a county to issue revenue bonds under the Uniform Public Securities Law to provide funding for a sewer district for sanitary facilities, drainage facilities, and prevention or replacement facilities.

- Revises the definition of "project" in the Industrial Development Bonds Law to include sanitary facilities, drainage facilities, and prevention or replacement facilities, thus authorizing the issuance of revenue bonds under that Law for those facilities.

- Authorizes a board of county commissioners to adopt rules requiring owners of property in a sewer district whose property is served by the district's sewers to prevent storm water from entering a combined sewer and causing an overflow or an inflow to a sanitary sewer.

- Authorizes a board of county commissioners to provide rate reductions of and credits against charges for the use of sewers to a property owner that implements a project or program that prevents storm water from entering a combined sewer and causing an overflow.

- Makes other changes to the Sewer Districts Law for purposes of including combined sewer overflow prevention and the use of prevention or replacement facilities in that Law.

- Permits an eligible community development bank to be designated a county depository of active moneys during the four-year period of designation running on the effective date of this provision of the bill.

- Authorizes counties, townships, and municipal corporations to issue public obligations to provide, or assist in providing, grants, loans, loan guarantees, or contributions for conservation and revitalization purposes.

- Repeals Section 5 of Am. Sub. H.B. 24 of the 127th General Assembly, which is effective until January 1, 2009, that prohibits the board of directors of a conservancy district that includes all or parts of more than 16 counties from levying or collecting an assessment and prohibits a county treasurer from collecting an assessment levied by that conservancy district.

Majority vote required to deny or modify zoning resolution amendments recommended by zoning commission

(R.C. 303.12 and 519.12)

Under current law when a township or county zoning commission recommends an amendment to the township or county zoning resolution, the board of township trustees or the board of county commissioners, as the case may be, must hold a public hearing on the proposed amendment. Within 20 days after holding that hearing, the relevant board is required to adopt, deny, or modify the recommended amendments. Although adoption of the recommended amendment requires a majority vote of the board, a denial or modification requires a unanimous vote of the board. The amendment specifies instead that a majority vote is sufficient to deny or modify the recommended zoning amendments.

Plumbing inspections

(R.C. 3703.01)

The Division of Industrial Compliance in the Department of Commerce has general authority to inspect plumbing in nonresidential buildings. This authority does not apply in municipal corporations that are certified by the state Board of Building Standards to inspect plumbing or in health districts that employ one or more plumbing inspectors. A board of health of a health district can enter into a contract with a board of county commissioners for the county building department to inspect plumbing in buildings within the health district. The contract can designate that the county building department inspect either residential or nonresidential buildings, or both types of buildings, so long as the department employs a certified plumbing inspector.

The bill clarifies that a contract between a board of health of a health district and a board of county commissioners for the county building department to inspect plumbing in buildings within the health district can designate that the county department inspect buildings if the department employs *or* contracts with a certified plumbing inspector to complete the inspection.

Sewer districts

Introduction

(R.C. 6117.01)

The existing Sewer Districts Law authorizes a board of county commissioners to establish one or more sewer districts within the county and outside municipal corporations and to acquire, construct, maintain, and operate

within a district sanitary or drainage facility that it determines necessary or appropriate for the collection of sewage and other wastes or for the collection, control, or abatement of waters originating in, accumulating in, or flowing in or through the district and other sanitary or drainage facilities that it determines necessary or appropriate to conduct the wastes and waters to a proper outlet and to provide for their proper treatment and disposal.

Combined sewer overflow prevention and prevention or replacement facilities

(R.C. 6117.01)

The bill retains the authority established in the Sewer Districts Law and adds that for purposes of preventing storm water from entering a combined sewer and causing an overflow or an inflow to a sanitary sewer, a board of county commissioners may acquire, design, construct, operate, repair, maintain, and provide for a project or program that separates storm water from a combined sewer or for a prevention or replacement facility that prevents or minimizes storm water from entering a combined sewer or a sanitary sewer. The bill defines "combined sewer" to mean a sewer system that is designed to collect and convey sewage, including domestic, commercial, and industrial wastewater, and storm water through a single-pipe system to a treatment works or combined sewer overflow outfall approved by the Director of Environmental Protection. "Prevention or replacement facilities" means vegetated swales or median strips, permeable pavement, trees and tree boxes, rain barrels and cisterns, rain gardens and filtration planters, vegetated roofs, wetlands, riparian buffers, and practices and structures that use or mimic natural processes to filter or reuse storm water.

Revenue bonds issued under Uniform Public Securities Law

(R.C. 133.07 (not in the bill) and 133.08)

Current law authorizes a county to issue revenue securities to provide funding for established sewer districts for sanitary sewerage systems or facilities, surface and storm water drainage and sewerage systems or facilities, or a combination of those systems or facilities. The bill adds sanitary facilities, drainage facilities, and prevention or replacement facilities as defined in the Sewer Districts Law and the bill. In addition, the bill states that for purposes of the Uniform Public Securities Law, those sanitary facilities, drainage facilities, and prevention or replacement facilities are determined to qualify as facilities described in Article VIII, § 13 of the Ohio Constitution, which grants the state and political subdivisions the authority to issue bonds to acquire, construct, enlarge, improve, or equip facilities.

Revenue bonds issued under Industrial Development Bonds Law

(R.C. 165.01, 165.03, and 6117.25)

Current law defines "project" in the Industrial Development Bonds Law to mean real or personal property, or both, including undivided and other interests therein, acquired by gift or purchase, constructed, reconstructed, enlarged, improved, furnished, or equipped, or any combination thereof, by an issuer, or by others in whole or in part from the proceeds of a loan made by an issuer, for industry, commerce, distribution, or research and located within the boundaries of the issuer. The bill adds that "project" includes sanitary facilities, drainage facilities, and prevention or replacement facilities as defined in the Sewer Districts Law and the bill, thus authorizing the issuance of revenue bonds for those facilities under the Industrial Development Bonds Law.[34]

If the issuer is a county or municipal corporation, current law requires the issuing authority to first have received from its designated community improvement corporation a certification that a project to be financed by the issuance of such bonds is in accordance with the plan prepared by the community improvement prior to the delivery of the bonds. The bill adds that no such certification is necessary if the project is a sanitary facility, drainage facility, or prevention or replacement facility as defined in the Sewer Districts Law and the bill.

In addition, the bill establishes authority in the Sewer Districts Law for a board of county commissioners to issue such bonds to finance the cost of constructing, maintaining, repairing, or operating any improvement provided for in that Law payable solely from revenues generated by the improvements.

Rules governing property owners

(R.C. 6117.012)

Current law authorizes a board of county commissioners to adopt rules requiring property owners in a sewer district whose property is served by a connection to sewers maintained and operated by the board or to sewers that are connected to interceptor sewers maintained and operated by the board to do any of the following:

[34] The change to the definition of "project" appears generally to assimilate such projects into the existing scheme of the Industrial Development Bonds Law.

(1) Disconnect storm water inflows to sanitary sewers maintained and operated by the board and not operated as a combined sewer, or to connections with those sewers;

(2) Disconnect non-storm water inflows to storm water sewers maintained and operated by the board and not operated as a combined sewer, or to connections with those storm water sewers;

(3) Reconnect or relocate any such disconnected inflows in compliance with board rules and applicable building codes, health codes, or other relevant codes; and

(4) Prevent sewer back-ups into properties that have experienced one or more overflows of sanitary or combined sewers maintained and operated by the board. The bill replaces overflows of sewers with back-ups of sewers.

In addition to the above authority, the bill authorizes a board to adopt rules requiring property owners to prevent storm water from entering a combined sewer and causing an overflow or an inflow to a sanitary sewer, which prevention may include projects or programs that separate the storm water from a combined sewer or that utilize a prevention or replacement facility to prevent or minimize storm water from entering a combined sewer or a sanitary sewer.

Rate reductions of and credits against sewer charges

(R.C. 6117.012)

The bill authorizes a board of county commissioners to provide rate reductions of and credits against charges for the use of sewers to a property owner that implements a project or program that prevents storm water from entering a combined sewer and causing an overflow. Such a project or program may include the use of a prevention or replacement facility to handle storm water that has been separated from a combined sewer. The revised rates or charges must be collected and paid to the county treasurer in accordance with existing procedures in the Sewer Districts Law.

Sources of funding that may be used for projects

(R.C. 6117.012)

Current law authorizes a board of county commissioners to use sewer district funds, county general fund money, and, to the extent permitted by their terms, loans, grants, or other money from appropriate state or federal funds for the cost of disconnections, reconnections, relocations, or sewer back-up prevention required by rules (see above) and payments to the property owner or a contractor

hired by the property owner for the cost of any of those projects in accordance with specified procedures. The bill adds that a board also may use the proceeds of bonds issued under the Uniform Public Securities Law or the Industrial Development Bonds Law for those purposes. It adds that a board may use money from all of those funding sources for combined sewer overflow prevention.

Maximum amount of costs

(R.C. 6117.012)

Current law authorizes the county to adopt a resolution specifying a maximum amount of the cost of any disconnection, reconnection, relocation, or sewer back-up prevention that may be paid by the county for each affected parcel of property without requiring reimbursement. The bill adds to the list combined sewer overflow prevention.

Public improvement; competitive bidding

(R.C. 6117.012)

Current law states that disconnections, reconnections, relocations, or sewer back-up prevention that are required in rules adopted under the Sewer Districts Law and performed by a contractor under contract with the property owner cannot be considered a public improvement and those performed by the county must be considered a public improvement. The bill adds combined sewer overflow prevention to the list of improvements.

In addition, current law states that disconnections, reconnections, relocations, or sewer back-up prevention required in rules adopted under the Sewer Districts Law that are performed by a contractor under contract with the property owner are not subject to competitive bidding or public bond laws. The bill adds combined sewer overflow prevention to the list of improvements.

Property owners' responsibility for maintaining improvements or facilities

(R.C. 6117.012)

Current law requires property owners to be responsible for maintaining any improvements made on private property to reconnect or relocate disconnected inflows or for sewer back-up prevention unless a public easement exists for the county to maintain that improvement. The bill revises that provision by requiring property owners to be responsible for maintaining any improvements made or facilities constructed on private property to reconnect or relocate disconnected inflows, for combined sewer overflow prevention, or for sewer back-up prevention

unless a public easement or other agreement exists for the county to maintain that improvement or facility.

Applicability of statutory changes

(Section 803.20)

The bill states that its changes to the Sewer Districts Law as discussed above regarding rules governing property owners, rate reductions and credits, sources of funding, costs, public improvements and competitive bidding, and property owners' responsibility apply to any proceedings, covenant, stipulation, obligation, resolution, trust agreement, indenture, loan agreement, lease agreement, agreement, act, or action, or part of it, that is pending on the bill's effective date.

Miscellaneous provisions for inclusion of prevention or replacement facilities in Sewer Districts Law

(R.C. 6117.01, 6117.011, 6117.04, 6117.05, 6117.06, 6117.251, 6117.28, 6117.30, 6117.34, 6117.38, 6117.41, 6117.42, 6117.43, 6117.44, 6117.45, and 6117.49)

The bill adds prevention or replacement facilities to the following provisions of the Sewer Districts Law governing sanitary or drainage facilities:

(1) The authority of a board of county commissioners to adopt and enforce rules governing county-owned sanitary and drainage facilities, a preclusion against the construction of a sanitary or drainage facility outside a municipal corporation until plans and specifications have been approved by the board, and the authority of the county engineer to enter property to survey or inspect sanitary or drainage facilities;

(2) The authority of a board of county commissioners to make surveys of water supply, sanitary facilities, or drainage facilities that may be acquired or constructed;

(3) The authority of a board of county commissioners to acquire, construct, maintain, and operate sanitary or drainage facilities within a municipal corporation or regional water and sewer district subject to specified conditions;

(4) The continuing jurisdiction of a board of county commissioners concerning the acquisition and construction of a sanitary and drainage facility in a portion of a sewer district that is incorporated as or annexed to a municipal corporation, and procedures governing the subsequent conveyance of the facility to the municipal corporation;

(5) The authority of a board of county commissioners to have prepared a general plan of sewerage or drainage of the sewer district if an improvement is to be undertaken;

(6) The authority of the board of county commissioners to determine by resolution that it is necessary to provide sanitary or drainage facility improvements, the authority of the board to levy assessments to pay for a district's general plan of sewerage or drainage and other specified costs, and procedures and requirements governing the levying of the assessments;

(7) Procedures and requirements governing the acquisition or construction of an improvement and the levying of an assessment to pay for it when the owners of lots and lands to be assessed for the improvement have petitioned the board requesting it to acquire, construct, maintain, and operate the improvement and consenting to the assessment;

(8) The requirement that the cost of the acquisition or construction of sanitary or drainage facilities be assessed on all benefited property in the sewer district;

(9) The authority of the Director of Environmental Protection to determine whether sanitary or drainage facilities are necessary and to require a board of county commissioners to acquire or construct such facilities if necessary pursuant to a complaint by the legislative authority or board of health of a municipal corporation, the board of health of a general health district, or a board of township trustees that unsanitary conditions exist in the county;

(10) The authority of a board of county commissioners to require the county sanitary engineer to examine sanitary or drainage facilities that may be acquired for the district;

(11) The authority of a board of county commissioners to enter into a contract with any other public agency to prepare plans and cost estimates and acquire or construct sanitary or drainage facilities that are to be used jointly;

(12) Requirements governing contracts between a board of county commissioners and another public agency regarding jointly used facilities;

(13) The authority of the county or other public agency to levy taxes or special assessments or issue public obligations to pay the agreed compensation for the acquisition or construction of jointly used facilities;

(14) The requirement that a county or other public agency receiving the agreed compensation for the acquisition, construction, or operation and maintenance of jointly used facilities credit the amount to the proper fund;

(15) The prohibition against tampering with or damaging any sanitary or drainage facility acquired or constructed by a county or making unauthorized connections to a facility and the prohibition against refusing to permit the inspection by the county sanitary engineer of any such connection; and

(16) The board of county commissioners to sell or otherwise dispose of sanitary or drainage facilities if the board determines by resolution that it is in the best interests of the county and those served by the facilities and procedures and requirements governing the sale or disposition.

Eligible community development banks as county depositories

(Section 711.10)

Current law requires county commissioners to meet once every four years to designate the county's public depositories of active moneys or the next succeeding four-year period and establishes a time-sensitive application process for designating such depositories.[35] The bill permits a county to designate a community development bank that meets certain requirements as a county depository of active moneys during the county's four-year period that is running on the effective date of this provision of the bill.

The bill defines a "community development bank" as any bank or savings association that provides loans for residential mortgages, home improvement, and community development as well as other financial services to low- and moderate-income persons, nonprofit organizations, and small businesses that are located in qualified distressed communities and that abides by certain federal law requirements regarding its organization. To be eligible for designation under the bill, a community development bank must meet all the following requirements: (1) be located in a county with a population of over 1.3 million people based on the 2000 U.S. Census figures, (2) have previously served as a depository of active moneys for that county, (3) apply to be designated as a depository of that county's active moneys, and (4) be an institution eligible to receive that county's active moneys.[36]

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[35] Current law defines "active moneys" as the public money in public depositories determined to be necessary to meet current demands upon the county treasury and deposited in certain types of accounts. "Public moneys" is in turn defined as all money in a county's treasury or coming lawfully into the possession or custody of its treasurer.

[36] The only county in Ohio with a population of over 1.3 million people based on the 2000 U.S. Census figures is Cuyahoga County. See U.S. Census Bureau, "Table 1: Annual Estimates of the Population of Counties of Ohio: April 1, 2000 to July 1, 2004," <http://www.census.gov/popest/counties/tables/CO-EST2004-01-39.xls>.

Public obligations of local governments for purposes of conservation and revitalization

(R.C. 133.52)

The bill authorizes a county, municipal corporation, or township to issue or incur public obligations, including general obligations, to provide, or assist in providing, grants, loans, loan guarantees, or contributions for conservation[37] and revitalization purposes[38] pursuant to Section 2o of Article VIII of the Ohio Constitution.

Section 2o of Article VIII specifies that environmental and related conservation, preservation, and revitalization purposes are proper public purposes of the state and local governmental entities. The state may undertake its own projects and may participate or assist in financing projects undertaken by local government entities or others, including nonprofit organizations. Obligations of local government entities issued for the designated public purposes, and provisions for payment of debt service on them, and the purposes and uses to which the proceeds of those obligations, or moneys from other sources, may be applied, are not subject to the Lending Aid and Credit provisions of the Ohio Constitution.

Repeal of prohibition on levying or collection of assessment by certain conservancy districts

(Section 620.20)

Section 5 of Am. Sub. H.B. 24 of the 127th General Assembly, which is effective until January 1, 2009, prohibits the board of directors of a conservancy district that includes all or parts of more than 16 counties from levying or

[37] Conservation purposes means conservation and preservation of natural areas, open spaces, and farmlands and other lands devoted to agriculture, including by acquisition of land or interests in land; provision of state and local park and recreation facilities, and other actions that permit and enhance the availability, public use, and enjoyment of natural areas and open spaces in Ohio; and land, forest, water, and other natural resource management projects.

[38] Revitalization purposes means providing for and enabling the environmentally safe and productive development and use or reuse of publicly and privately owned lands, including those within urban areas, by the remediation or clean up, or planning and assessment for remediation or clean up, of contamination, or addressing, by clearance, land acquisition or assembly, infrastructure, or otherwise, that or other property conditions or circumstances that may be deleterious to the public health and safety and the environment and water and other natural resources, or that preclude or inhibit environmentally sound or economic use or reuse of the property.

collecting an assessment and prohibits a county treasurer from collecting an assessment levied by that conservancy district. The bill repeals that uncodified statute.

DEPARTMENT OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES

- Eliminates a requirement that the Director of Job and Family Services seek federal approval to establish the ICF/MR Conversion Pilot Program.

- For the purpose of increasing the number of slots available for home and community-based services provided under a Medicaid waiver program administered by the Ohio Department of Mental Retardation and Developmental Disabilities (ODMR/DD), permits, under certain circumstances, an intermediate care facility for the mentally retarded (ICF/MR) to convert in whole or, if the ICF/MR was acquired pursuant to a request for proposals issued by ODMR/DD, to convert in whole or in part to providing ODMR/DD-administered home and community-based services.

- Permits the ODMR/DD Director to request that the Director of Job and Family Services seek federal approval to increase the number of slots available for ODMR/DD-administered home and community-based services by a number not exceeding the number of beds that were part of the licensed capacity of a residential facility that had its license revoked or surrendered if the residential facility was an ICF/MR at the time of the license revocation or surrender.

- Permits the Director of Job and Family Services to seek federal approval for not more than a total of 100 slots for ODMR/DD-administered home and community-based services for the purposes of the ICF/MR conversions and ODMR/DD Director's request.

- Requires the ODMR/DD Director, each quarter of fiscal year 2009, to certify to the Director of Budget and Management the estimated amount to be transferred from the Department of Job and Family Services to ODMR/DD for the provision of ODMR/DD-administered home and community-based services made available by the ICF/MR conversions and ODMR/DD Director's request.

- Prohibits the reconversion of a bed back to ICF/MR services.

- Eliminates a requirement that an adjudication order be issued before the maximum number of beds for which there may be a residential facility license is reduced following the revocation, termination, renewal denial, or surrender of a residential facility license.

- Eliminates the annual fee ODMR/DD is required to charge county MR/DD boards based on claims for Medicaid case management services.

- Provides that the Gallipolis Developmental Center is to operate an intermediate care facility for the mentally retarded (ICF/MR) with eight beds at a site separate from the grounds of the developmental center under a pilot program rather than provide home and community-based services to not more than ten individuals under the Individual Options Medicaid waiver program.

- Provides that the Gallipolis Developmental Center pilot program is to be established during calendar year 2009 rather than operated during calendar year 2009.

- Eliminates a requirement that the pilot program be operated in a manner consistent with the terms of the consent order filed in the class action case, *Martin v. Strickland*.

- Eliminates a requirement that all expenses the Gallipolis Developmental Center incurs in participating in the pilot program be paid from the Medicaid payments the developmental center receives for providing services under the pilot program.

- Requires the Department of Mental Retardation and Developmental Disabilities and Department of Job and Family Services to provide the Gallipolis Developmental Center technical assistance regarding the pilot program rather than technical assistance *the developmental center needs* regarding the pilot program.

- Requires that the report on the pilot program include recommendations regarding its continuation and whether other developmental centers should be permitted to establish and operate ICFs/MR at sites separate from the grounds of the developmental centers.

Conversion of ICF/MR beds

(Primary R.C. 5111.874; R.C. 5111.31, 5111.875, 5111.876, 5111.877, 5111.878, 5111.879, 5112.31, and 5123.196; Section 751.10; Repeals R.C. 5111.311, 5111.88, 5111.881, 5111.882, 5111.883, 5111.884, 5111.885, 5111.886, 5111.887, 5111.888, 5111.889, 5111.8810, 5111.8811, 5111.8812, 5111.8813, 5111.8814, 5111.8815, 5111.8816, 5111.8817, and 5112.311)

ICF/MR Conversion Pilot Program

Current law. The Director of Job and Family Services is required to seek federal approval to establish the ICF/MR Conversion Pilot Program under which intermediate care facilities for the mentally retarded (ICFs/MR) would be permitted to convert in whole or in part from providing ICF/MR services to providing home and community-based services. Under the pilot program, individuals with mental retardation or a developmental disability who are eligible for ICF/MR services could volunteer to receive home and community-based services instead. No more than 200 individuals would be permitted to participate in the pilot program at one time. The Ohio Department of Job and Family Services (ODJFS) is authorized to administer the pilot program itself or contract with the Ohio Department of Mental Retardation and Developmental Disabilities (ODMR/DD) for administration of the pilot program. The pilot program would be operated for not less than three years if approved by the United States Secretary of Health and Human Services. The Director is also required to seek federal approval 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 first day of the pilot program's implementation, unless the ICF/MR is reconverted back to providing ICF/MR services after the pilot program terminates.[39]

The ICF/MR Conversion Advisory Council has duties regarding the design and evaluation of the ICF/MR Conversion Pilot Program. For example, the Director of Job and Family Services must consult with the advisory council before seeking federal approval for the pilot program. The Council consists of four members of the General Assembly, the Directors of Job and Family Services and Mental Retardation and Developmental Disabilities or their designees, and

[39] An ICF/MR would not be permitted to reconvert back to providing ICF/MR services after the ICF/MR Conversion Pilot Program terminates if (1) the program is implemented statewide, (2) the ICF/MR no longer meets the requirements for Medicaid certification, or (3) the ICF/MR no longer meets licensure requirements.

representatives of several organizations that advocate for persons with mental retardation or a developmental disability or providers of services to such persons.

The Centers for Medicaid and Medicaid Services, the agency within the United States Department of Health and Human Services responsible for the Medicaid program on the federal level, has informed ODJFS that the proposed ICF/MR Conversion Pilot Program does not meet federal requirements to provide home and community-based services under subsection (c) of section 1915 of the Social Security Act.[40] As a result, work to create the pilot program has ceased.

The bill. The bill eliminates the requirement that the Director of Job and Family Services seek federal approval for the ICF/MR Conversion Pilot Program and repeals all provisions in current law regarding the pilot program. The bill also abolishes the ICF/MR Conversion Advisory Council.

Conversion of ICF/MR beds

In place of the ICF/MR Conversion Pilot Program, the bill establishes provisions for increasing the number of slots available under home and community-based services provided under a Medicaid waiver administered by ODMR/DD. The bill limits the number of new slots to 100.

The first provision permits the operator of an ICF/MR that is licensed by ODMR/DD as a residential facility to convert all of the beds in the facility from providing ICF/MR services to providing ODMR/DD-administered home and community-based services if all of the following requirements are met:

(1) The operator provides the Directors of Health, ODJFS, and ODMR/DD a least 90 days' notice of the operator's intent to relinquish the facility's Medicaid certification as an ICF/MR and to begin providing ODMR/DD-administered home and community-based services.

(2) The operator complies with requirements in continuing law regarding ICFs/MR that cease to participate in Medicaid if those requirements are applicable.

(3) The operator notifies each of the facility's residents that the ICF/MR is to cease providing ICF/MR services and inform each resident that the resident may either continue to receive ICF/MR services by transferring to another ICF/MR willing and able to accept the resident if the resident continues to qualify for

[40] Letter from Verlon Johnson, Associate Regional Administrator of the Division of Medicaid and Children's Health, to Tracy J. Williams, Deputy Director of Job and Family Services, December 11, 2006.

ICF/MR services or begin to receive ODMR/DD-administered home and community-based services from any provider of the services that is willing and able to provide the services to the resident if the resident is eligible for the services and a slot for the services is available to the resident.

(4) The operator meets the requirements for providing ODMR/DD-administered home and community-based services, including such requirements applicable to a residential facility if the operator maintains the residential facility license or such requirements applicable to a facility that is not licensed as a residential facility if the operator surrenders the residential facility license.

(5) The ODMR/DD Director approves the conversion.

The notice to the ODMR/DD Director must specify whether the operator wishes to surrender the facility's residential facility license. The Director of Health, if the ODMR/DD Director approves the conversion, is to terminate the facility's Medicaid certification as an ICF/MR. The Director of Health must notify the ODJFS Director of the termination. On receipt of the termination notice, the ODJFS Director is required to terminate the operator's Medicaid provider agreement for the ICF/MR. The operator is not entitled to notice or a hearing under the Administrative Procedure Act (R.C. Chapter 119.) before the Medicaid provider agreement is terminated.

Under the second provision to make up to 100 new slots available for ODMR/DD-administered home and community-based services, the operator of an ICF/MR that had its license previously revoked or surrendered and that the operator acquired through a request for proposals issued by the ODMR/DD Director is permitted to convert some or all of the facility's beds from providing ICF/MR services to providing ODMR/DD-administered home and community-based services if all of the following requirements are met:

(1) The operator provides the Directors of Health, ODJFS, and ODMR/DD at least 90 days' notice of the operator's intent to make the conversion.

(2) The operator complies with requirements in continuing law regarding ICFs/MR that cease to participate in Medicaid if those requirements are applicable.

(3) If the operator intends to covert all of the facility's beds, the operator notifies each of the residents that the facility is to cease providing ICF/MR services and inform each resident that the resident may either continue to receive ICF/MR services by transferring to another ICF/MR willing and able to accept the resident if the resident continues to qualify for ICF/MR services or begin to receive ODMR/DD-administered home and community-based services from any

provider of the services that is willing and able to provide the services to the resident if the resident is eligible for the services and a slot for the services is available to the resident.

(4) If the operator intends to convert some but not all of the beds, the operator notifies each of the residents of the partial conversion and informs each resident that the resident may either continue to receive ICF/MR services from any provider of ICF/MR services that is willing and able to accept the resident if the resident continues to qualify for ICF/MR services or begin to receive ODMR/DD-administered home and community-based services from any provider of ODMR/DD-administered home and community-based services that is willing and able to provide the services if the resident is eligible for the services and a slot for the services is available to the resident.

(5) The operator meets the requirements for providing ODMR/DD-administered home and community-based services at a residential facility.

The notice provided to the Directors must specify whether some or all of the beds are to be converted. If some but not all of the beds are to be converted, the notice must specify how many of the beds are to be converted and how many are to continue to provide ICF/MR services. On receipt of the notice, the Director of Health must terminate the facility's Medicaid certification as an ICF/MR if the notice specifies that all of the facility's beds are to be converted or reduce the facility's certified capacity by the number of beds being converted if the notice specifies that some but not all of the beds are to be converted. The Director of Health is required to notify the ODJFS Director of the termination or reduction. On receipt of that notice, the ODJFS Director is required to either terminate the operator's Medicaid provider agreement for the ICF/MR or amend the Medicaid provider agreement to reflect the facility's reduced certified capacity, as appropriate. The operator is not entitled to notice or a hearing under the Administrative Procedure Act before the Medicaid provider agreement is terminated or amended.

Under the third provision, the ODMR/DD Director is permitted to request that the ODJFS Director seek federal approval to increase the number of slots available for ODMR/DD-administered home and community-based services by a number not exceeding the number of beds that were part of the licensed capacity of a residential facility that had its license revoked or surrendered if the residential facility was an ICF/MR at the time of the license revocation or surrender. The revocation or surrender may have occurred before, or may occur on or after, the effective date of this provision of the bill. The request may include beds the ODMR/DD Director removed from such a residential facility's licensed capacity before transferring ownership or operation of the residential facility pursuant to a request for proposals.

The bill permits the ODJFS Director to seek approval from the United States Secretary of Health and Human Services for not more than a total of 100 slots for ODMR/DD-administered home and community-based services for the purposes of the ICF/MR conversions and the ODMR/DD Director's requests for additional slots.

The ODMR/DD Director is required, for each quarter of fiscal year 2009, to certify to the Director of Budget and Management the estimated amount to be transferred from ODJFS to ODMR/DD for the provision of ODMR/DD-administered home and community-based services made available by the ICF/MR conversions and the ODMR/DD Director's request. The Director of Budget and Management is authorized, on receipt of the quarterly certifications, to adjust appropriations in specific line items accordingly to account for the transfer.

No bed that is converted may be reconverted back to providing ICF/MR services, even if the bed is part of the licensed capacity of a residential facility or has been sold, leased, or otherwise transferred to another private or government sector operator.

The ODJFS and ODMR/DD Directors are authorized to adopt rules as necessary to implement these provisions of the bill. The rules are to be adopted in accordance with the Administrative Procedure Act.

Maximum number of licensed residential facility beds

(R.C. 5123.196)

No person or government entity may operate a residential facility without a valid license issued by the Director of Mental Retardation and Developmental Disabilities. Generally, a residential facility is a home or facility in which an individual with mental retardation or a developmental disability (MR/DD) resides. However, none of the following are considered residential facilities: the home of a relative or legal guardian in which an individual with MR/DD resides, a certified respite care home, a county home or district home, or a dwelling in which the only individuals with MR/DD are in an independent living arrangement or are being provided supported living.

With certain exceptions, the Director is prohibited from issuing a residential facility license if issuance will result in there being more beds in all licensed residential facilities than a maximum number set by state law.[41] The

[41] Continuing law permits the Director to issue an interim license to a residential facility if the Director determines (1) that an emergency exists requiring immediate placement of persons in a residential facility, that insufficient beds are available, and that the residential facility is likely to receive a permanent license within 30 days after the interim

maximum number was originally set at 10,838 but that number is to be reduced, with certain exceptions,[42] by (1) the number of residential facility beds for which the license holder voluntarily converts to use for supported living on or after July 1, 2003, and (2) the number of residential facility beds that cease to be residential facility beds on or after July 1, 2003, because a residential facility license is revoked, terminated, or not renewed for any reason or is surrendered after the issuance of an adjudication order pursuant to the Administrative Procedure Act.

The bill eliminates the requirement that an adjudication order be issued before the maximum number of beds for which there may be a residential facility license is reduced following the revocation, termination, renewal denial, or surrender of a residential facility license.

Medicaid case management service fee

(R.C. 5123.0412)

Under current law the Department of Mental Retardation and Developmental Disabilities (ODMR/DD) is required to charge county MR/DD boards a fee for Medicaid case management services and home and community-based services. The fee equals 1½% of the total value of all Medicaid paid claims for these services provided during the year to an individual eligible for services from the board. ODMR/DD and ODJFS are required to use the funds for the administrative and oversight costs of Medicaid case management services and home and community-based services and to provide technical support to county boards' local administrative authority.

The bill eliminates the annual fee ODMR/DD is required to charge county MR/DD boards that is based on Medicaid paid claims for Medicaid case management services. It does not affect the fee based on home and community-based services.

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license is issued or (2) that the issuance of the interim license is necessary to meet a temporary need for a residential facility. The limit on the maximum number of licensed residential facility beds does not apply in either case. The Director is also permitted to issue a waiver allowing a residential facility to admit more residents than the facility is licensed to admit regardless of whether the waiver will result in there being more beds in all licensed residential facilities than is permitted.

[42] The maximum number of licensed residential facility beds is not to be reduced by a bed that ceases to be a residential facility bed if the Director of Mental Retardation and Developmental Disabilities determines that the bed is needed to provide services to an individual with MR/DD who resided in the residential facility in which the bed was located.

Gallipolis Developmental Center pilot program

(Sections 610.40 and 610.41)

The biennial budget act for the 127th General Assembly, Am. Sub. H.B. 119, requires the Director of Mental Retardation and Developmental Disabilities to establish a pilot program under which the Gallipolis Developmental Center provides home and community-based services under the Individual Options Medicaid waiver program to not more than ten individuals at one time. The pilot program is to be operated as part of the Individual Options Medicaid waiver program and be operated during calendar year 2009.

The bill provides for the pilot program to have the Gallipolis Developmental Center operate an ICF/MR with eight beds at a site separate from the grounds of the developmental center rather than provide home and community-based services.[43] The pilot program is not to be operated as part of the Individual Options Medicaid waiver program. And the pilot program must be established, rather than operated, during calendar year 2009, meaning that its operation is not restricted to calendar year 2009.

The bill eliminates a requirement that the pilot program be operated in a manner consistent with the terms of the consent order filed in the class action case, *Martin v. Strickland*. The bill also eliminates a requirement that all expenses the Gallipolis Developmental Center incurs in participating in the pilot program be paid from the Medicaid payments the developmental center receives for providing services under the program.

Current law requires the Director of Mental Retardation and Developmental Disabilities and the Director of Job and Family Services to provide the Gallipolis Developmental Center technical assistance the developmental center needs regarding the pilot program. The bill requires the Directors to provide the developmental center technical assistance regarding the pilot program rather than technical assistance *the developmental center needs* regarding the pilot program.

The Director of Mental Retardation and Developmental Disabilities is required to conduct an evaluation of the pilot program and submit a report of the evaluation to the Governor and General Assembly not later than April 1, 2010. Current law requires that the report include recommendations for or against permitting the Gallipolis Developmental Center to continue to provide home and

[43] The bill notwithstands state law that prohibits the Director of Mental Retardation and Developmental Disabilities from issuing a license to a residential facility if the issuance will result in there being more beds in all residential facilities than is permitted by state law. (ICFs/MR are licensed as residential facilities.)

community-based services under the Individual Options Medicaid waiver program and permitting other developmental centers to begin to provide these services. The bill requires instead that the report include recommendations regarding the continuation of the pilot program and whether other developmental centers should be permitted to establish and operate ICFs/MR at sites separate from the grounds of the developmental centers.

DEPARTMENT OF PUBLIC SAFETY

- Requires the Department of Natural Resources and the Department of Public Safety to seek all available federal money to assist the City of Findlay in rebuilding infrastructure or building preventative infrastructure with respect to flood mitigation and preparation.

Federal money to assist Findlay with flood mitigation and preparation infrastructure

(Section 715.10)

The bill requires the Department of Natural Resources and the Department of Public Safety to seek all available federal money to assist the City of Findlay in rebuilding infrastructure or building preventative infrastructure with respect to flood mitigation and preparation.

PUBLIC UTILITIES COMMISSION OF OHIO

- Requires the Public Utilities Commission (PUCO), no earlier than January 1, 2009, to assess service providers for the cost of providing telecommunications relay service (TRS) provided through a TRS provider to the hearing and speech impaired in Ohio, but limits the aggregate assessment from all service providers to the total TRS costs.

- Permits service providers to recover the TRS assessment from their customers and provides for annual reconciliation regarding the assessment.

- Requires the PUCO to protect the confidentiality of information provided by service providers under the TRS assessment requirements of the bill.

- Imposes a forfeiture on service providers that fail to comply with the bill's requirements.

- Grants the PUCO jurisdiction and authority to administer and enforce the bill's requirements and requires the PUCO to adopt rules under Chapter 119. of the Revised Code to establish the assessment amounts and procedures.

- Adds regional transit authorities to the list of political subdivisions that may enter into energy price risk management contracts, defines such a contract as intending to mitigate, rather than mitigating, energy price volatility, and expressly states that such a contract is not an investment under the public depository law governing investment of political subdivision interim moneys.

- Alters the competitively bid standard service offer load "ramp up" percentages applicable to the first five years of the first market rate offer filed by any electric distribution utility that owns Ohio generating assets as of July 1, 2008.

Telecommunications relay service requirement--background and current law

Federal law requires telecommunications services to be available to the hearing-impaired and speech-impaired throughout the country. It ensures such services are available by requiring each common carrier to provide telecommunications relay service (TRS) throughout the area in which it offers telephone voice transmission services.[44] A TRS operates by allowing people with hearing and speech impairments to place and receive telephone calls, without a per use charge, through the use of communications assistants who facilitate these calls.[45] The actual service may be provided by the common carrier individually,

[44] Under federal law, a "common carrier" is any common carrier engaged in interstate or intrastate communication by wire or radio. "Telecommunications relay service" is telephone transmission service that allows an individual with a hearing or speech impairment to communicate by wire or radio with a hearing individual in a manner functionally equivalent to the ability of an individual with no such impairments to communicate using voice communication by wire or radio. (47 U.S.C. 225.)

[45] Federal Communications Commission, "FCC Consumer Facts: Telecommunications Relay Service," <http://www.fcc.gov/cgb/consumerfacts/trs.html>.

through designees, through a competitively selected vendor, or in concert with other carriers.

Although federal law mandates both interstate and intrastate TRS, common carriers providing intrastate TRS in compliance with a certified state program are deemed in compliance with the federal requirement. Ohio has such a certified state program for providing intrastate TRS. Sprint Nextel, a competitively selected vendor, currently provides Ohio's intrastate TRS.[46]

The bill

(R.C. 4905.84)

Generally, the bill permits the Public Utilities Commission (PUCO) to administer an assessment on service providers to fund the intrastate TRS and provides mechanisms to do so. It also gives the PUCO the jurisdiction necessary to enforce and administer the TRS requirement.

Assessment

The bill requires the PUCO, not earlier than January 1, 2009, to impose on and collect from each service provider required to provide customer access to TRS under federal law an annual assessment to pay the costs incurred by the TRS provider for providing such service in Ohio. Although the bill does not expressly define the term "service provider," it specifies that the PUCO must determine the appropriate service providers that will be required to pay the assessment and specifically includes, as service providers, telephone companies, commercial mobile radio service providers, and providers of advanced services or internet protocol-enabled services that are competitive with or functionally equivalent to basic local exchange service.[47] Furthermore, the bill does not define "federal law," although it probably refers to the provisions of the Americans with Disabilities Act that impose a TRS requirement on common carriers engaged in wire or radio

[46] In the matter of the Commission Investigation Into Continuation of the Ohio Telecommunications Relay service, Case No. 01-2945-TP-COI (October 24, 2007). See also Federal Communications Commission, "Ohio TRS Page," <http://www.fcc.gov/cgb/dro/trs_ohio.html>. Additional information on Ohio's TRS provider can be found at <http://www.ohiorelay.com> and select "Relay Ohio."

[47] A "telephone company" is a person or entity engaged in the business of transmitting telephonic messages to, from, through, or in Ohio, and as such is a common carrier. (R.C. 4905.03(A)(2).)

communication.[48] The bill defines "TRS provider" as an entity selected by the PUCO as the TRS provider for Ohio as part of the PUCO's intrastate TRS certified program.

Under the bill, the PUCO must allocate the TRS assessment proportionately among the appropriate service providers using a competitively neutral formula based on the number of retail intrastate customer access lines or their equivalent. The bill limits the total amount assessed from all service providers to the total TRS costs. The PUCO must deposit the money it collects pursuant to the assessment into the telecommunications relay service fund, which the bill creates in the state treasury, and this money may be used only to compensate the TRS provider. When issuing the assessment, the PUCO must annually reconcile the amounts collected from the assessment with the actual costs of providing TRS and must recover assessment underpayments and reimburse overpayments through a proportionate charge on, or credit to, the service providers. Furthermore, the bill permits each service provider paying the assessment to recover the assessment through any recovery method, including a customer billing surcharge.

Forfeiture

The bill authorizes the PUCO to assess a forfeiture of not more than $1,000 on any service provider failing to comply with the bill's requirements, with each day's continuance of the failure constituting a separate offense. The bill requires the forfeiture to be recovered in accordance with current law governing the recovery of PUCO forfeitures.

Confidentiality

The bill authorizes the PUCO to take measures it considers necessary to protect the confidentiality of the information provided to it by service providers required to pay the assessment.

Jurisdiction and authority

The bill grants the PUCO jurisdiction and authority limited to the administration and enforcement of the bill's requirements. To this end, the bill authorizes the PUCO to adopt any necessary rules. The bill also requires the PUCO to adopt rules under Chapter 119. of the Revised Code to establish assessment amounts and procedures.

[48] 47 U.S.C. 225. The bill also uses the definition used in federal law for "telecommunication relay service," but with some alteration.

Energy price risk management contracts

(R.C. 9.835)

Recently enacted Am. Sub. S.B. 221 of the 127th General Assembly (regarding state energy policy) authorizes the state and counties, cities, villages, townships, park districts, and school districts to enter into energy price risk managements contracts to mitigate the price volatility of energy sources, including natural gas, gasoline, oil, and diesel fuel. The bill adds regional transit authorities. It also describes such a contract as *intending to* mitigate such price volatility. In addition, the bill expressly states that "[a]n energy price risk management contract is not an investment" for purposes of public depository law (R.C. 135.14, not in the bill) governing investment of political subdivision interim moneys.

Electric distribution utility five-year ramp-up to market

(R.C. 4928.142)

Recently enacted Am. Sub. S.B. 221 of the 127th General Assembly (regarding state energy policy) provides that, if an electric distribution utility that, as of that act's effective date (July 31, 2008), directly owns operating generating facilities that had been used and useful in Ohio chooses to file an application for PUCO approval of a market rate offer to set the price of its retail generation service, the first such offer can be one under which only a percentage of the utility's standard service offer load for the first five years is competitively bid. S.B. 221 states the percentages for each year as follows:

> "[T]en per cent of the load in year one and not less than twenty per cent in year two, thirty per cent in year three, forty per cent in year four, and fifty per cent in year five. Consistent with those percentages, the commission shall determine the actual percentages for each year of years one through five."

The bill alters the percentages by changing "and not less than" to ", not more than."

BOARD OF REGENTS

- Qualifies students enrolled in a nursing diploma program approved by the Ohio Board of Nursing for the Ohio College Opportunity Grant (OCOG).

- Changes the measure the Chancellor must use to adjust the bidding threshold for capital improvements for community colleges, university branches, and technical colleges.

OCOG grants to nursing students

(R.C. 3333.122)

The bill qualifies for the Ohio College Opportunity Grant (OCOG) nursing students who are enrolled in a prelicensure nursing education diploma program that is approved by the Ohio Board of Nursing and meets the requirements of Title VI of the Civil Rights Act of 1964.

Contract bidding thresholds for two-year colleges

(R.C. 3354.16, 3355.12, and 3357.16)

Under current law, every even-numbered year, the Chancellor of the Board of Regents must adjust the statutory $50,000 threshold requiring competitive bidding for capital improvements at community colleges, state community colleges, university branches, and technical colleges. Currently, the Chancellor must do so according to the average increase or decrease for the preceding two years in the U.S. Department of Commerce, Bureau of the Census, "Implicit Price Deflator for Construction," provided that no increase or decrease can exceed 3% of the threshold at the time of the adjustment. That metric is now defunct, and the bill changes the measure to the U.S. Department of Commerce, Bureau of Economic Analysis, "Implicit Price Deflator for Gross Domestic Product, Nonresidential Structures," or an alternative (presumably chosen by the Chancellor) if the federal government ceases to publish that metric.

RESPIRATORY CARE BOARD

Licensing of providers of home medical equipment services

(R.C. 4752.05 and 4752.12; Section 737.10)

The Ohio Respiratory Care Board regulates providers of home medical equipment services. Licenses are issued to applicants that meet requirements established by the Board; certificates of registration are issued to applicants that have been accredited by the Joint Commission or another national accrediting body recognized by the Board. The Board issues or renews a license or certificate

for a two-year period valid from July 1 of the first year through June 30 of the second year. Licenses or certificates are granted or renewed in even and odd-numbered years according to the initial issuance dates.

The bill establishes that a license or certificate will expire biennially only in even-numbered years. For licenses and certificates that are currently scheduled for renewal in an odd-numbered year, the bill requires the Board to renew the licenses and certificates in the next even-numbered year that occurs after the bill's effective date with a proportionate reduction in the renewal fee.

Waiving of the initial license fee

(R.C. 4752.04 and 4752.11)

Currently, a provider of home medical equipment services must pay the full fee for an initial license or certificate regardless of when it is issued. The bill authorizes the Board to waive all or part of the fee if it determines that the license or certificate will be issued within the last six months of the biennial licensing or registration period.

Waiving of continuing education requirements

(R.C. 4752.07)

Under current law, the holder of a license must require home medical equipment services providers in its employ or under its control to successfully complete continuing education programs in home medical equipment services that meet the standards established by the Board.

The bill authorizes the Board to waive all or part of the continuing education requirements needed for the first renewal of a license that was issued in the last six months of the biennial licensing period.

SCHOOL FACILITIES COMMISSION

- Permits a school district with a formula ADM of at least 9,800 students, and participating in the Classroom Facilities Assistance Program on or after the bill's effective date, to divide its entire facilities needs into segments, with each segment to proceed sequentially as a separate smaller project, and with the School Facilities Commission and the Controlling Board approving only one segment at a time.

Segmenting projects

(R.C. 3318.01, 3318.03, 3318.032, 3318.034, and 3318.04)

Ordinarily, when a school district undertakes a project under the main Classroom Facilities Assistance Program (CFAP), the project will complete all of the district's facilities needs at once. On the other hand, the six urban districts participating in the Accelerated Urban School Building Assistance Program may divide their projects into segments and may complete each segment separately. However, the School Facilities Commission and the Controlling Board must approve the entire project at the beginning of the first segment.

The bill permits certain other districts to segment their CFAP projects in a manner similar to, but slightly different from, that provided for the Accelerated Urban districts. Under the bill, a district that is eligible for CFAP assistance on or after the bill's effective date and has a formula ADM (student count) of at least 9,800 students may opt to divide its entire classroom facilities needs, as determined jointly by the Commission staff and the district, into discrete segments. Unlike the Accelerated Urban Program, each of these segments will proceed as a separate project and each one will be approved separately by the voting members of the Commission and the Controlling Board. Each project agreement, however, must acknowledge that the project is only part of the district's needs. The district may proceed with future segments at a later time, as long as the district's wealth percentile at that time is eligible for assistance.

The proportionate state and district shares of each segment must be determined using the district's current percentile. Those percentages will not be locked in for future segments as they are under the Accelerated Urban program. Also, the maintenance levy requirement, for its entire facilities needs, runs only for 23 years from the date the *first* segment is begun.

Segment size

(R.C. 3318.034(B))

To qualify for the new segmenting provision, each segment must meet all of the following conditions:

(1) The segment must consist of the new construction of one or more entire buildings or the complete renovation of one or more entire existing buildings, including any necessary additions to that building.

(2) The segment must not include any construction of or renovation or repair to any building that does not complete the needs of the district with respect to that particular building. A district may not receive assistance for additional

work to that building for 20 years, unless the district demonstrates to the Commission's satisfaction that the district has experienced an "exceptional increase" in the student enrollment in that building since the segment was completed.

(3) Finally, the segment must consist of new construction, renovations, additions, reconstruction, or repair of classroom facilities to the extent that the school district share of the cost of the segment is not less than the amount that would be generated by a 3-mill property tax of the district's taxable valuation for 23 years.[49]

District portion of the cost of each segment

(R.C. 3318.032)

Under the alternative method of calculating a district's portion of its project cost, a district's share must be at least enough to raise its net indebtedness to within $5,000 of its "required level of indebtedness," the latter of which is partially based on the district's wealth percentile. The bill takes into account the fact that any one segment will not meet the entire facilities needs of the district. Therefore, the bill revises the alternative calculation to recognize the fraction of the district's needs addressed by each segment.

Under the bill, the district's portion of the cost of a segment is the *greater* of (1) the district's percentile rank or (2) the amount necessary to raise the district's net indebtedness to within $5,000 of the district's required level of indebtedness X the fraction that the segment is of the total facilities needs of the district.

DEPARTMENT OF TAXATION

- Requires vendors, sellers, and some consumers to file sales and use tax returns and pay the taxes electronically.
- Requires tax return preparers that file more than 50 original income tax returns or other tax payment documents in a calendar year to file them electronically.

[49] The amount of the district's portion may be smaller than the 3-mill, 23-year standard, if the district previously undertook a segment and its portion of the estimated basic project cost of the remainder of its entire classroom facilities needs is less than the amount generated by a 3-mill, 23-year tax.

- Classifies as a charitable institution eligible for real and tangible personal property tax exemption certain nonprofit organizations that assist in the development and revitalization of downtown urban areas, and applies the classification to pending property tax exemption applications.

- Exempts from the income tax grants received from the Military Injury Relief Fund.

- Exempts from the sales and use tax sales of machinery, equipment, and software to a "qualified direct selling entity" for use in a warehouse or distribution center primarily to store, transport, or handle inventory that is held for sale to independent salespersons who operate as direct sellers and that is held primarily for distribution outside Ohio; the qualified direct selling entity must have entered into jobs creation tax credit agreement on or after January 1, 2007, to be eligible for the exemption.

- Modifies the calculation of utility deregulation-related property tax replacement payments to school districts by neutralizing the state school funding effects of the phase-out of business tangible personal property taxes, delaying the eventual termination of those replacement payments.

- Shortens the timeline for the earliest effective date of a school district income tax rate reduction by specifying that the reduction takes effect January 1, if that date is at least 45 days after a copy of the resolution reducing the rate is certified to the Tax Commissioner, rather than the current 60 days.

- Requires the school district business personal property tax reimbursement calculation to be reconciled at the end and in the middle of each fiscal year.

- Specifies that school district levies enacted under R.C. 5705.213 are to be reimbursed through at least 2010, and thereafter until all renewals or successors to such a levy expire, until 2017.

- Extends the date by which the Department of Education and the Director of Budget and Management must annually consult to determine the state education aid offset used to compute school district tax losses from the business personal property phase-out.

- Authorizes a county or municipal corporation to extend the duration of a community reinvestment area tax exemption up to an additional ten years for an owner of certain residential real property of historical or architectural significance.

- Permanently authorizes a county with a population exceeding 1.2 million to use up to $3 million in its delinquent tax and assessment collection fund for foreclosure prevention and abating nuisances in the form of deteriorated residential buildings in foreclosure.

- Prohibits some counties and any convention facilities authority from imposing future excise taxes on cigarettes or alcoholic beverages (or both) to finance major league sports facilities.

- Prohibits any future county cigarette excise tax to fund a regional arts and cultural district's operations and facilities.

- Temporarily authorizes a board of township trustees of a township with a population exceeding 55,000 to adopt a tax increment financing (TIF) resolution by majority vote instead of unanimous vote.

- Includes the sale of "guaranteed auto protection" as a taxable sale.

- Includes any province of Canada as a "state" to which a nonresident of Ohio may remove and title a vehicle for purposes of qualifying for the nonresident motor vehicle sales tax exemption.

- Rephrases language governing the distribution of nonresident motor vehicle sales tax revenue to counties, potentially reducing county distributions.

- Limits to nonresident trusts the trusts that may claim an income tax credit for taxes paid to another state on their accumulated nonbusiness income.

- Clarifies that interest earnings from money in the Municipal Income Tax Fund is credited to the fund.

- Adds a reference to the Commercial Activity Tax (CAT) law as the appropriate law under which the Tax Commissioner may assess penalties against CAT taxpayers if they refuse to comply with the Commissioner's demand to inspect the taxpayer's books and other records or to examine under oath the taxpayer's employees, officers, or agents.

- Expressly authorizes the Department of Taxation to disclose information to the Department of Natural Resources that is needed to verify compliance with the coal severance tax.

- Expressly prohibits the Department of Natural Resources from publicly disclosing information received from the Department of Taxation for purposes of enforcing the coal severance tax.

- Requires the Department of Taxation, by April 1, 2009, to contract for and implement a "tax discovery data system" that consolidates tax data from various mainframe systems to assist in revenue analysis, discover noncompliant taxpayers, and collect taxes from them.

- Corrects a cross-reference error in a cigarette sales-related statute governing confidentiality of information obtained by the Tax Commissioner and provided to the Attorney General.

- Corrects a cross-reference in a criminal penalties statute prohibiting a consumer of cigarettes from knowingly providing false information to the Tax Commissioner on the consumer's application to receive a shipment of cigarettes from out of state.

Sales and use taxes

Electronic filing of tax returns and payments

(R.C. 113.061, 5739.12, 5739.122, 5739.124, 5741.04, 5741.12, 5741.121, and 5741.122)

Under current law, most vendors and sellers, and some consumers, must file sales or use tax returns monthly with the Tax Commissioner, along with tax payments. Some are permitted to file and pay at less frequent intervals. And some business consumers making high volumes of taxable purchases pay the tax directly to the state instead of to the seller. Such direct pay permit holders are required to make tax payments by electronic funds transfer, and, if required by the Commissioner, must file returns and reports electronically in a manner prescribed by the Commissioner. All returns must be signed by the vendor or seller, or the vendor's or seller's agent.

Current law requires those whose tax liability for any calendar year exceeds $75,000 to pay the taxes to the Treasurer of State twice per month by electronic

funds transfer (EFT), pursuant to rules adopted by the Treasurer. A person may be excused from this requirement by the Treasurer. The Treasurer must notify the Tax Commissioner if taxes are not paid in this manner and failure was not due to reasonable cause or was due to willful neglect, and the Commissioner may impose an additional charge for failure to pay by electronic funds transfer.

The bill requires vendors and sellers to file sales and use tax returns and reconciliation returns electronically using the Ohio Business Gateway, Ohio Telefile System, or any other electronic means prescribed by the Tax Commissioner. Tax payments also must be made electronically in a manner approved by the Commissioner. Any person required to file returns and make payments electronically in this manner may apply to the Commissioner to be excused from the requirement, and the Commissioner may excuse the person for good cause. The manner in which consumers file use tax returns with the Commissioner remains unchanged, unless the consumer meets the $75,000 threshold; in that case, the consumer must file all returns and reports electronically.

For vendors and sellers, the bill eliminates the requirements that payment must be made to the Treasurer and returns must be signed by the vendor or seller or its agent. As under current law, direct pay permit holders must continue to make payments by EFT and file returns and reports electronically if required by the Tax Commissioner.

Under the bill, vendors, sellers, and some consumers that meet the $75,000 threshold and that therefore must remit sales and use tax payments electronically on the accelerated basis required by current law would continue to be required to pay on the accelerated schedule. But payments are to be submitted to the Commissioner, rather than the Treasurer of State, in a manner approved by the Commissioner. Vendors, sellers, and some consumers must apply to the Commissioner to be excused from this payment requirement. The bill eliminates the additional charge provision and the requirement that the Treasurer notify the Commissioner of failure to pay on an accelerated basis, because the Treasurer is no longer part of the initial payment stream.

Electronic filing of income tax returns

(R.C. 5747.082)

The bill requires a tax return preparer that files more than 50 "original" income tax returns, reports, or other tax payment documents in a calendar year that begins on or after January 1, 2007, to file them electronically. The requirement applies only if the Tax Commissioner publishes on the Department of Taxation's web site at least one acceptable electronic filing method. An "original tax return"

is any report, return, or other tax document required to be filed under the income tax law for the purpose of reporting income taxes due and employer withholdings, but excludes amended returns or declarations of estimated tax.

Under the bill, a "tax return preparer" is any person that operates a business that prepares, or directly or indirectly employs another person to prepare, an original tax return for a taxpayer, in exchange for compensation or remuneration from the taxpayer or the taxpayer's related member.[50] "Tax return preparer" excludes an individual who performs any of the following activities:

(1) Furnishes typing, reproducing, or other mechanical assistance;

(2) Prepares an application for refund or a return on behalf of an employer by whom the individual is regularly and continuously employed, or on behalf of an officer or employee of that employer;

(3) Prepares as a fiduciary an application for refund or a return;

(4) Prepares an application for refund or a return for a taxpayer in response to a notice of deficiency issued to, or in response to a waiver of restriction after the commencement of an audit of, the taxpayer or the taxpayer's related member.

Once the tax return preparer meets the 50-return threshold, the preparer must continue to submit all original tax returns electronically each year, unless the preparer, during the previous calendar year, prepared no more than 25 original tax returns.

If a tax return preparer is required to submit original tax returns electronically, but files an original tax return by some means other than by electronic technology, the Tax Commissioner must impose a $50 penalty for each return that is not filed by electronic technology. Upon good cause shown by the tax return preparer, the Commissioner may waive or, if the penalty has been paid, refund, all or any portion of the penalty.

[50] Generally, a "related member" is a business entity (corporate or noncorporate) that substantially owns, or is substantially owned by, a taxpayer, either through direct ownership or through a chain of other business entities (R.C. 5733.042).

Property tax exemption for nonprofit, urban development and revitalization institutions

(R.C. 5709.121; Section 757.10)

Continuing law provides that property belonging to a charitable or educational institution is considered to be used exclusively for charitable or public purposes by the institution, and thus exempt from property taxes, if it is: (1) used as a public community center or for other charitable, educational, or public purpose, (2) made available for use in furtherance of its charitable, educational, or public purposes and not with the view to profit, or (3) used by a private corporation to encourage the advancement of science or promotion of scientific research.

The bill classifies as a charitable institution whose property is eligible for property tax exemption any nonprofit organization that is exempt from federal income taxation if the majority of its board of directors are appointed by the mayor or legislative authority of a municipal corporation or a board of county commissioners, or a combination thereof, and the nonprofit organization's primary purpose is to assist in the development and revitalization of downtown urban areas. The bill provides that this classification applies to any application for exemption, or the property that is the subject of the application, pending before the Tax Commissioner on the bill's effective date or filed thereafter.

Income tax exemption for Military Injury Relief grants

(R.C. 5747.01(A)(26))

The bill exempts from the income tax any grant amount an individual receives from the Military Injury Relief Fund. The Military Injury Relief Fund is funded by an income tax refund "check-off" permitting taxpayers to contribute income tax refunds to the fund, and by separate donations. Grants from the fund are available for Ohio residents who were members of the armed services and who were injured while serving on active duty in Operation Iraqi Freedom or Operation Enduring Freedom and while receiving hazardous, combat, or hostile fire pay. (Service-connected disability qualifies as injury for grant eligibility purposes.) Grants are made to the extent funds are available. Grant eligibility criteria and other administrative provisions are set forth in R.C. 5101.98 and Ohio Admin. Code Ch. 5101:10-2.

The current tax treatment of grants from the Military Injury Relief Fund is not clearly expressed in law. Generally, under federal and Ohio income tax law, any form of income is taxable unless it is specifically exempted under federal or Ohio law. However, payments an individual receives are not taxable income if

they are in the nature of a public welfare benefit based upon need. Whether Military Injury Relief grants are in the nature of need-based public welfare benefits is not clear, because the eligibility requirements appear to be based solely on injury, but the source of the funds are private donations rather than public funds. The bill expressly exempts the grants by permitting them to be deducted to the extent the grants are treated as taxable income.

Sales and use tax exemption for certain inventory control property

(R.C. 5739.02(B)(48); Section 812.30)

The bill exempts from the sales and use tax sales of machinery, equipment, and software to a "qualified direct selling entity" for use in a warehouse or distribution center primarily to store, transport, or handle inventory that is held for sale to independent salespersons who operate as "direct sellers" and that is held primarily for distribution outside Ohio. As used in the bill, a "qualified direct selling entity" is an entity selling to direct sellers at the time the entity enters into a jobs creation tax credit agreement on or after January 1, 2007, with the Tax Credit Authority.[51] The bill defines a "direct seller" as a person selling consumer products to individuals for personal or household use and not from a fixed retail location, including selling such products at in-home product demonstrations, parties, and other one-on-one selling.

The sales and use tax exemption is limited to machinery, equipment, and software first stored, used, or consumed in Ohio within the five-year period commencing with the bill's effective date.

The bill provides that "neither contingencies relevant to the granting of, nor later developments with respect to, the jobs creation tax credit" impairs the status of the qualified direct selling entity's eligibility to the exemption after execution of the job creation credit.

The exemption takes effect immediately under the bill.

Utility property tax replacement payments for schools

(R.C. 5727.85)

School districts receive property tax replacement payments under continuing law from a portion of the kilowatt-hour and natural gas tax revenues to

[51] The jobs creation tax credit, which is a refundable credit for fostering new job creation in Ohio, may be claimed against the domestic or foreign insurance company franchise tax, corporation franchise tax, income tax, or commercial activity tax.

offset the fixed-rate and fixed-sum levy losses the districts incurred when the assessment rates on the tangible personal property of electric companies and natural gas companies were reduced as part of deregulation of those industries. The deregulation-related replacement payment scheme terminates replacement payments for a school district's fixed-rate levy losses once the increase in the district's post-deregulation state funding matches the inflation-adjusted tax loss from those levies.

Continuing law also phases out the taxation of all tangible personal property used in business, which generally increases a school district's state funding (because funding is inversely related to taxable property value). This phase-out can accelerate the time when a school district's state funding increase from deregulation matches its deregulation-related inflation-adjusted tax loss, resulting in an acceleration of the date when the district no longer receives replacement payments for utility deregulation-related property tax losses.

The bill modifies the calculation of utility deregulation-related property tax replacement payments to school districts by neutralizing the state school funding effects of the phase-out of business personal property taxes. The apparent effect of the modification is to delay the eventual termination of deregulation-related replacement payments to any school district whose increase in state funding resulting from deregulation-related tax losses equals those tax losses indexed for inflation since 2002.

Timeline for school district income tax rate reductions

(R.C. 5748.022)

Continuing law authorizes a board of education to reduce its school district's income tax rate by adopting a resolution. Among other facts, the board must designate in the resolution the date on which the reduced tax rate takes effect, which, under current law, is the upcoming January 1 that occurs at least 60 days after a copy of the resolution is certified to the Tax Commissioner.

The bill shortens the timeline for the earliest effective date of the rate reduction to the first day of January if that date is at least 45 days after the copy of the resolution is certified to the Commissioner.

School district personal property tax reimbursement

(R.C. 5751.20 and 5751.21(B))

School districts currently are compensated with state funds for some of the tax revenue losses resulting from the phase-out of taxes on business personal property. Compensation is made in two forms: direct compensation comprised of

thrice-annual payments; and indirect compensation from increases in state funds arising from formulas that provide funding in inverse proportion to taxable property values (i.e., more funding for lower property value). The compensation continues through fiscal year 2018 (except for debt levies, which are compensated until expiration). Beginning in fiscal year 2012, the payment amounts are gradually reduced and phased out.

The indirect, formula-driven compensation (called the "state education aid offset") currently is computed as of July 15 of each fiscal year; the Department of Education and the Director of Budget and Management must consult with each other to determine the offset and must agree on the amount by July 20.

The bill requires the Department of Education to recompute the offset by the last day of each fiscal year (i.e., by June 30), presumably to correct for any adjustments to state funding occurring during the fiscal year. Subsequent reimbursement payments would be adjusted to account for any under- or overpayment. The bill also requires a second offset recomputation by the mid-point of the following fiscal year (December 31) and requires subsequent reimbursement payments to be adjusted accordingly. (The second recomputation must be done in consultation with the Director of Budget and Management.) The recomputations begin with payments made in fiscal year 2008.

The bill also requires the state education aid offset to be computed so as to account for any state funding component that is based on the amount of property taxes charged, rather than directly on the basis of taxable value. The bill also delays by one month the third and final reimbursement payment made to school districts in each fiscal year. Currently, three payments are made in each fiscal year: on the last days of August, October, and May. The May 31 payment is replaced by a June 30 payment, beginning in 2008.

The changes take immediate effect.

Calculating school district fixed-sum levy loss for reimbursements

(R.C. 5751.20(E))

Currently, school districts are compensated for tax losses resulting from a phase-out of business personal property taxes. For the purpose of this compensation, a distinction is made between two types of levies: fixed-sum levies and fixed-millage levies. Fixed-sum levies include school district "emergency" levies (imposed under R.C. 5705.194), which are currently reimbursed through 2010, and thereafter reimbursed until they expire or, if they are renewed or otherwise succeeded by an emergency levy, until the successor expires, until 2017. Another kind of fixed-sum school district levy, which is levied for successively

greater (but pre-determined) amounts over a stated period of time (under R.C. 5705.213), is reimbursed only until it expires; they are not reimbursed through 2010 if they expire before then, and renewals are not reimbursed.

The bill treats levies imposed under R.C. 5705.213 in the same manner as emergency levies by reimbursing the loss from the phase-out of the business personal property tax through 2010, and after 2010 for as long as the levies are renewed or otherwise succeeded by the same kind of levy, until 2017, when compensation ends.

The change takes immediate effect.

State education aid offset: extend time for determination

(R.C. 5751.21(A))

Currently, the Department of Education and Director of Budget and Management must consult with each other by July 15 each year and compute the state education aid offset amount by July 20. (The offset amount reduces direct reimbursement for business personal property tax losses because the school funding formula indirectly reimburses school districts for tax value losses by increasing state funding.)

Under the bill, the deadlines for the Department of Education and Director of Budget and Management to consult and determine the state education aid offset is extended from July 20 to July 30. Presently, the calculation is made based on information as of July 15, but under the bill information as of July 30 of each year will be used.

The change takes immediate effect.

Community reinvestment area tax exemption

(R.C. 3735.67(D))

Under current law, newly constructed or remodeled structures located in a community reinvestment area (CRA) may qualify for an exemption from real property taxation. A CRA is an area in which housing facilities or structures of historical significance are located and new housing construction and repair of existing facilities or structures are discouraged. The designation of an area as a CRA is made by a resolution adopted by the legislative authority of the municipality or county in which the area is located.

An exemption from real property taxation can be granted on a continuing basis for a period of time specified by the legislative authority. The maximum

period of exemption is between ten and 15 years depending upon the type of structure exempted.

The bill authorizes a legislative authority to extend an exemption for a dwelling for up to an additional ten years if the dwelling meets each of the following criteria:

(1) The dwelling is a structure of historical or architectural significance, meaning the dwelling has been designated as such by a legislative authority due to the dwelling's age, rarity, architectural quality, or due to a previous designation by a historical society, association, or agency;

(2) The dwelling is a certified historic structure (i.e., it is a structure listed in the National Register or located in a registered historic district and certified by the Secretary of the Interior as being of historical significance to the district), and expenditures to rehabilitate the dwelling qualified for the federal rehabilitation tax credit under Section 47 of the Internal Revenue Code;

(3) The dwelling is a certified historic structure, and an owner donating the dwelling was permitted a charitable deduction for such donation under Section 170(h) of the Internal Revenue Code; and

(4) Units within the dwelling have been leased to individual tenants for five consecutive years.

Foreclosure prevention and nuisance abatement

(R.C. 321.261)

Continuing law requires 5% of all delinquent real property, personal property, and manufactured and mobile home taxes and assessments to be deposited in a county's delinquent tax and assessment collection (DTAC) fund to be used solely in connection with the collection of those taxes and assessments.

Section 757.30 of H.B. 119 temporarily permits the board of county commissioners of a county with a population exceeding 1.2 million (i.e., Cuyahoga County) to authorize up to $3 million in the DTAC fund to be used to prevent residential mortgage foreclosures in the county and for nuisance abatement of foreclosed dwellings. The funds must be used to provide financial assistance in the form of loans to borrowers in default on their home mortgages, including to pay late fees, clear arrearage balances, and augment monies used in the county's "foreclosure prevention program." The funds also must be used to assist municipal corporations in the county in the nuisance abatement of deteriorated residential buildings in foreclosure, including paying the costs of

boarding up buildings and lot maintenance and demolition costs. The temporary authority is scheduled to terminate June 30, 2008.

County cigarette and alcohol excise taxes: prohibit future imposition

(R.C. 307.697, 351.26, 4301.421, 4301.424, 5743.021, 5743.024, 5743.321, and 5743.323)

Currently, some counties, and any convention facilities authority, are authorized, with voter approval, to impose excise taxes on cigarettes or alcoholic beverages (or both) to finance the construction or renovation of a major league sports facility and, in the case of counties, for "related economic development or redevelopment" projects. To levy such a tax, a county must have an agreement in place with a "host" municipal corporation providing for the use of the tax revenue and other matters prescribed by law. Also under current law, one county (Cuyahoga) is authorized (with voter approval) to levy an excise tax on cigarettes to fund the facilities and operations of a regional arts and cultural district created by the county.

The bill prohibits the future imposition of those excise taxes for those purposes. The bill does not prohibit the continuing collection of revenue from such taxes that are levied before the amendment's effective date, so long as the existing tax remains in effect.

Temporary township TIF authority

(Section 705.10)

Under current law, a board of township trustees is authorized to establish a tax increment financing (TIF) area in which property taxes on the increased assessed value of real property are permitted to be used to finance public infrastructure improvements. A township TIF area can consist of a single parcel (a "parcel" or "project" TIF) or a group of contiguous parcels (an "incentive district"). To create either TIF, the board of township trustees must adopt a resolution by unanimous vote.

The bill authorizes a board of trustees of a township with a population exceeding 55,000 according to the most recent federal decennial census to adopt a resolution creating either kind of TIF on or before December 31, 2008, by majority vote. In the case of an incentive district, continuing law conditions must be satisfied.

Sales and Use Tax: guaranteed auto protection

(R.C. 5739.01(B)(10))

Current law does not levy a sales and use tax specifically on a transaction in which guaranteed auto protection is provided. Guaranteed auto protection is an insurance-like product whereby a financial institution or other entity promises to pay a motor vehicle owner or lessee the difference between the amount received from motor vehicle insurance and the amount owed to a creditor holding title to or a lien on the motor vehicle in the event the motor vehicle suffers a total loss under the terms of the motor vehicle insurance policy, or is stolen and not recovered.

The bill includes the sale of guaranteed auto protection as a taxable sale if the protection is sold as part of a motor vehicle purchase or lease transaction. A transaction in which guaranteed auto protection is the only item sold is not subject to sales and use taxation.

Nonresident motor vehicle sales to Canadians

(R.C. 5739.029)

Under continuing sales tax law, motor vehicle sales to nonresidents of Ohio are exempt from the tax if the nonresident affirms the intention to immediately remove the motor vehicle to another state, to title or register the vehicle in another state, and to use the vehicle in a state other than Ohio, and if any one of the following apply: (1) the state in which the consumer intends to title or register the vehicle provides a similar exemption to residents of Ohio, (2) the state does not provide a credit against its sales or use tax for sales or use tax paid to Ohio, or (3) the state does not levy a sales, use, or similar tax on the sale, ownership, or use of motor vehicles. Current law defines "state" as "any state, district, commonwealth, or territory of the United States." Thus, a nonresident of Ohio would not appear to be eligible for the exemption if the nonresident intended to remove the vehicle to a foreign country.

The bill adds "any province of Canada" to the list of places to which a nonresident may remove and title a vehicle and potentially qualify for the sales tax exemption.

Nonresident motor vehicle sales tax distribution

(R.C. 5739.21 and 5739.213 (repealed); Section 757.40 of H.B. 119)

Under continuing sales tax law, the rate applicable to a taxable motor vehicle sale to a nonresident equals the lesser of 6% or the rate the nonresident would pay in the state where the nonresident intends to title the vehicle. Current

law requires a portion of the tax revenue from such a sale to be distributed to the county in which the sale is deemed to occur under origin-based sourcing rules. The required distribution equals one-twelfth of the tax collected until July 1, 2008; from that date, the county share equals 0.5% of the price paid.

The bill rephrases the distribution calculation. Under the bill, the required distribution equals 8.33% (about one-twelfth) of the sales tax collected. Under this calculation, the sales tax revenue distributed to a county beginning July 1, 2008, will be less than provided under current law if the sales tax applicable to a sale is less than 6%. For example, in a taxable nonresident motor vehicle sale on or after July 1, 2008, wherein the price is $25,000 and the applicable tax rate is 4%, under current law the revenue to be distributed equals $125 [$25,000 * 0.5%]. Under the bill, the revenue distribution will equal $83.30 [$25,000 * 4% * 8.33%].

The bill moves the rephrased calculation to R.C. 5739.21, which governs the distribution of county and transit authority sales tax revenue.

Nonresident trust income tax credit

(R.C. 5747.02(D)(2))

Current law authorizes a trust to claim an income tax credit for taxes paid to another state on the trust's accumulated nonbusiness income; the credit cannot exceed the amount of Ohio tax that would be imposed on that income. The credit is applied before any other credits.

The bill limits the income tax credit to "nonresident trusts"--i.e., presumably a trust, or part of a trust, that is not a resident trust under applicable law (R.C. 5747.01(I)(3)).

Municipal Income Tax Fund: interest earnings

(R.C. 5745.05(A))

Generally, interest on money in the state treasury must be credited to the General Revenue Fund unless the law provides otherwise. (R.C. 113.09.) Current law implies that interest earnings from money in the Municipal Income Tax Fund are to be credited to the fund by requiring the interest to be apportioned among school districts levying an income tax. The amendment clarifies that the interest earnings from deposits in the Municipal Income Tax Fund are to be credited to that fund.

The change takes immediate effect.

Assessment of penalty for refusing record inspection or examination demand

(R.C. 5703.19(B))

Continuing law authorizes the Tax Commissioner or the Commissioner's employees to examine a person's books, accounts, and other records and to examine under oath any officer, agent, or employee for the purposes of the tax laws. If the person receives at least ten days' written notice of the examination demand and refuses to comply with the demand, a $500 penalty is imposed for each day the refusal continues.

The bill adds a reference to the commercial activity tax law (Chapter 5751.) as another law under which the Tax Commissioner may assess the penalty against CAT taxpayers for refusing to comply with a demand. The bill eliminates reference to the soft drink tax law, which no longer exists.

Disclosure of coal severance tax information

(R.C. 5703.21 and 5749.17)

The bill expressly authorizes the Department of Taxation to disclose to the Department of Natural Resources information about transactions, property, or business of any person that is needed to verify compliance with the coal severance tax. Continuing law generally prohibits the Department, and its employees and agents, from disclosing taxpayer information, but there are several exceptions, most of which involve inter-governmental exchanges of information.

The bill prohibits the Department of Natural Resources from publicly disclosing information it receives from the Department of Taxation, except for disclosures to the Attorney General for purposes of enforcing the law.

Tax discovery data system

(R.C. 5703.82; Sections 405.10 and 812.20)

The bill requires the Department of Taxation to implement a "tax discovery data system" to increase tax collection efficiency. The Department must contract for the necessary hardware, software, and services to establish and implement the system by April 1, 2009. The system must be "fully integrated" and "pre-staged" to assist in revenue analysis, discover noncompliant taxpayers, and collect taxes from those taxpayers. The system must consolidate tax data from various mainframe systems and operate as a single system.

The bill creates in the state treasury the Discovery Project Fund to be used to pay the costs of implementing and operating the tax discovery data system and

to defray the costs incurred by the Department in administering the system. The bill makes an appropriation of $2 million in FY 2009 from the General Revenue Fund to the Discovery Project Fund to pay those costs. If, at any time during that fiscal year, the Tax Commissioner determines that additional cash transfers are necessary to pay the actual costs of the system and other expenses the Department incurs attributable to the system, the Commissioner may request that the Director of Budget and Management increase such amounts.

The bill also requires the Commissioner to request funds quarterly to pay the costs of operating and administering the tax discovery data system. Beginning July 1, 2009, on or before the first day of January, April, July, and October of each calendar year, the Commissioner must determine and certify to the Director of Budget and Management the amount needed to pay the costs of operating the system in the previous calendar quarter and the costs incurred in the previous calendar quarter in administering the system. The Director must provide for payment from the General Revenue Fund to the Discovery Project Fund of the amount so certified.

Confidentiality: non-participating cigarette manufactures

(R.C. 1346.03)

Continuing law requires cigarette manufacturers not participating in the Tobacco Master Settlement Agreement to deposit certain amounts into a qualified escrow account. The amount is based upon the number of individual cigarettes the manufacturer sells in the state. The manufacturer must disclose this information to the Tax Commissioner, who shares it with the Attorney General for compliance purposes. R.C. 1346.03 prohibits the Attorney General from publicly disclosing the information the Attorney General receives from the Tax Commissioner, unless it is necessary to facilitate compliance.

The bill corrects a cross-reference error regarding the type of information that may not be disclosed. The referenced division does not exist.

Consent for consumer cigarette shipment: false information

(R.C. 2921.13(A)(16))

Under continuing law, a consumer may apply to the Tax Commissioner for consent to receive an out-of-state shipment of cigarettes so long as the cigarettes may be lawfully sold in the state and are not reasonably available to the consumer at a retail location. The application for consent must disclose the consumer's age and any other information required by the Commissioner. A criminal penalties statute prohibits a consumer from providing knowingly false information on the

application. The statute, however, references a section of the Revised Code that does not exist.

The bill inserts the correct cross-reference.

DEPARTMENT OF TRANSPORTATION

- Requires the Director of Transportation to establish a fee for participation in the existing business logo sign program; creates the Motorist Service Sign Fund, consisting of proceeds from the business logo sign program, and allows the Director to use money in the Fund for transportation purposes.

- Modifies the Department of Transportation business logo program and eliminates a requirement that costs of the program at a specific interchange be divided equally among participating businesses.

- Permits bid guaranties for ODOT construction projects to be in the form of wire transfers (not just certified checks, cashiers' checks, or bid bonds), and creates, as a custodial fund of the Treasurer of State, the ODOT Letting Fund for the deposit of bid guaranties other than bid bonds.

Department of Transportation business logo sign program

(R.C. 4511.101)

Current law requires the Director of Transportation to establish a program for the placement of business logos on state directional signs within the rights-of-way of divided, multi-lane, limited access highways. The businesses participating in the program must pay all direct and indirect costs of the program, with the costs for a particular sign being divided equally among the businesses with logos on that sign. Current law authorizes the Director, in accordance with rules he adopts, to contract with any private person to operate, maintain, and market the business logo sign program. The rules must describe the terms of the contract and must allow for a reasonable profit to be earned by the successful applicant.

The bill requires the Director of Transportation to establish, and revise at any time, a fee for participation in the existing business logo sign program. It also creates the Motorist Service Sign Fund in the state treasury, consisting of proceeds

from the business logo sign program. Under the bill, money collected from participating businesses in excess of the direct and indirect costs and any reasonable profit earned by a person awarded a contract to operate the program must be retained by, or remitted to, the Department and deposited to the credit of the Motorist Service Sign Fund. The Director must use money credited to the Fund for transportation purposes, including transportation infrastructure.

The bill eliminates the current law requirement that costs of the program at a specific interchange be divided equally among participating businesses. The bill also modifies the rulemaking and contracting language of existing law. It specifies that the Director may contract with any private person to operate, maintain, *or* (rather than must) market the business logo sign program and establishes that the contract *may* (rather than must) allow for a reasonable profit to be earned by the successful applicant.

Creation of the ODOT Letting Fund

(R.C. 5525.01)

When a contractor bids on a highway construction project, the contractor must file with the bid a bid guaranty in the form of a certified check or cashier's check in an amount equal to 5% of the bid (up to $50,000), or bid bond for 10% of the bid. If the bidder is not awarded the contract, the check or bond is required to be returned to the bidder. But if the bidder is awarded the contract, the bid guaranty is held until the bidder enters into a contract to construct the project and furnishes two bonds, each in the estimated cost of the project: (1) a contract performance bond that will indemnify the state against failure of the contractor to perform or, in the case of a grade separation project, will indemnify any railroad company against damage that may result from the contractor's negligence and (2) a payment bond conditioned on payment by the contractor and all subcontractors for labor or work performed and materials furnished for the project.

The bill provides that the bid guaranty may also be in the form of an electronic funds transfer to the Treasurer of State that is evidenced by a receipt or by a certification to the Director of Transportation in a form prescribed by the Director that an electronic funds transfer has been made to the Treasurer of State. Whether the bid guaranty is in the form of a certified check, a cashier's check, or a wire transfer, the money is to be credited to the ODOT Letting Fund, which the bill creates as a custodial fund of the Treasurer of State. Custodial funds of the Treasurer of State are not in the state treasury, but money credited to them is kept, invested, and disbursed by the Treasurer of State. Money in a custodial fund is not subject to appropriation but is paid out of the fund on proper order (as from the Department of Transportation).

Bid bonds would continue to be held by the Department of Transportation. However, if the Department determines that a bid guaranty is to be forfeited, the bill requires the amount of the bid guaranty to be transferred to (or, in the case of money paid on a forfeited bond, deposited into the state treasury, to the credit of) the Highway Operating Fund. Any investment earnings of the ODOT Letting Fund are to be distributed as the Treasurer of State considers appropriate.

TREASURER OF STATE

- Expands the definition of "financial transaction device" in the law governing the payment of amounts owed the state to include any device or method for making an electronic payment or transfer of funds.

- Requires the Treasurer of State to implement the SaveNOW program to create the availability of higher-rate savings accounts for the purpose of increasing personal savings and promoting financial education among Ohio residents.

- Permits Ohio residents to participate in the SaveNOW program upon agreeing to maintain a SaveNOW savings account with an eligible savings institution and completing the SaveNOW education program established and administered by the Treasurer.

- Requires an eligible savings institution to offer SaveNOW savings accounts on the placement of a SaveNOW linked deposit with the institution.

- Permits the Treasurer to invest in SaveNOW linked deposits, provided that the combined amount of investments of state money in linked deposits of any kind is not more than 12% of the state's average investment portfolio.

- Releases the state and the Treasurer from any liability under any SaveNOW savings account and provides that misuse or misconduct by an eligible institution or eligible resident does not affect the deposit agreement between the institution and Treasurer.

- Requires the Treasurer to issue a report on the SaveNOW program annually to the Governor, Speaker of the House, and Senate President, setting forth the SaveNOW linked deposits made by the Treasurer during the year and including a list of eligible savings institutions and the

number of the SaveNOW savings accounts at each of those institutions during the preceding year.

- Revises the determination of interest rates under the Small Business Linked Deposit Program.

Broadening of definition of "financial transaction device" in the law governing the payment of amounts owed the state

(R.C. 113.40)

Current law allows the State Board of Deposit to adopt a resolution authorizing the acceptance of payment by financial transaction devices to pay for state expenses. The resolution must (1) designate the state elected officials and state entities that are authorized to accept payments by financial transaction device, (2) list the state expenses that may be paid by use of a financial transaction device, and (3) specifically identify the financial transaction devices that a state elected official or state entity may authorize as acceptable means of payment for state expenses. (R.C. 113.40(B).)

"State expenses" include fees, costs, taxes, assessments, fines, penalties, payments, or any other expenses a person owes to a state office under the authority of a state elected official or state entity. "Financial transaction device" includes a credit card, debit card, charge card, prepaid or stored value card, or automated clearinghouse network credit, debit, or e-check entry that includes, but is not limited to, accounts receivable and internet-initiated, point of purchase, and telephone initiated applications. (R.C. 113.40(A)(1) and (2).)

The bill retains the current definition of "financial transaction device," and includes within the definition any other device or method for making an electronic payment or transfer of funds (R.C. 113.40(A)(1)).

SaveNOW Linked Deposit Program--introduction

The bill establishes the SaveNOW program under which the Treasurer of State may place linked deposits of state money with certain financial institutions described in the bill. Those institutions must use a portion of the interest they earn

on the SaveNOW linked deposits to provide special savings accounts to Ohio residents that earn higher than normal interest.[52]

SaveNOW program purpose

(R.C. 135.102)

The General Assembly finds, as stated in the bill, that the personal savings rate among Ohioans has declined in recent years and that personal savings are important to the future prosperity of Ohio and must be encouraged and assisted. In order to promote increased personal savings and thereby materially contribute to the economic growth of Ohio and the financial security of Ohio residents, the bill creates the SaveNOW program. The bill declares that it is state public policy through the SaveNOW program to create an availability of higher-rate savings accounts for the purpose of increasing personal savings and promoting financial education among Ohio residents.

SaveNOW savings accounts

(R.C. 135.101 and 135.104)

Participation and account requirements. Residents of Ohio may participate in the SaveNOW program created by the bill by agreeing to maintain a SaveNOW savings account at an eligible savings institution for the program period and by completing the SaveNOW education program (discussed below). Under the bill, a "SaveNOW savings account" means an interest-bearing account that is opened by an eligible resident at an eligible savings institution and that complies with program requirements. An "eligible savings institution" is a financial institution that offers savings accounts available to residents of Ohio, that is a public depository[53] of public money of the state, and that agrees to participate in the SaveNOW program. A "program period" is the length of time, not to exceed two years, established by the Treasurer that an account is eligible to receive the SaveNOW interest incentive. An "eligible resident" is an individual who is a resident of Ohio and who completes the SaveNOW education program.

Eligible savings institutions must accept applications for a SaveNOW savings account from eligible residents on a first-come, first-serve basis on forms prescribed by the Treasurer. The eligible savings institution must offer those

[52] Under the bill, "SaveNOW linked deposit" means a deposit placed by the Treasurer with an eligible savings institution at a rate determined and calculated by the Treasurer.

[53] A public depository is a financial institution that receives or holds public moneys deposited pursuant to Ohio's Uniform Depository Act.

residents a SaveNOW savings account that satisfies all of the following: (1) opening and maintaining the account requires no minimum deposit, (2) no fees are charged for opening or using the account, and (3) all deposits in the account earn at least the premium savings rate. Under the bill "premium savings rate" means the highest savings rate that is offered by an eligible savings institution for large deposits, as approved by and negotiated with the Treasurer.

Participation limitation. The provisions of the SaveNOW program prohibit eligible residents from holding more than one SaveNOW savings account during a program period, and the bill stipulates that an individual who holds an account jointly with another individual is considered to be holding an account. However, under the bill, an individual with joint ownership of an account is not considered to be holding an account if it is opened by a parent, grandparent, or guardian for a minor or for a dependent adult.

SaveNOW education program. The bill specifies that the SaveNOW education program Ohio residents must complete in order to open a SaveNOW savings account must include a financial literacy assessment and a financial literacy program established and administered by the Treasurer.

Interest incentive. For the purpose of providing an additional incentive for saving, the bill requires a SaveNOW incentive rate of interest to accrue to the average daily balance of deposits in a SaveNOW savings account, up to $5,000, during the program period at a rate that is equal to up to three percentage points above the premium savings rate. The interest earnings arising from the SaveNOW incentive rate of interest must be credited to the account in a lump sum at the conclusion of the program period. The SaveNOW incentive interest earnings also must be deducted from the interest earned on the state's SaveNOW linked deposit at the end of the eligible program period.

SaveNOW program administration

(R.C. 135.105(A) and (B))

The bill requires the Treasurer to take any and all steps necessary to implement the SaveNOW program and monitor the compliance of eligible savings institutions, including the development of guidelines for the program as necessary. The bill also requires eligible savings institutions to offer SaveNOW savings accounts to eligible residents upon placement of SaveNOW linked deposits with those institutions. Each institution is required to have a certificate of compliance with the program in the form and manner prescribed by the Treasurer.

Investment limitations

(R.C. 135.103 and 135.63)

The Treasurer is permitted to invest in several linked deposit programs established under current law, provided that at the time of placement of any linked deposit under these programs the combined amount of investments in the linked deposits is not more than 12% of the state's total average investment portfolio as determined by the Treasurer.[54] The Treasurer must give priority to the investment, liquidity, and cash flow needs of the state when deciding whether to invest in the existing law linked deposits. The bill subjects the SaveNOW program linked deposits to those same current law limitations. In addition, the bill duplicates those provisions in a new section of law (applicable specifically to the investment of state money in SaveNOW linked deposits).

Exclusion from liability

(R.C. 135.106)

The bill provides that the state and the Treasurer are not liable to any eligible savings institution or any eligible resident in any manner for the terms associated with SaveNOW savings accounts. Under the bill, any misuse or misconduct on the part of an institution or resident does not in any manner affect the deposit agreement between the institution and the Treasurer.

Annual report

(R.C. 135.105(C))

The bill requires the Treasurer to report on the SaveNOW program for the preceding calendar year by the first day of February, annually. The Treasurer is required to make the report to the Governor, the Speaker of the House of Representatives, and the President of the Senate. Under the bill, the Speaker of the House and the President of the Senate must transmit copies of the report to the chairpersons of the standing committees of their respective houses that customarily consider legislation regarding finance. The report must set forth the SaveNOW linked deposits made by the Treasurer under the program during the year and must include a list of eligible savings institutions and the number of

[54] Linked deposit programs under current law are the linked deposit program (R.C. 135.61 to 135.67); the agricultural linked deposit program (R.C. 135.71 to 135.76); the housing linked deposit program (R.C. 135.81 to 135.87); and the assistive technology device linked deposit program (R.C. 135.91 to 135.97).

SaveNOW savings accounts at each of those institutions during the preceding year.

Small Business Linked Deposit Program

(R.C. 135.61, 135.65, and 135.66)

The Small Business Linked Deposit Program, in recognition of economic hardship facing small businesses in Ohio, provides lower interest loans to eligible small businesses. Current law requires the Treasurer of State to place applicable certificates of deposit with eligible institutions at a rate of up to 3% below the current market rate. It also requires eligible lending institutions to provide loans to eligible small businesses at a rate of 3% below the present borrowing rate applicable to each business.

The bill instead requires that the Treasurer of State place the certificates of deposit with eligible institutions at a rate that is below the current market rate. In turn, an eligible lending institution must provide loans to each eligible small business at a rate that reflects a percentage rate reduction below the business's present borrowing rate that is equal to the percentage rate reduction below the market rate at which the linked deposit was placed.

OHIO WATER DEVELOPMENT AUTHORITY

- Prohibits the Ohio Water Development Authority from charging any fees or fines in excess of the principal amount of a loan made by the Authority.

Limitation on fees and fines related to OWDA loans

(R.C. 6121.045 and 6123.042)

Under current law, the Ohio Water Development Authority is authorized to make loans for certain waste water facility projects and solid waste projects. The bill prohibits the Authority from charging any fees or fines in excess of the principal amount of a loan made by the Authority.

BUREAU OF WORKERS' COMPENSATION

- Requires the Administrator of Workers' Compensation to transition from use of the Micro Insurance Reserve Analysis System to a different system, or different version of that system, by July 1, 2008, instead of June 30, 2008, as under current law.

Bureau of Workers' Compensation Transition from use of the Micro Insurance Reserve Analysis System

(Sections 610.30 and 610.31)

Current law, as stated in section 512.70 of Am. Sub. H.B. 100 of the 127th General Assembly, requires the Administrator of Workers' Compensation to transition from the use of Micro Insurance Reserve Analysis System to a different system or different version of that system to determine the reserves for use in establishing premium rates assessed for purposes of the Workers' Compensation Law by June 30, 2008. The bill changes the date by which the transition must occur to July 1, 2008.

HISTORY

ACTION	DATE
Introduced	---

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