



## Section 1: General Government

### State Fiscal Highlights

STATE FUND	FY 2008	FY 2009	FUTURE YEARS
<b>General Revenue Fund</b>			
Revenues	Gain of \$50 million from authorized transfers from non-GRF funds		- 0 -
Expenditures	- 0 -	Increase up to \$3 million for Secretary of State county absent voter ballot mailing reimbursement program	- 0 -
	Decrease of \$1.7 million in Transportation earmark adjustments	- 0 -	- 0 -
	- 0 -	Potential payroll savings in the hundreds of thousands of dollars annually for ceasing Medicare Part B premium reimbursements to state employees	
	- 0 -	Increase of \$750,000 for the Legislative Taskforce on Redistricting	- 0 -
	- 0 -	Increase of \$200,000 for the Commission on Cuyahoga County Government Reform	- 0 -
	- 0 -	Increase of \$144,612 for Capitol Square Review and Advisory Board and corresponding decrease for Ohio Historical Society to transfer Statehouse tour program activities to Capitol Square Review and Advisory Board	- 0 -

<b>Facilities Establishment Fund (Fund 7037) – Department of Development</b>			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	- 0 -	Transfer-out of up to \$2 million	- 0 -
<b>Workforce Development Initiatives Fund (Fund 3AE0) – Department of Development</b>			
Revenues	- 0 -	Transfer-in of up to \$2 million	- 0 -
Expenditures	- 0 -	- 0 -	- 0 -
<b>Ohio Housing Trust Fund (Fund 6460) – Department of Development</b>			
Revenues	- 0 -	Potential loss of county filing fees	Potential loss of county filing fees
Expenditures	- 0 -	- 0 -	- 0 -
<b>Rail Development Fund (Fund 4N40) – Department of Transportation/ Rail Development Commission</b>			
Revenues	- 0 -	Potential loss from transfers to custodial account	Potential loss from transfers to custodial account
Expenditures	- 0 -	- 0 -	- 0 -
<b>Highway Operating Fund (Fund 7002) – Department of Transportation</b>			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Increase of \$200,000 – earmark for West Creek Project (Cleveland)	- 0 -	- 0 -
<b>Transit Capital Fund (Fund 5E70) – Department of Transportation</b>			
Revenues	- 0 -	Loss of \$5 million	- 0 -
Expenditures	- 0 -	Decrease of \$5 million	- 0 -
<b>Safety and Hygiene Operating Fund (Fund 8260) – Bureau of Workers' Compensation</b>			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	- 0 -	\$2.5 million increase	- 0 -
<b>Public Audit Expense – Intrastate Fund (Fund 1090) – Auditor of State</b>			
Revenues	Potential gain in penalty assessment collections	Potential gain in penalty assessment collections	Potential gain in penalty assessment collections
Expenditures	Potential decrease in collection costs	Potential decrease in collection costs	Potential decrease in collection costs
<b>Undivided Liquor Permit Fund (Fund 7066) – Department of Commerce</b>			
Revenues	- 0 -	Potential gain from various liquor permits	Potential gain from various liquor permits
Expenditures	- 0 -	Potential increase in transfers-out to GRF, ODADAS Fund 4750, and local governments	Potential increase in transfers-out to GRF, ODADAS Fund 4750, and local governments
<b>Real Estate Operating Fund (Fund 5490) – Department of Commerce</b>			
Revenues	- 0 -	Potential minimal gain	Potential minimal gain
Expenditures	- 0 -	- 0 -	- 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2009 is July 1, 2008 – June 30, 2009.

### **Transfers and other budget adjustments**

- **Additional transfers to the GRF of non-GRF funds.** The bill increases from \$70 million to \$120 million the amount that the Director of Budget and Management may transfer from non-GRF funds not constitutionally restricted to the GRF over the FY 2008-FY 2009 biennium.
- **Ohio Department of Transportation (ODOT) GRF earmark modifications.** The bill eliminates an FY 2008 GRF earmark of \$1.5 million for air travel and support and economic development of statewide airports. The bill also changes the funding source for an FY 2008 earmark of \$200,000 for the Cleveland Metropolitan Park District West Creek Project from the GRF to the Highway Operating Fund (Fund 7002).
- **Ohio Department of Development (ODOD) workforce development funds transfer.** The bill permits the Director of Budget and Management to make a transfer of up to \$2 million in FY 2009 from the Facilities Establishment Fund (Fund 7037) to the Workforce Development Fund (Fund 3AE0). This transfer would serve as the source of state matching funds required to draw down federal funding under the Workforce Investment Act (WIA).

### **Department of Administrative Services**

- **Medicare Part B premium reimbursements.** The bill eliminates the requirement that a state agency pay the monthly enrollee premium under Part B of Medicare 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, and are 65 years of age or older. Eliminating this requirement may lead to future state agency payroll savings, possibly in the hundreds of thousands of dollars.
- **State procurement law changes.** The bill makes several changes to state procurement laws. Foremost is the creation of a certification program that allows credentialed agency employees to acquire goods and services with reduced Department of Administrative Services (DAS) oversight. The bill, however, would expand DAS oversight of goods and services bought by the Bureau of Workers' Compensation, Department of Rehabilitation and Correction, and nonmilitary goods purchased by the Adjutant General.
- **Land conveyance.** The bill authorizes the sale of state-owned land in Shelby County to the Shelby County Board of Commissioners for \$1 on the condition that Dayton Public Television, which currently operates a broadcast tower on the site, be permitted use of the site through June 30, 2009.

### **Auditor of State**

- **Collectable audit costs.** The bill clarifies that recoverable costs that may be certified to the Office of Budget and Management include (1) amounts owed to independent public accountants, (2) fees payable for using the Uniform Accounting Network and other local government services provided by the Auditor of State, and (3) outstanding penalties over a year old for delinquent financial reports. This could reduce the Auditor's collection costs and increase penalty revenue to the Public Audit Expense – Intrastate Fund (Fund 1090).

### Capitol Square Review and Advisory Board

- **Capitol Collection warehouse.** The bill authorizes the Capitol Square Review and Advisory Board (CSRAB) to purchase a warehouse for items stored in the Capitol Collection trust using bond proceeds in the Administrative Building Fund (Fund 7026). Temporary law in the bill would provide \$48,000 annually from the Underground Parking Garage Fund (Fund 2080) for debt service on the warehouse.
- **Statehouse tour staff.** CSRAB will receive \$12,297 in GRF funds from the Ohio Historical Society (OHS) to cover the costs of conducting Statehouse tours and education programs for the last month of FY 2008. Additionally, CSRAB will assume these costs full-time from OHS in FY 2009, and receives an appropriation increase of \$144,612 in FY 2009 for GRF line item 874100, Personal Services, for this purpose. OHS appropriations are decreased by a corresponding amount.

### Department of Commerce

- **Voluntary hold/resigned status for real estate licenses.** The bill permits a person licensed under the Real Estate Brokers Law to place his or her license on voluntary hold or resigned status. If the person opts to reactivate his or her license, there may be a gain in revenue to the Real Estate Operating Fund (Fund 5490).
- **New liquor permit.** The bill creates the A-3a liquor permit for distillers of spirituous liquor. As a result, there may be additional liquor permits issued by the Division of Liquor Control. Liquor permit fees are deposited into the Undivided Liquor Permit Fund (Fund 7066) and distributed to the GRF, the Ohio Department of Alcohol and Drug Addiction Services' Statewide Treatment and Prevention Fund (Fund 4750) for treatment and prevention programming, and the local governments where the liquor permits are issued.
- **Refunds of taxes paid by direct shipment liquor permit holders.** The bill requires the refund of wine excise and grape industries taxes paid by B-2a and S liquor permit holders. As a result, there could be an increase in expenses from the GRF and the Ohio Grape Industries Fund (Fund 4960) for the refunds.

### Department of Development

- **Reduction of certain county recorder fees – Ohio Housing Trust Fund.** The bill reduces two county recorder fees. The bill reduces the fee for filing a zoning resolution from \$100 to \$50. The bill also changes the fee for zoning amendments from \$20 for the first page and \$8 for each additional page to a fee of \$20 regardless of length. Because the Housing Trust Fund (Fund 6460) receives half of the fees collected by county recorders, this change will reduce revenues derived from this fee.

### Legislative Service Commission

- **Legislative Taskforce on Redistricting.** The bill appropriates \$750,000 in FY 2009 to GRF appropriation item 035-407, Legislative Taskforce on Redistricting.

- **Commission on Cuyahoga County Government Reform.** The bill appropriates \$200,000 in FY 2009 to appropriation item 035-321, Operating Expenses, to support the Commission on Cuyahoga County Government Reform, which is created by the bill.

#### **Secretary of State**

- **County mailing reimbursement.** The bill creates GRF appropriation item 050505, County Postage Reimbursement, to reimburse counties for the costs of mailing absentee ballots, and appropriates \$3 million for this purpose in FY 2009, specifying that the Secretary of State make these funds available to counties in advance of the required mailings for the 2008 general election.

#### **Department of Transportation**

- **Business logo sign program.** The bill requires the Department of Transportation (ODOT) to establish a fee schedule for participation in the business logo sign program. Under the bill, any money in excess of what is needed to pay the costs of the program and assure a reasonable profit for the contractor operating the program is to be remitted to ODOT.
- **Rail Development Commission authority.** The bill allows the Ohio Rail Development Commission (ORDC) to use its loan repayment revenue stream as a reserve or collateral for Ohio Enterprise Bond Fund (OEBF) issuances. Funds from loan repayments would be deposited into a custodial account where they would be available to serve as a reserve or collateral for OEBF issuances. Redirecting a portion of ORDC's loan repayment revenue means that there may be fewer resources available for ORDC's Rail Development Fund (Fund 4N40).
- **Transit Capital Program.** The bill specifies that up to \$5 million in each fiscal year from the Highway Operating Fund (Fund 7002) is to be used by ODOT to fund the Transit Capital Program in conjunction with funding in ODOT's budget under the Ohio Public Transportation Grant Program. Originally, these funds were to have been transferred to the Transit Capital Fund (Fund 5E70) for this purpose.

#### **Bureau of Workers' Compensation**

- **Safety Grants Program.** The bill increases the FY 2009 appropriation for line item 855610, Safety Grants Program, from \$4 million to \$6.5 million. This allows for additional grants to employers for research and prevention of cumulative trauma disorders and to defray employer costs related to the Drug-Free Workplace program.

## Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2008	FY 2009	FUTURE YEARS
<b>Counties, Municipalities, and Townships – Public Obligations for Conservation and Revitalization</b>			
Revenues	Potential gain in bond proceeds	Potential gain in bond proceeds	Potential gain in bond proceeds
Expenditures	Potential increase in debt service costs	Potential increase in debt service costs	Potential increase in debt service costs
	Potential minimal increase in election costs	Potential minimal increase in election costs	Potential minimal increase in election costs
<b>County Boards of Elections – County Absentee ballot Mailing Reimbursement</b>			
Revenues	Gain in reimbursements from Secretary of State	- 0 -	- 0 -
Expenditures	Decrease in election mailing costs up to amounts reimbursed	- 0 -	- 0 -
<b>County Recorders</b>			
Revenues	Loss of filing fee revenue	Loss of filing fee revenue	Loss of filing fee revenue
Expenditures	- 0 -	- 0 -	- 0 -
<b>Municipalities and Townships – New Liquor Permit Type</b>			
Revenues	Potential gain in permit fees	Potential gain in permit fees	Potential gain in permit fees
Expenditures	- 0 -	- 0 -	- 0 -
<b>Sewer Districts – Revision of Sewer Districts Law</b>			
Revenues	Potential gain in bond proceeds	Potential gain in bond proceeds	Potential gain in bond proceeds
	Potential loss in sewer charges	Potential loss in sewer charges	Potential loss in sewer charges
Expenditures	Potential increase in debt service costs	Potential increase in debt service costs	Potential increase in debt service costs
<b>County Delinquent Tax and Assessment Collection (DTAC) Funds</b>			
Revenues	Potential minimal gain or loss in loan interest to DTAC funds	Potential minimal gain or loss in loan interest	Potential minimal gain or loss in loan interest
Expenditures	Potential increase in DTAC fund expenditures	Potential increase in DTAC fund expenditures	Potential increase in DTAC fund expenditures

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

### Counties, municipalities, and townships

- **Authority to issue conservation and revitalization bonds.** The bill authorizes counties, municipal corporations, and townships to issue public obligations to provide, or assist in providing, grants, loans, loan guarantees, or contributions for conservation and revitalization purposes. Any new debt service costs would depend on the interest rate and maturity of bonds issued under this expanded authority. If these issues were submitted for voter approval, counties would also incur ballot-advertising costs.
- **County use of DTAC funds.** The bill permanently authorizes counties with a population exceeding 400,000 persons to use up to \$3 million of the surplus amount each year in

Delinquent Tax and Assessment Collection (DTAC) Fund money to prevent residential mortgage foreclosures. There are six counties that meet this population threshold.

- **Reduction of certain county recorder fees.** The bill reduces two county recorder fees. The bill reduces the fee for filing a zoning resolution from \$100 to \$50. The bill also changes the fee for zoning amendments from \$20 for the first page and \$8 for each additional page to a fee of \$20 regardless of length. This would result in a minimal loss of revenue derived from this particular form of filing.

### **County boards of elections**

- **County mailing reimbursement.** The bill creates GRF appropriation item 050-505, County Postage Reimbursement, to reimburse counties for the costs of mailing absentee ballots, and appropriates \$3 million for this purpose in FY 2009. Accompanying uncodified law specifies that the Secretary of State must make these funds available to counties in advance of the required mailings for the 2008 general election. This will reduce the costs to the boards of elections for absentee application and reminder mailings for the 2008 general election.

### **Municipalities and townships**

- **New or modified liquor permits.** Municipalities and townships receive a portion of liquor permit fee revenue. The issuance of additional permits would result in a minimal gain in liquor permit revenue for the local government where the permit holders are located.

### **Sewer districts**

- **Revision of Sewer District Law.** The bill revises the Sewer District Law to permit counties to issue revenue bonds, the proceeds from which sewer districts could use for sanitary facilities, drainage systems, and prevention or replacements facilities. The bill also allows counties to offer discounted sewer rates to property owners that undertake measures to divert storm water from combined sewers. Counties could incur new debt service costs and losses in sewer charge income as a result.

## ***Detailed Fiscal Analysis***

### **Provisions Affecting State Agencies**

#### **Transfers and other adjustments**

##### **Additional transfers to the GRF from non-GRF funds**

The FY 2008-FY 2009 budget authorizes the Director of the Office of Budget and Management (OBM) to make up to \$70 million in cash transfers over the biennium from any non-GRF funds that are not constitutionally restricted to the GRF. The bill increases the authorized transfer amount to \$120 million over the biennium.

##### **Earmark adjustments – Department of Transportation**



The bill eliminates an FY 2008 appropriation of \$1.5 million for air travel and support and economic development of statewide airports. The bill also changes the funding source for an FY 2008 earmark of \$200,000 for the Cleveland Metropolitan Park District West Creek Project from the GRF to the Highway Operating Fund (Fund 7002).

**Workforce funds transfer – Department of Development**

The bill permits the Director of Budget and Management to transfer up to \$2 million in FY 2009 funds from the Department of Development's Facilities Establishment Fund (Fund 7037) to the Workforce Development Initiatives Fund (Fund 3AE0). This amount would serve as the Department of Development's source of the state match for federal funding under the Workforce Investment Act (WIA).

**Department of Administrative Services**

**Urban areas community improvements appropriation**

The bill reallocates a GRF appropriation of \$450,000 previously made to the Gateway Social Services project in H.B. 496, the reappropriations bill, to the Pro Football Hall of Fame (\$200,000), the Children's Network of Stark County (\$100,000), the Community Treatment and Correction Center, Inc. (\$75,000), and Trillium Family Solutions (\$75,000).

**State agency Medicare Part B premium reimbursements**

The bill eliminates a requirement that state agencies reimburse employees and elected officials for premiums paid for Medicare Part B coverage. Medicare Part B covers the cost of doctors' services and other healthcare costs that are not associated with hospital care or prescriptions. Primarily, only those individuals that are over 65 are eligible for Medicare coverage. The current monthly premium rate for Medicare Part B is \$96.40. To date in FY 2008, the state has paid \$303,000 in such reimbursements. The amount of future payroll savings would depend on the number of employees qualifying for Medicare Part B coverage who would no longer be reimbursed for those premiums.

**Employee Benefits Fund**

The bill authorizes the Director of Budget and Management to transfer a Department of Natural Resources payment of \$100,081 that was mistakenly deposited in the Dependent Care Spending Account Fund (Fund 8090) to its correct destination, the Accrued Leave Fund (Fund 8060).

**Information Technology – NextGen Network**

The bill requires that any unencumbered FY 2008 appropriation in line item 106607, IT Services Delivery, attributable to the NextGen Network be reappropriated for the same purpose in FY 2009.

**Appointment of Chief Information Officer**

The bill clarifies the organization and authority of the Office of Information Technology in the Department of Administrative Services (DAS). The bill states that the Director of Administrative Services, as opposed to the Governor, will appoint the State Chief Information Officer, and that the State Chief Information Officer is to supervise, not direct, the Office of Information Technology. The bill also delineates DAS's role in managing state telecommunications and information technology and specifically exempts the Adjutant General, the Bureau of Workers' Compensation, and the Industrial Commission from Office of Information Technology (OIT) oversight. The overall fiscal effect of these changes is unclear, but would seem to limit OIT's oversight responsibilities.

### **Procurement law changes**

The bill modifies DAS's role in the oversight of the state procurement process. While the modifications would appear to give DAS greater oversight, it is not clear whether the changes would reduce or increase statewide procurement costs. Chief among them is a change in the "direct purchase" threshold at which state agencies may make direct purchases for goods or services without DAS oversight, lowering this amount from \$50,000 to \$25,000. The bill does offer state agencies some additional flexibility, however, by allowing DAS to operate a procurement certification program. This would allow an agency to make a purchase between \$25,000 and \$50,000 without competitive selection if that agency employs a person credentialed under the aforementioned DAS program.

The bill applies the state procurement laws to the Adjutant General (ADJ) for nonmilitary supplies and services, the Bureau of Workers' Compensation (BWC), and the Department of Rehabilitation and Correction (DRC), but exempts the judicial branch from these requirements. In addition, the bill expands the list of entities with which DAS can enter into cooperative purchasing agreements. Under the bill, the list will include the federal government, other purchasing consortia, and institutions of higher education.

### **Land conveyance – Shelby County**

The bill authorizes the sale of state-owned property in Shelby County to the Shelby County Board of Commissioners for \$1 on condition that Dayton Public Television, which operates a broadcast tower on the site, be permitted use of the site through June 30, 2009. Shelby County would be required to pay the conveyance costs.

### **Department of Administrative Services (DAS) and Department of Development (ODOD)**

#### **Energy conservation analysis contracts**

A provision of H.B. 119, the main operating budget for FY 2008-FY 2009, allows DAS to contract with the Office of Energy Efficiency (OEE) in ODOD for a report containing an analysis and recommendations for energy conservation measures in state-owned buildings. The bill reverts to the previous approach, allowing DAS to contract instead with an energy services company or other qualified firm experienced in the design and implementation of energy conservation measures. Since DAS has not yet contracted with OEE under the authority conferred in the budget, and since DAS would continue to pay for these contracts through GRF appropriation item 130321, State Agency Support Services, there is no net fiscal effect from this change.

## **Auditor of State**

### **Cost recovery for audits and delinquent financial report penalties**

The bill clarifies the costs that the Auditor of State may certify to the Office of Budget and Management for collection by including amounts that public offices owe for (1) services provided by independent public accountants, (2) using the Uniform Accounting Network and other local government services that the Auditor of State provides, and (3) outstanding penalties over a year old for delinquent financial reports. This provision could reduce the Auditor of State's collection costs and possibly increase penalty amounts collected. These amounts would be deposited in the Public Audit Expense – Intrastate Fund (Fund 1090).

### **Independent accountant audits of public offices**

In cases where the Auditor of State has contracted with independent accountants to provide attest services related to audits of public offices, the bill permits such contracts to include alternative dispute resolution procedures if a dispute remains between the public office and independent accountant after the administrative provisions of the contract have been exhausted. While the direct fiscal impact of this provision is uncertain, permitting alternative dispute resolution procedures in these contracts could reduce the time or cost involved in resolving these conflicts.

## **Office of Budget and Management**

### **Tobacco securitization transfers to the GRF**

The bill removes a requirement that OBM obtain Controlling Board approval before making transfers to the GRF related to tobacco securitization funds.

## **Capitol Square Review and Advisory Board**

### **Capitol Collection warehouse**

The bill authorizes the Capitol Square Review and Advisory Board (CSRAB) to purchase a warehouse to store items in the Capitol Collection Trust. The bill appropriates \$450,000 in capital funds in the Administrative Building Fund (Fund 7026) to purchase the warehouse, and provides \$48,000 in each fiscal year from CSRAB's Underground Parking Garage Fund (Fund 2080) as the source of debt service on the acquisition.

### **Statehouse tour and education staff**

The bill transfers the responsibility for the planning and development of the Statehouse visitor center from the Ohio Historical Society (OHS) to CSRAB, effective immediately. To compensate CSRAB for the cost of conducting Statehouse tours and education programs for June, the last month of FY 2008, the bill requires a GRF transfer of \$12,297 from OHS to CSRAB's Statehouse Gift Shop/Events Fund (Fund 4S70). For FY 2009, the bill reduces GRF appropriation item 360502, Site and Museum Operations, which currently covers OHS's costs for

these activities by \$144,612 and increases CSRAB's GRF appropriation item 874100, Personal Services, by the same amount.

### Department of Commerce

#### Voluntary hold/resigned status for real estate licenses

The bill allows a person licensed under the Real Estate Brokers Law to apply to the Superintendent of Real Estate and Professional Licensing to have that person's license placed on voluntary hold or resigned status. Voluntary hold or resigned status could be assigned to a license if the person applied before the license is due for renewal. Voluntary hold status allows the license to be reactivated within 12 months if certain conditions are met. Resigned status is reserved for persons not reactivating a license after the 12-month voluntary hold period or choosing to voluntarily resign after the license has been suspended. In either case, a resigned license may not be reactivated.

Though there probably would not be any fee for placing a license on voluntary hold status, there is likely to be a reactivation fee in addition to any renewal fees that would apply. The reactivation fee would likely be in the range of \$20 to \$25 based on the reactivation fees charged by the Division of Real Estate and Professional Licensing for licenses placed on inactive status. These fees would be deposited into the Real Estate Operating Fund (Fund 5490). There may be a gain in revenue to the Real Estate Operating Fund from additional reactivation fees received if licensees who have opted to place their licenses on voluntary hold status subsequently choose to reactivate those licenses.

#### A-3a liquor permit

The bill creates the A-3a liquor permit to be issued to a distiller that manufactures less than 10,000 gallons of spirituous liquor per year. The permit authorizes the distiller to sell spirituous liquor the distiller manufactures to personal consumers for consumption off the premises, but such sales may only occur by an in-person transaction at the permit premises. However, the distiller may not sell more than one and one-half liters of such spirituous liquor per day on the premises to the same person.

There may only be one A-3a permit issued to each county with a population above 800,000. Effectively, this means that up to three permits could be issued, one each to distillers in Cuyahoga, Franklin, and Hamilton counties. The permit fee for the A-3a liquor permit is \$3,906 for each plant, but if the production capacity of a plant is less than 500 wine barrels of 50 gallons each (totaling 25,000 gallons) annually, the fee is \$2 per barrel.

Liquor permit fees are deposited into the Undivided Liquor Permit Fund (Fund 7066) and distributed to the GRF (45%), the Ohio Department of Alcohol and Drug Addiction Services' Statewide Treatment and Prevention Fund (Fund 4750) for treatment and prevention programming (20%), and the local governments where the liquor permits are issued (35%). All of these would gain their proportionate share of revenue if there were additional liquor permits issued. All permanent liquor permits, in addition to the stated fee, carry a \$100 processing fee that covers the Division of Liquor Control's expenses in fingerprinting and making background checks for permanent license applications. This fee is deposited into the Liquor Control Fund (Fund 7043).

### **Refunds of taxes paid by direct shipment liquor permit holders**

The bill requires the refund of wine excise and grape industries taxes paid by B-2a and S liquor permit holders. As a result, there could be an increase in expenses from the GRF and the Ohio Grape Industries Fund (Fund 4960) for the refunds.

### **Fireworks regulation**

Under current law, so-called "1.4G fireworks," or consumer fireworks such as firecrackers, bottle rockets, roman candles, and fountains, may only be sold by a licensed fireworks manufacturer or wholesaler. While anyone over the age of 18 can purchase such fireworks, the purchaser must sign a form indicating that he or she will transport the fireworks outside the state of Ohio within 48 hours (72 hours for nonresidents of Ohio). It is illegal to discharge these fireworks in the state.

The bill would allow 1.4G fireworks to be sold to individuals for use in this state and to licensed fireworks exhibitors (which are currently prohibited) under certain conditions. For instance, retail sales may occur only from an approved retail sales showroom on a licensed premises or from a representative sample showroom and sales to licensed exhibitors for exhibitions must be properly permitted. A person who buys 1.4G fireworks must acknowledge that he or she is responsible for any illegal use of the fireworks including any damages caused by improper use. Nonresident purchasers of fireworks must transport the fireworks out of the state within 48 hours.

The bill gives the State Fire Marshal the authority to create additional license categories for fireworks exhibitors and to create additional permit requirements for indoor fireworks and other pyrotechnics exhibitions. The licenses and permits and their associated fees are to be adopted in rules. However, the bill requires a committee consisting of the State Fire Marshal and representatives from the fireworks industry and the fire service to assist in the development of the rules, which are to be adopted by July 1, 2010. As a result of these changes, the State Fire Marshal's Fund (Fund 5460) may experience a gain in fee revenue from the various licenses and permits that are authorized by the bill.

The bill also makes a number of other changes to the fireworks law. Namely, the State Fire Marshal is given the authority to adopt rules specifying the method used for fireworks license applicant background checks, the fees to be assessed for conducting the background check, the frequency of background checks, and so forth. The State Fire Marshal is also permitted to adopt rules establishing the subjects to be taught, the length of classes, and the standards for approval for continuing education programs for fireworks licensees.

## **Department of Development**

### **Reduction of certain county recorder fees – Ohio Housing Trust Fund**

The bill reduces two county recorder fees. The bill reduces the fee for filing a zoning resolution from \$100 to \$50. The bill also changes the fee for zoning amendments from \$20 for the first page and \$8 for each additional page to a fee of \$20 regardless of length. The Housing Trust Fund (Fund 6460) receives half of all fees collected by county recorders. This provision will result in a loss of revenue to this fund, albeit a minimal amount.

## **Environmental Protection Agency**

### **Goss site tire removal**

The bill requires at least 65% of the money collected from the levy of a 50 cent 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. As the Environmental Protection Agency (EPA) has completed the Kirby tire clean up and has begun working on the Goss site using this funding source, the provision has no new fiscal effect.

## **Legislative Service Commission**

### **Legislative Taskforce on Redistricting**

The bill appropriates \$750,000 in FY 2009 to GRF appropriation item 035-407, Legislative Taskforce on Redistricting, and reappropriates any unexpended and unencumbered amount of the appropriation at the end of FY 2009 to FY 2010.

### **Commission on Cuyahoga County Government Reform**

The bill creates the nine-member Commission on Cuyahoga County Government Reform and requires the Commission to issue a report and its recommendations in legislative form, by November 7, 2008. The bill appropriates \$200,000 in FY 2009 to appropriation item 035-321, Operating Expenses, to support the work of the Commission.

## **Department of Natural Resources**

### **State Park and Recreational Area Study Committee**

The bill creates the State Park and Recreational Area Study Committee, which by December 31, 2008 is to report on the current and future operating budgets and infrastructure needs of the state parks and recreational areas under the control of the Department of Natural Resources (DNR). The committee is to consist of the Director of Natural Resources or the Director's designee and members to be appointed by the Governor and General Assembly. Presumably, DNR will provide for any of the minimal administrative costs associated with the committee through the GRF or associated Parks and Recreation funds.

### **Van Buren State Park**

The bill redirects a \$250,000 earmark in appropriation item C725E2, Local Parks Projects, in the Parks and Recreation Improvement Fund (Fund 7035), for Van Buren State Park. The original earmark was for land acquisition; the revised earmark directs the funds to be used for campground electrification and restroom facility improvements. The amount of the earmark remains unchanged.

### **Findlay flood assistance**

The bill requires DNR to seek all available federal funds to assist the city of Findlay with rebuilding infrastructure or constructing preventative infrastructure for flood mitigation and preparation. Any such federal funding that DNR secures would be deposited in the Federal Flood Pass-Through Fund (Fund 3B40), which is used to pay for flood control projects or for defraying the expenses of county governments for flood control and drainage improvements.

### **Department of Development and Department of Transportation**

#### **Diesel Emissions Reduction Grant Program**

The bill clarifies existing budget language regarding the Diesel Emissions Reduction Grant (DERG) program to further delineate the program's funding structure. The bill establishes the DERG program within the Highway Operating Fund (Fund 7002) in the Department of Transportation (ODOT), which will provide a conduit for federal funds from the Congestion Mitigation and Air Quality (CMAQ) program to the Department of Development (ODOD) in order to administer grants. Under the bill, ODOD will use its own Diesel Emissions Reduction Grant Fund (Fund 3BD0) to receive these federal funds passed through ODOT and issue grants to eligible private entities. In order to do so, the bill establishes a new ODOD line item 195697, Diesel Emissions Reduction Grants, and appropriates \$9,817,105 in FY 2008 and \$10,057,814 in FY 2009 for this purpose. Originally, these funds were to have been allocated by a transfer in each fiscal year from the Highway Operating Fund to ODOD.

#### **Transit Capital Program**

The bill specifies that up to \$5 million in each fiscal year from the Highway Operating Fund (Fund 7002) is to be used by ODOT to fund the Transit Capital Program in conjunction with funding in ODOT's budget under the Ohio Public Transportation Grant Program. Originally, these funds were to have been transferred to the Transit Capital Fund (Fund 5E70) for this purpose.

### **Secretary of State**

#### **County mailing reimbursement**

The bill creates GRF appropriation item 050505, County Postage Reimbursement, to reimburse counties for the costs of mailing absentee ballots, and appropriates \$3 million for this purpose in FY 2009. Specifies that the Secretary of State must make these funds available to counties in advance of the required mailings for the 2008 general election.

### **Department of Transportation (ODOT)**

### **Business logo sign program**

The bill requires the Department of Transportation (ODOT) to establish a fee schedule for participation in the business logo sign program, under which the Department contracts with a vendor to manage the placement of signs along freeways displaying nearby gas, food, lodging, and camping facilities. Under the bill, any money in excess of what is needed to pay the costs of the program and assure a reasonable profit for the contractor operating the program is to be remitted to ODOT. Formerly, the program contractor kept all profits generated by fees paid by participating businesses.

### **Rail Development Commission authority**

The bill allows the Ohio Rail Development Commission (ORDC) to pledge specified moneys to secure Department of Development obligations issued under the Chapter 166. loan program for qualifying rail service projects. Specifically, ORDC would use a portion of its loan repayment revenue stream as a reserve or collateral for Ohio Enterprise Bond Fund (OEBF) issuances. The OEBF program provides loans for land and building acquisition, construction, expansion, or renovation and equipment purchases for eligible businesses. ORDC would be able to use its loan repayment funds to help rail projects qualify for OEBF funding, which would enable larger and longer-term investments. Currently, ORDC's revolving loan fund is limited to issuing loans between \$500,000 to \$700,000 over five to seven-year terms. Through OEBF funding, demand could be met for loans ranging from \$2 million to \$5 million with 10 to 15-year terms.

Funds from the loan repayment stream would be deposited into a custodial account where those funds would be available for the above uses without the need for an appropriation, meaning that there may be fewer resources available for ORDC's Rail Development Fund (Fund 4N40), where loan repayment revenue is currently deposited. Fund 4N40 is used for acquiring, rehabilitating, or developing rail property or service, or for participation in the acquisition of rail property with the federal government, municipalities, townships, counties, or other governmental agencies.

### **Office of Maritime Transportation**

The bill creates the Office of Maritime Transportation within the Division of Multi-modal Planning and Programs. The bill requires the Director of Transportation to assign to the office such duties, powers, and functions relating to state maritime transportation issues and activities as the Director determines. The potential funding sources and expenses of the new office are uncertain at this time.

### **Turnpike Commission noise mitigation pilot program**

Under the FY 2008-FY 2009 transportation budget, the Turnpike Commission is required to perform a study of noise impact mitigation methods that could be used as an alternative to traditional sound barriers on the Turnpike. After completing the study, the Commission is required to commence a pilot program by June 30, 2008 using one or more of these alternatives. The Commission is also required to submit a report containing the results of the pilot program and the projected costs of further implementation to the Turnpike Legislative Review Committee



by December 30, 2008. To pay for these activities, the budget created the Community Resolution Fund, a custodial fund (that is, a fund that is not in the state treasury and from which money may be drawn without an appropriation), which was slated to receive \$250,000 in each fiscal year from the Highway Operating Fund (Fund 7002).

Instead, the bill abolishes the Community Resolution Fund and requires ODOT to enter into an agreement on a reimbursement basis with the Turnpike Commission. Under the agreement, up to \$250,000 is to be paid from the Highway Operating Fund (Fund 7002) in each fiscal year to the Turnpike Commission to fund the study and pilot program. This bill also moves back the dates when the Turnpike Commission is required to commence and complete the pilot program by approximately six months. There is no net fiscal effect resulting from these modifications since the transportation budget requires any remaining cash balance in the Community Resolution Fund to be credited back to the Highway Operating Fund (Fund 7002) after the pilot program is completed.

### **Cpl. Joshua Harmon Memorial Highway**

The bill designates the portion of I-90 within the municipal corporation of Willoughby Hills in Lake County as the "Cpl. Joshua Harmon Memorial Highway." ODOT may incur minimal costs to install suitable plaques or signs along the designated portion of I-90. Current costs to manufacture, install, and maintain a single set of memorial plaques or markers at one location are estimated to be a few hundred dollars, depending on the size of the marker(s), equipment and materials needed to install them, and the frequency of maintenance. If ODOT chooses not to install the markers, the municipality of Willoughby Hills in Lake County may install such markers along the designated portion of I-90 within municipal boundaries and would incur the expense for doing so.

### **Construction bid guarantees**

The bill permits bid guarantees for construction projects to be in the form of wire transfers, not just certified checks, cashiers' checks, or bid bonds, as under current law. The bill also requires all bid guarantees to be credited to the ODOT Letting Fund, which the bill creates as a custodial fund. The bid guarantee is returned to losing bidders once a construction contract is awarded. Forfeited bid guarantees are transferred to the Highway Operating Fund (Fund 7002). There is no fiscal effect resulting from this provision since bid guarantees are currently deposited in a letting fund outside of the state treasury, albeit without statutory authorization. This provision merely provides the statutory authority desired for the letting fund.

## **Bureau of Workers' Compensation**

### **Safety Grants Program**

The bill increases the FY 2009 appropriation for line item 855610, Safety Grants Program, from \$4 million to \$6.5 million. This allows for additional grants to employers for research and prevention of cumulative trauma disorders and to defray employer costs related to the Drug-Free Workplace program.

### **Ohio Commission on Local Government Reform and Collaboration**

The bill creates the Ohio Commission on Local Government Reform and Collaboration consisting of 15 voting members responsible for making recommendations to increase the efficiency and effectiveness of local government, achieve cost savings, and facilitate economic development. The President of the Senate, the Speaker of the House, and the Governor each must appoint three members. The remaining members must represent each of the Ohio Municipal League, the Ohio Township Association, the Ohio School Board's Association, the County Commissioners Association, the Ohio Library Council and the Ohio Association of Regional Councils. The bill permits the Commission to create an advisory council of interested parties, and also allows the Commission to consult with and obtain assistance from state institutions of higher education and business organizations. Depending on their involvement, state institutions could incur some costs for helping the Commission. Presumably, the Senate, House, and Governor's Office would absorb any related costs, including the preparation of a final report of recommendations, due by July 1, 2010.

## **Provisions Affecting Political Subdivisions**

### **Soil and water conservancy districts**

#### **Assessment levies for certain conservancy districts**

H.B. 24 prohibited the board of directors of a conservancy district that includes all or parts of more than 16 counties, effectively the Muskingum Watershed Conservancy District, from levying or collecting an assessment for such a district, and also prohibited county treasurers from collecting such an assessment on land that would otherwise be subject to such an assessment beginning January 1, 2008. The bill repeals this prohibition, permitting the resumption of assessments. Based on an LSC estimate for H.B. 24, the Muskingum Watershed Conservancy District would have foregone up to \$10.5 million annually in assessment revenue under the prohibition. Under the bill, it is unclear whether the District would be able to begin collecting assessments for 2008 immediately; however, certain practical impediments such as the time and procedures required to levy and collect an assessment may preclude collection until the next year's assessment period.

## Counties

### County mailing reimbursement

The bill creates GRF appropriation item 050-505, County Postage Reimbursement, to reimburse counties for the costs of mailing absentee ballots, and appropriates \$3 million for this purpose in FY 2009. It further specifies that the Secretary of State must make these funds available to counties in advance of the required mailings. This provision will reduce the costs to counties for providing absentee application and reminder mailings for the 2008 general election.

### Prohibiting strikes by specified county security personnel

The bill prohibits members of a law enforcement security force established and maintained exclusively by a board of county commissioners from striking and instead requires them to enter into binding arbitration to settle unresolved collective bargaining disputes. Striking is generally the final step in a series of steps to resolve a collective bargaining dispute that is outlined in the Public Employee Collective Bargaining Law. Employees who are not permitted to strike must submit to a final offer settlement procedure to settle unresolved collective bargaining disputes. The costs associated with a final offer settlement procedure as opposed to a strike are expected to be unique to each unresolved collective bargaining dispute.

### Delinquent Tax and Assessment Collection Fund – foreclosure prevention and nuisance abatement

The bill permanently authorizes county treasurers or county prosecutors in counties with populations exceeding 400,000 to use up to \$3 million of each year in surplus from their Delinquent Tax and Assessment Collection (DTAC) Funds to offer loans to borrowers in default on their home mortgages to prevent foreclosure, and supplement funding for other foreclosure prevention programs. According to the Department of Development's 2006 census estimate, Cuyahoga, Franklin, Hamilton, Lucas, Montgomery, and Summit counties meet the population threshold.

### Reduction of certain county recorder fees

The bill reduces two county recorder fees. The bill reduces the fee for filing a zoning resolution from \$100 to \$50. The bill also changes the fee for zoning amendments from \$20 for the first page and \$8 for each additional page to a fee of \$20 regardless of length. This provision, most likely, will result in a minimal loss of revenue for county recorders.

## Counties, municipalities, and townships

### Public obligations for conservation and revitalization

This provision authorizes counties, municipal corporations, and townships to issue public obligations to provide grants, loans, loan guarantees, or contributions for conservation and revitalization purposes. If a political subdivision were to issue such bonds, the cost would depend on the interest rate that will be paid on the bonds and the number of years over which they are paid off. Assuming a maturity period of 15 years and an interest rate of 4%, the cost of paying off the bonds over 15 years is about nine cents per year for each dollar borrowed. If the

issuance were submitted for voter approval, there could also be some minimal increase in elections costs, as well as some ballot advertising expenses.

### **PEG channel compensation**

The bill prohibits a political subdivision that, within its jurisdiction, either is a cable service provider itself or contracts with such a provider from requiring any (nonpublic) person that provides cable service to pay any direct or in-kind compensation for PEG channel programming or other content produced by the political subdivision or by an entity it created or partially supports. PEG channels are those that provide public, educational, and governmental programming for noncommercial use.

Current law prohibits any municipal corporation or township from requiring a video service provider to provide any funds, services, programming, facilities, or equipment related to PEG channels except as may be required in order to fulfill obligations entered into before the enactment of the most recent changes made in Am. Sub. S.B. 117. Further, current law states that PEG channel operation and programming shall be the sole responsibility of the municipal corporation or township. It appears that the provision in this bill would clarify that political subdivisions are not permitted to require any compensation for PEG channel programming. Thus, the bill would appear to have only a minimal, if any, fiscal effect on local government revenues derived from video service providers.

### **New or modified liquor permits**

Municipalities and townships receive a portion of liquor permit fee revenue. The issuance of additional liquor permits would result in a minimal gain in liquor permit revenue for the local government where the liquor permits are issued.

### **Applicability of zoning laws to certain types of waste facilities**

The bill clarifies current law to specify that solid waste facilities, transfer stations, and construction and demolition debris facilities, which are not publicly owned, are subject to zoning requirements adopted by boards of county commissioners, boards of township trustees, and boards of zoning appeals. The fiscal impact of this provision is uncertain, but would likely mean that such facilities not zoned currently may be in the future.

### **Revision of the Sewer District Law**

The bill allows counties to issue revenue bonds to sewer districts for sanitary facilities, drainage facilities, and prevention or replacement facilities. If a county were to issue such bonds, the cost would depend on the interest rate that will be paid on the bonds and the number of years over which they are paid off. The bill also authorizes counties to adopt rules that would require property owners to prevent storm water from entering a combined sewer and causing an overflow, and permits counties to provide rate reductions and credits to property owners that implement such measures. If a county opted to do this, the county could lose some sewer charge revenues from that sewer district.

## Section 2: Health and Human Services

### State Fiscal Highlights

STATE FUND	FY 2009	FY 2010	FUTURE YEARS
<b>Ohio Department of Job and Family Services</b>			
<b>General Revenue Fund</b>			
Revenues	Gain of \$128,075,622	- 0 -	- 0 -
Potential loss of federal Medicaid reimbursement due to ICF/MR conversion			
Expenditures	Increase of \$198,295,986	- 0 -	- 0 -
	Increase of \$10,000,000 due to the Children's Buy-in Program	- 0 -	- 0 -
Decrease due to third-party liability information for child support			
Potential cost savings due to ICF/MR conversion			
<b>Medicaid Revenue and Collections (Fund 5DL)</b>			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Increase of \$20,000,000	- 0 -	- 0 -
<b>Health Care Services (Fund 5P5)</b>			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Increase of \$20,000,000	- 0 -	- 0 -
<b>Health Care Federal (Fund 3F0)</b>			
Revenues	Gain of \$63,638,975	- 0 -	- 0 -
Annual gain of \$5,900,000 due to increase of ICF/MR franchise permit fee			
Expenditures	Increase of \$63,638,975	- 0 -	- 0 -
Annual increase of \$5,900,000 due to increase of ICF/MR franchise permit fee			
<b>Money Follows the Person Enhanced Reimbursement (Fund 5AJ0) – New</b>			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Increase of \$4,400,000	- 0 -	- 0 -
<b>ICF/MR Bed Assessments (Fund 4K1)</b>			
Revenues	Annual gain of \$3,900,000 due to increase due to ICF/MR franchise permit fee		
Expenditures	Annual increase of \$3,900,000 due to increase of ICF/MR franchise permit fee		
<b>Interagency Reimbursement (Fund 3G5)</b>			
Revenues	Potential gain in federal Medicaid reimbursement due to ICF/MR conversion and Medicaid School Component		
Expenditures	Potential increase due to ICF/MR conversion and Medicaid School Component		
<b>Child Support (Fund 397)</b>			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Decrease due to third-party liability information for child support		

<b>Child Support Collections (Fund 4A8)</b>			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Increase of \$5,248,417	- 0 -	- 0 -
<b>Health Care Services Administration (Fund 5U3)</b>			
Revenues	Potential gain of the nonfederal share of Medicaid administrative costs due to Medicaid School Component		
Expenditures	Potential increase in Medicaid administrative costs due to Medicaid School Component		
<b>State Adoption Assistance Loan Fund – New</b>			
Revenues	Annual gain of \$500,000 or more	Gain of loan repayments	
Expenditures	Potential annual increase of \$500,000	Potential increase dependent upon fund balance	
<b>Ohio Department of Mental Retardation and Developmental Disabilities</b>			
<b>General Revenue Fund</b>			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Potential decrease due to tax equity payments Potential increase due to ICF/MR conversion		
<b>Intensive Behavioral Needs Programs (Fund 5CT) – New</b>			
Revenues	Annual gain of at least \$1,000,000		
Expenditures	Increase of \$1,000,000	- 0 -	- 0 -
<b>Medicaid Waiver (Fund 3G6)</b>			
Revenues	Potential gain in federal Medicaid reimbursement due to ICF/MR conversion		
Expenditures	Potential increase due to ICF/MR conversion		
<b>Medicaid Administration and Oversight (Fund 5S2)</b>			
Revenues	Loss of \$500,000 per year due to Medicaid case management service fee		
Expenditures	- 0 -	- 0 -	- 0 -
<b>Various Funds</b>			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Cost savings due to the Gallipolis Developmental Center Pilot Program		
<b>Ohio Department of Health</b>			
<b>Public Health Priority Trust Fund (Fund L087)</b>			
Revenues	Transfer-in of \$950,000 from Fund 1060	- 0 -	- 0 -
Expenditures	Increase of \$950,000	- 0 -	- 0 -
<b>Ohio Dental Loan Repayment Fund (Fund 5Z7) – New</b>			
Revenues	Gain of at least \$140,000	Potential gain due to Dentist Loan Repayment Program	
Expenditures	Increase of at least \$140,000	Potential increase due to Dentist Loan Repayment Program	
<b>Federal Public Health Programs (Fund 392)</b>			
Revenues	Potential gain due to Dentist Loan Repayment Program		
Expenditures	Potential increase due to Dentist Loan Repayment Program		
<b>Office of the Attorney General</b>			
<b>General Reimbursement (Fund 1060)</b>			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Transfer-out of \$950,000 to Fund L087	- 0 -	- 0 -

Ohio Department of Commerce			
<b>Unclaimed Funds Trust Fund (Fund 543)</b>			
Revenues	Annual loss of \$500,000		- 0 -
Expenditures	- 0 -	- 0 -	- 0 -
Respiratory Care Board			
<b>Operating Expenses (Fund 4K9)</b>			
Revenues	Potential loss due to license and registration renewal		
Expenditures	- 0 -	- 0 -	- 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2009 is July 1, 2008 – June 30, 2009.

**Ohio Department of Job and Family Services (ODJFS)**

- **GRF Appropriations for Medicaid.** The bill increases the appropriation to GRF line item 600-525, Health Care/Medicaid, by \$198,295,986 in FY 2009. This increase in expenditures will allow the state to draw down \$128,075,622 in federal Medicaid reimbursement.
- **Budget Stabilization Fund.** The bill allows the Director of Budget and Management, with Controlling Board approval, to transfer up to \$63,333,420 cash in FY 2009 from the Budget Stabilization Fund to the GRF, if additional appropriations are needed to fund the Medicaid Program. The Director of Budget and Management is to transfer the approved amounts, increase the state share of appropriations to line item 600-525, Health Care/Medicaid, and adjust the federal share accordingly.
- **Children's Buy-In and Medicaid Buy-In for Workers with Disabilities.** The bill increases the appropriation to line item 600-639, Medicaid Revenue and Collections (Fund 5DL), by \$20 million in FY 2009. The bill provides that the monthly premiums collected from the Children's Buy-In Program and the Medicaid Buy-In for Workers with Disabilities Program be credited to the fund.
- **Drug rebates.** The bill increases the appropriation to line item 600-692, Health Care Services (Fund 5P5), by \$20 million in FY 2009. Revenues from rebates on prescription drugs in the Medicaid Program are deposited into this fund.
- **Federal Medicaid reimbursement.** The bill increases the appropriation to line item 600-623, Health Care Federal (Fund 3F0), by \$63,638,975 in FY 2009. This is the amount in federal funds that the state will realize from the increase in expenditures from Fund 5DL (Children's Buy-In and Medicaid Buy-In for Workers with Disabilities) and from Fund 5P5 (Drug Rebates).
- **Medicaid School Component of the Medicaid Program.** The bill allows the Director of Budget and Management to increase the appropriation to line item 600-655, Interagency Reimbursement, for FY 2009 by the amounts ODJFS receives from the federal government for the federal share of Medicaid services provided under, and administrative costs of, the Medicaid School Component. In addition, the bill provides for money that the Department of Education pays to ODJFS, if any, for the nonfederal share of the administrative expenses that ODJFS incurs in performing its duties regarding the Medicaid School Component to be deposited into the Health Care Services Administration Fund (Fund 5U3).

- **Children's Buy-In Program.** The bill lowers the minimum countable income that an individual may have to qualify for the Children's Buy-In Program from 300% to 250% of the federal poverty guidelines (FPG). The Office of Budget and Management estimates that including children from 250% to 300% FPG will cost (net of any cost sharing assumed by ODJFS) \$10 million in FY 2009 assuming a July 1, 2008 start date.
- **Money Follows the Person.** The bill creates the Money Follows the Person Enhanced Reimbursement Fund (Fund 5AJ0) and line item 600-631, Money Follows the Person. The fund will receive the enhanced portion of the federal reimbursement for the Money Follows the Person demonstration project. The enhanced portion of the federal reimbursement for FY 2009 is \$4.4 million based on enrollment estimates made by ODJFS. The bill appropriates \$4.4 million to the newly created line item in FY 2009.
- **Type G nursing facilities.** The bill specifies the FY 2009 Medicaid rate for type G nursing facilities. This provision may result in increased payments to a small number of nursing facilities. Nursing facility payments are made from GRF appropriation item 600-525, Health Care/Medicaid. The federal government reimburses the state for 60% of the cost of services provided to Medicaid patients in nursing facilities.
- **Use of third-party information for the Title IV-D Child Support 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 ODJFS's child support enforcement program. This change is expected to save approximately \$680,000 in FY 2009 between GRF line item 600-416, Computer Projects, and line item 600-626, Child Support (Fund 397).
- **Child Support Collections/TANF MOE.** The bill increases appropriation to line item 600-658, Child Support Collections (Fund 4A8), by \$5,248,417 in FY 2009, and changes the allowable use of the funds that remain in that line item, once Temporary Assistance for Needy Families maintenance of effort has been met, to "public assistance" instead of "child support" activities. ODJFS plans to use the remaining funds to cover the anticipated \$7 million shortfall for the Disability Financial Assistance Program in FY 2009.

**Ohio Department of Job and Family Services and Ohio Department of Commerce**

- **State adoption assistance loans.** At the beginning of FY 2009 and FY 2010, the Director of Commerce must transfer \$500,000 of moneys deposited in the Unclaimed Funds Trust Fund to the newly created State Adoption Assistance Loan Fund. ODJFS may use those moneys to make loans to prospective adoptive parents. In addition to receiving \$500,000 at the start of FY 2009 and FY 2010 from the Unclaimed Funds Trust Fund, the State Adoption Assistance Loan Fund will also receive all loan repayments and other money, including interest and penalties, derived from state adoption assistance loans.

**Ohio Department of Mental Retardation and Developmental Disabilities (ODMR/DD)**

- **Intensive behavioral needs programs and ICF/MR franchise permit fee.** The bill requires the establishment of intensive behavioral needs programs. The programs will be funded by an increase in the franchise permit fee on intermediate care facilities for the mentally retarded (ICFs/MR); 5.72% of the revenue raised by the franchise permit fee is to be



deposited into the newly created Intensive Behavioral Needs Programs Fund. The bill appropriates \$1 million in FY 2009 in newly created line item 322-632, Intensive Behavioral Needs (Fund 5CT). The bill increases appropriations to line items 600-621, ICF/MR Bed Assessments (Fund 4K1), and 600-623, Health Care Federal (Fund 3F0), in ODJFS due to the increase in the ICR/MR franchise permit fee.

- **Mean total per diem rate for ICFs/MR.** The bill provides that, for FY 2009, the mean total per diem rate for all ICFs/MR under Medicaid, weighted by May 2008 Medicaid days and calculated as of July 1, 2008, is not to exceed \$274.98 rather than \$271.46.
- **Conversion of ICF/MR beds.** The bill specifies that if any ICF/MR converts some or all of the beds in the facility from providing ICF/MR services to providing home and community-based services the Director of Mental Retardation and Developmental Disabilities must certify, on a quarterly basis, to the Director of Budget and Management, the estimated amount to be transferred from ODJFS to ODMR/DD for the provision of waiver services. The Director of Budget and Management may then adjust appropriations to specific line items accordingly to account for the transfer. These provisions may result in cost savings ranging from \$2.7 million to \$10.2 million as a result of these provisions. (Forty percent of these cost savings are state share.)
- **Medicaid case management service fee.** The bill eliminates the fee ODMR/DD charges county MR/DD boards on the total value of all Medicaid paid claims for Medicaid case management services and home and community-based services. The elimination of this fee is expected to result in a revenue loss of \$500,000 annually for ODMR/DD.
- **Gallipolis Developmental Center Pilot Program.** The bill revises the law governing the Gallipolis Developmental Center Pilot Program. ODMR/DD is expecting to experience cost-savings as a result of operating an eight-bed ICF/MR instead of providing home and community-based services to ten individuals under the Individual Options Medicaid Waiver Program.
- **Tax equity payments.** The bill revises the way in which tax equity payments to county MR/DD boards are calculated. In the event of GRF budget reductions in FY 2009, this provision authorizes ODMR/DD to calculate FY 2009 payments in proportion to those made in FY 2008. If there are GRF budget reductions for FY 2009, ODMR/DD will experience a decrease in expenditures due to a reduction in the tax equity payments made to county MR/DD boards.

#### **Ohio Department of Health (ODH) and Attorney General**

- **Pneumococcal vaccines for children.** The bill transfers \$950,000 from the General Reimbursement Fund (Fund 1060) to the Public Health Priority Trust Fund (Fund L087) in FY 2009 and appropriates this amount to line item 440-423, Pneumococcal Vaccines for Children.

**Ohio Department of Health and Board of Regents (BOR)**

- **Dentist Loan Repayment Program.** The bill requires ODH to exclusively oversee the implementation and administration of the Dentist Loan Repayment Program, rather than participate in a joint effort between ODH and BOR. Currently, appropriations are in BOR. The bill cancels existing appropriations against BOR's line item 235-624, Ohio Dental Loan Repayment (Fund 5ZY), and re-establishes them against ODH's newly created line item 440-624, Ohio Dental Loan Repayment. These amounts are appropriated. The bill also appropriates at least \$140,000 in FY 2009 to line item 440-624, Ohio Dental Loan Repayment (SSR Fund 5Z7). Additionally, the bill transfers the amount of cash remaining from BOR's Fund 3T0, National Health Services Corps – Ohio Loan Repayment, to ODH's Fund 392, Federal Public Health Programs. Any outstanding encumbrances for the program for FY 2008 in Fund 3T0 are cancelled and re-established in Fund 392. Appropriations will likely be established in ODH in future years in the main biennial operating appropriations act.
- **Physician Loan Repayment Program.** The bill cancels outstanding encumbrances of the Physician Loan Repayment Program in BOR's line item 235-604, Physician Loan Repayment, and re-establishes them against ODH's new line item 440-628, Ohio Physician Loan Repayment. The bill also appropriates \$476,870 in FY 2009 to line item 440-628, Ohio Physician Loan Repayment, and eliminates the appropriation for the same amount in BOR's line item 235-604, Physician Loan Repayment. Additionally, the bill transfers the amount of cash remaining from BOR's Fund 3T0, National Health Services Corps – Ohio Loan Repayment, to ODH's Fund 392, Federal Public Health Programs. Appropriations will likely be established in ODH in future years in the main biennial operating appropriations act.

**Respiratory Care Board**

- **Home medical equipment service providers license and registration renewal.** The bill authorizes the Board to waive all or part of the fee for an initial license or certificate, if the license or certificate is issued in the last six months of the biennial licensing or registration period. Waiving the fee could result in a decrease in revenue to the Board if this is not currently done. The Board's fee revenue is deposited in the Operating Expenses Fund (Fund 4K90).

***Local Fiscal Highlights***

<b>LOCAL GOVERNMENT</b>	<b>FY 2008</b>	<b>FY 2009</b>	<b>FUTURE YEARS</b>
<b>County Mental Retardation and Developmental Disabilities Boards</b>			
Revenues		Potential loss due to tax equity payments	
Expenditures		Cost savings due to Medicaid case management service fee	
<b>Local Community Mental Health Boards</b>			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures		Potential cost savings due to merger of local boards	
<b>Local Alcohol and Drug Addiction Services Boards</b>			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures		Potential cost savings due to merger of local boards	

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

### **County mental retardation and developmental disabilities boards**

- **Medicaid case management service fee.** The bill eliminates the fee ODMR/DD charges to county MR/DD boards on the total value of all Medicaid paid claims for Medicaid case management services and home and community-based services. County MR/DD boards will experience a cost savings due to no longer being required to pay this fee.
- **Tax equity payments.** The bill revises the way in which tax equity payments to county MR/DD boards are calculated. In addition, in the event of GRF budget reductions in FY 2009, this provision authorizes ODMR/DD to calculate FY 2009 payments in proportion to those made in FY 2008. In FY 2008 and FY 2009, \$14 million is appropriated for this purpose. If there are GRF budget reductions for FY 2009, the county MR/DD boards will experience a loss of revenue. The magnitude of such a loss will depend on the amount of a reduction.

### **Local community mental health boards and alcohol and drug addiction services boards**

- **Merger of local boards.** The bill permits a county with a community mental health board and an alcohol and drug addiction services board to merge into a single board of alcohol, drug addiction, and mental health services board, which may result in cost savings for the local boards due to potential economies of scale.

## ***Detailed Fiscal Analysis***

### **Ohio Department of Job and Family Services (ODJFS)**

#### **GRF appropriations for Medicaid**

The bill increases the appropriation to GRF line item 600-525, Health Care/Medicaid, by \$198,295,986 in FY 2009; this increase in expenditures will allow the state to draw down \$128,075,622 in federal Medicaid reimbursement. The increase is intended to accommodate the expected shortfall in Medicaid funds due to increasing caseloads and utilization.

The bill also allows the Director of Budget and Management, with Controlling Board approval, to transfer up to \$63,333,420 cash in FY 2009 from the Budget Stabilization Fund to the GRF, if additional appropriations are needed to fund the Medicaid Program. The Director of Budget and Management is to transfer the approved amounts, increase the state share of appropriations to GRF line item 600-525, Health Care/Medicaid, and adjust the federal share accordingly.

Caseloads have been increasing steadily this fiscal year. In March 2008, total Medicaid caseloads were over estimate by approximately 28,000 (1.6%). Most of this caseload increase is occurring in the Covered Families and Children (CFC) population, which is over estimate by about 23,400 (1.78%). And, most of the increase in the CFC population is in the Healthy Families Expansion category. This category includes parents and children in families with income under 90% of the federal poverty guideline but above minimal federal standards. In

March 2008, the Aged, Blind, and Disabled population was over estimate by about 4,600 (1.06%).<sup>1</sup>

### **Children's Buy-In and Medicaid Buy-In for Workers with Disabilities**

The bill increases the appropriation to line item 600-639, Medicaid Revenue and Collections (Fund 5DL), by \$20 million in FY 2009. The bill provides for the monthly premiums charged under the Children's Buy-In (CBI) Program and the Medicaid Buy-In for Workers with Disabilities Program to be credited to the fund. The bill also permits money credited to the Medicaid Revenue and Collections Fund to be used for the CBI Program as well as Medicaid services and contracts. The increase in appropriation will also allow ODJFS to spend the \$8.9 million that was deposited into the fund that was the state's share of a \$30 million settlement with the drug manufacturer, Merck & Co.

### **Drug rebates**

The bill increases the appropriation to line item 600-692, Health Care Services (Fund 5P5), by \$20 million in FY 2009. According to OBM, the state has received more in drug rebates than anticipated for the biennium and the increase in appropriations will allow ODJFS to spend these funds.

### **Federal Medicaid reimbursement**

The bill increases the appropriation to line item 600-623, Health Care Federal (Fund 3F0), by \$63,638,975 in FY 2009. This is the amount in federal funds that the state will receive as a result of the \$40 million increase in expenditures (\$20 million from Fund 5DL and \$20 million from Fund 5P5) for the CBI Program and the Medicaid Buy-In for Workers with Disabilities Program, as well as the drug rebate program.

### **Medicaid School Component of the Medicaid Program**

The bill requires the Director of Job and Family Services to seek federal approval to establish the Medicaid School Component of the Medicaid Program. The bill allows the Director of Budget and Management to increase the appropriation to line item 600-655, Interagency Reimbursement, for FY 2009 by the amounts ODJFS receives from the federal government for the federal share of Medicaid services provided under, and administrative costs of, the Medicaid School Component. In addition, the bill provides for money that the Department of Education pays to ODJFS, if any, for the nonfederal share of the administrative expenses that ODJFS incurs in performing its duties regarding the Medicaid School Component to be deposited into the Health Care Services Administration Fund (Fund 5U3).

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<sup>1</sup> All caseload numbers used in this fiscal note were obtained from Actual vs. Estimated Health Care Eligibles SFY2008, released by the Ohio Department of Job and Family Services, May 2008.

### **Children's Buy-In Program**

The bill requires that the Children's Buy-In Program be operated as part of Medicaid, the Children's Health Insurance Program (CHIP), or both if the U.S. Secretary of Health and Human Services approves federal matching funds for the program and operating the program under Medicaid, CHIP, or both. However, the bill requires the Director of Job and Family Services to implement the program regardless of whether the amendment, waiver request, or both are denied. In addition, the bill permits the Director of Job and Family Services to adopt rules limiting the number of individuals who may participate in the program at one time.

The bill lowers the minimum countable income that an individual may have to qualify for the Children's Buy-In Program from 300% to 250% of the federal poverty guidelines (FPG). The bill also requires, rather than permits, the Director of Job and Family Services to adopt rules establishing copayment requirements with the result that individuals participating in the program must be, rather than may be, charged copayments.

The bill also provides for the monthly premiums charged under the Children's Buy-In Program to be credited to the Medicaid Revenue and Collections Fund and permits money credited to the fund to be used for the Children's Buy-In Program as well as Medicaid services and contracts.

The Office of Budget and Management estimates that including children from 250% to 300% FPG will cost (net of any cost sharing assumed by ODJFS) \$10 million in FY 2009 assuming a July 1, 2008 start date.

### **Nursing facilities' uncompensated capital costs and FY 2009 Medicaid rates**

The bill revises certain laws governing per diem payments for nursing facilities' uncompensated capital costs and caps the expenditures for the uncompensated capital costs at \$4.2 million rather than \$7 million.

In addition, the bill provides that the ceiling applicable to the FY 2009 Medicaid rates for certain nursing facilities with uncompensated capital costs is to be not more than 102.75%, and not less than 100%, of the sum of the FY 2008 rate and another amount reflecting uncompensated capital costs.

The bill also requires the Director of Budget and Management to increase for FY 2009 the state share of appropriations to GRF line item 600-525, Health Care/Medicaid, by the amount of the unencumbered balance for FY 2008 of GRF line item 600-529, Capital Compensation Program, with a corresponding increase in the federal share.

H.B. 119 of the 127th General Assembly (the FY 2008-FY 2009 biennium budget) appropriated \$7 million in FY 2008 to line item 600-529, Capital Compensation Program. As of May 13, 2008, ODJFS has disbursed approximately \$1.5 million of the \$7 million.

This provision may increase the Medicaid costs for nursing facilities. However, according to a spokesperson from the Office of Budget and Management, the increase in the costs will likely be offset by the amount of the unencumbered balance for FY 2008 of GRF line item 600-529, Capital Compensation Program, with the corresponding federal share.

### **Type G Nursing Facilities**

The bill provides that a type G nursing facility's FY 2009 Medicaid rate is not to exceed 102.75% or be less than 98% of the sum of (1) the rate the provider was paid for nursing facility services that the older nursing facility the type G nursing facility replaced provided on July 1, 2005, and (2) the amount of the per diem for uncompensated capital costs for which the type G nursing facility qualifies during the first three quarters of FY 2008. This provision may result in increased payments to a small number of nursing facilities. Nursing facility payments are made from GRF appropriation item 600-525, Health Care/Medicaid. The federal government reimburses the state for 60% of the cost of services provided to Medicaid patients in nursing facilities.

### **Children's hospitals**

The bill requires the Director of Budget and Management to increase for FY 2009 the state share of the appropriations to GRF line item 600-525, Health Care/Medicaid, by the amount of the unencumbered balance for FY 2008 of the \$6 million that is to be used for payments to children's hospitals, with a corresponding increase in the federal share. The bill also requires ODJFS to expend, not later than June 30, 2009, the entire amount of the reappropriated amount, the corresponding increase in the federal share, and the \$6 million plus federal match earmarked for FY 2009 to pay children's hospitals for the supplemental payment.

H.B. 119 earmarked up to \$6 million (state share) in GRF line item 600-525, Health Care/Medicaid, in FY 2008 and FY 2009 plus the corresponding federal match, if available, to be used by ODJFS to pay for the Supplemental Payment Program for Children's Hospitals. However, the rules that ODJFS has proposed for the supplemental payment for children's hospitals may result in the FY 2008 earmark being disbursed in FY 2009. The bill will ensure that the earmarks will be spent and not lapsed.

### **Money Follows the Person Enhanced Reimbursement Fund**

The bill creates the Money Follows the Person Enhanced Reimbursement Fund (5AJ0) into which the Director of Budget and Management is to transfer the enhanced portion of the federal grant the state receives under the Money Follows the Person demonstration project. The enhanced federal allotment for FY 2009 is \$4.4 million based on enrollment estimates made by ODJFS. The bill also creates line item 600-631, Money Follows the Person, and appropriates \$4.4 million in FY 2009.

Ohio is one of 17 states that were awarded federal funding for the Money Follows the Person demonstration projects. The total grant amount is \$100 million over a five-year period. The federal government will allocate a portion of the grant each year based upon the projected enrollment numbers estimated by ODJFS. ODJFS cannot enroll more than their annual projected estimates.

The grant will be realized by the state as federal reimbursement on expenditures for transitioning eligible Medicaid members out of institutional settings and into home or community-based care. More specifically, for qualified and demonstrative services the federal government will reimburse the state at an enhanced federal match rate of nearly 80% for Medicaid members for their first 12 months in home or community-based care, while other supplemental services will be reimbursed at the regular Medicaid federal match (the regular federal match for most services is 62.14% in federal fiscal year 2009). After the 12-month period ODJFS will draw down the regular federal match for each transitioned Medicaid member.

### **Medicaid cost containment**

The bill revises the law that requires the Director of Job and Family Services to prepare quarterly reports on Medicaid cost containment measures. The bill specifies certain information to be included in the report. Thus, the bill could result in increased administrative costs for ODJFS. However, the fiscal impact is expected to be minimal.

### **Use of third-party information for the Title IV-D child support 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 ODJFS's child support enforcement program. Currently, ODJFS has two contracts with Health Management Systems to provide this information, one for Medicaid and one for child support. The bill will allow both programs to utilize the same information, making it necessary to maintain only one contract through the Medicaid Program. This change is expected to save approximately \$680,000 in FY 2009 between GRF line item 600-416, Computer Projects, and line item 600-626, Child Support (Fund 397).

### **Child Support Collections/TANF MOE**

The bill increases the appropriation to line item 600-658, Child Support Collections (Fund 4A8), by \$5,248,417 in FY 2009, and changes the allowable use of child support collections that have been assigned to ODJFS. Once Temporary Assistance for Needy Families maintenance of effort has been met, the bill allows the remaining funds to be used for public assistance activities instead of child support activities. ODJFS plans to use the remaining fund to cover the anticipated \$7 million shortfall for the Disability Financial Assistance (DFA) Program in FY 2009. DFA provides financial assistance to persons who are unemployable due to a physical or mental impairment, and who are not eligible for public assistance programs that are supported in whole or in part by federal funds. The expected shortfall in the DFA Program is due primarily to caseloads rising above projections. ODJFS projected that monthly caseloads would be between 15,000 and 16,000 in FY 2008. The current DFA Program enrollment is nearing 17,000 and ODJFS expects that caseloads will continue to increase to almost 18,000 by the end of FY 2009.

### **Child care liability insurance**

The bill requires that all Type A and Type B family child-care homes procure and maintain liability insurance or a signed affidavit from parents acknowledging awareness that the home does not carry liability insurance. The bill requires that this proof be made available for review during inspection or investigation. The Director of ODJFS is required to adopt rules regarding the enforcement of these provisions.

The bill will necessitate a review during the inspection process of the provider's insurance policy or family affidavits. As a result, both the state and counties may experience a negligible increase in the time it takes to conduct inspections. ODJFS may experience an additional minimal increase in administrative costs as a result of implementing these new requirements and adopting rules. The Department will likely create a procedure letter to educate counties and providers of the new requirements. These costs will likely be absorbed within existing resources.

### **Unemployment compensation for persons receiving military benefits**

The bill specifies that unemployment benefits payable may not be reduced by the amount of military severance, disability, or separation pay paid to an individual who is a former member of the United States armed forces. Therefore, under the bill, the unemployment benefits of a former member of the armed forces may not be reduced by the amount the member has received that was based on a prior period of employment. ODJFS pays benefits to claimants through the Unemployment Compensation Trust Fund, which is held in the custody of the Treasurer of State but is not part of the state treasury. This provision may result in an increase in the amount drawn from the Unemployment Compensation Trust Fund if the benefit paid to a person whose unemployment compensation is calculated in accordance with these provisions is greater as a result of the changes in the bill.

## **Ohio Department of Job and Family Services and Ohio Department of Commerce**

### **State Adoption Assistance Loan Program**

The bill allows ODJFS to make loans to prospective adoptive parents. The bill creates the State Adoption Assistance Loan Fund in the state treasury. The fund is to receive on July 1, 2009 and 2010, a transfer of \$500,000 of unclaimed funds that have been reported by holders of unclaimed funds as required by state law (R.C. 169.05) and all loan repayments or other money, including interest and penalties, derived from state adoption assistance loans. Loans to a prospective adoptive parent may not exceed \$3,000 if the child being adopted resides in Ohio and may not exceed \$2,000 if the child being adopted does not reside in Ohio.

The first \$500,000 transfer of unclaimed funds will allow ODJFS to grant at least 166 loans (assuming the maximum amount allowable under the bill per child, \$3,000). The number of loans approved may be more or less depending on the rules adopted by ODJFS, the number of prospective adoptive parents who apply, and the amount approved for each loan.

The bill will have no direct fiscal impact on local subdivisions. However, it could have an indirect effect on costs associated with the care of children who are awaiting possible



adoption who are currently in foster care if the loan program results in an increased number of children who are adopted.

**Ohio Department of Mental Retardation and Developmental Disabilities (ODMR/DD)**

**Intensive behavioral needs programs and ICF/MR franchise permit fee**

The bill requires the Director of Mental Retardation and Developmental Disabilities to establish one or more programs for individuals under age 21 who have intensive behavioral needs, including such individuals with a primary diagnosis of autism spectrum disorder. The programs may include one or more Medicaid waiver components that the Director administers under current law. The Director of Mental Retardation and Developmental Disabilities is to collaborate with the Director of Job and Family Services and consult with the Executive Director of the Ohio Center for Autism and Low Incidence and university-based programs that specialize in services for individuals with developmental disabilities when establishing these programs.

The bill increases the franchise permit fee on intermediate care facilities for the mentally retarded (ICFs/MR) to \$11.98 effective July 1, 2008, and provides for 5.72% of the revenue raised by the ICF/MR franchise permit fee to be deposited into a new fund created in the state treasury, the Intensive Behavioral Needs Programs Fund, which is to be used for the purposes of the programs described above.

The bill appropriates \$1 million in FY 2009 to newly created line item 322-632, Intensive Behavioral Needs (Fund 5CT), in ODMR/DD. The bill increases the appropriations to line items 600-621, ICF/MR Bed Assessments (Fund 4K1), and 600-623, Health Care Federal (Fund 3F0), in ODJFS due to the increase in the ICF/MR franchise permit fee.

**Mean total per diem rate for ICFs/MR**

The bill provides that, for FY 2009, the mean total per diem rate for all ICFs/MR under Medicaid, weighted by May 2008 Medicaid days and calculated as of July 1, 2008, is not to exceed \$274.98 rather than \$271.46.

**Conversion of ICF/MR beds**

The bill includes several provisions related to the conversion of beds in an ICF/MR to home and community-based services. Specifically, the bill stipulates that if any ICF/MR converts some or all of the beds in the facility from providing ICF/MR services to providing home and community-based services the Director of Mental Retardation and Developmental Disabilities must certify, on a quarterly basis, to the Director of Budget and Management, the estimated amount to be transferred from ODJFS to ODMR/DD for the provision of waiver services. The Director of Budget and Management may then adjust appropriations in specific line items accordingly to account for the transfer. The bill allows ODJFS to petition the U.S. Secretary of Health and Human Services for not more than 100 slots for the purpose of ICF/MR conversions and to accommodate ODMR/DD's request for additional slots. The bill expressly limits the conversion to 100 beds. These provisions may result in some cost savings to GRF line item 600-525, Health Care/Medicaid. However, the extent of the savings, if any, will depend on the amount that an individual's waiver costs are estimated to be less than the daily rate for care in an ICF/MR. According to FY 2007 data obtained from the Decision Support System, the

average annual cost of providing ICF/MR services is approximately \$83,500 in a private facility and approximately \$111,300 in a public facility. The average annual cost of services provided on an Individual Options waiver is approximately \$56,200 and the average annual cost of services provided on a Level 1 waiver is approximately \$9,800. Based on these cost estimates, and assuming that the maximum of 100 slots are approved, there could be cost savings ranging from \$2.7 million to \$10.2 million as a result of these provisions. (Forty percent of these cost savings are state share.)

The bill also deletes references to the ICF/MR Conversion Pilot Program, which is no longer being pursued by ODJFS and ODMR/DD. Am. Sub. H.B. 66 of the 126th General Assembly required that the Director of Job and Family Services apply for a federal Medicaid waiver authorizing an ICF/MR Conversion Pilot Program under which ICFs/MR could volunteer to convert from providing ICF/MR services to providing home and community-based services and established the ICF/MR Advisory Council to develop the specifics of the pilot program, such as eligibility criteria and services provided. However, the federal waiver was not obtained and the pilot program was not developed or implemented. Therefore, any potential costs to develop and implement this program and any anticipated savings directly related to this pilot program will not be realized.

#### **Medicaid case management service fee**

Currently, ODMR/DD charges county MR/DD boards an annual fee of 1.5% of the total value of all Medicaid paid claims for Medicaid case management services and home and community-based care services. These fees are deposited into Fund 5S2, Medicaid Administration and Oversight. The bill eliminates this fee, which is expected to result in a revenue loss of \$500,000 annually for ODMR/DD. County MR/DD boards will experience a cost savings due to no longer being required to pay this fee.

#### **Gallipolis Developmental Center Pilot Program**

The bill revises the law governing the Gallipolis Developmental Center Pilot Program. It provides that the Gallipolis Developmental Center is to operate an ICF/MR with eight beds at a site separate from the grounds of the developmental center instead of providing home and community-based services under the Individual Options Medicaid Waiver Program to not more than ten individuals at one time. The program is to be established during calendar year 2009, but its operation is not restricted to calendar year 2009. The bill eliminates a requirement that all expenses the Center incurs in participating in the pilot program be paid from the Medicaid payments the Center receives for providing services under the pilot program. The bill 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 developmental centers. ODMR/DD is expecting to experience cost savings as a result of the changes to the pilot program.

### **Tax equity payments**

The bill revises the way in which tax equity payments to county MR/DD boards are calculated. For FY 2009, if ODMR/DD determines that sufficient funds are available, ODMR/DD must use GRF line item 322-503, Tax Equity, to pay each county MR/DD board an amount that is equal to the amount received for FY 2008. If ODMR/DD determines that there are not sufficient funds available in the line item for this purpose, ODMR/DD must pay each county board an amount that is proportionate to the amount the board received for FY 2008. Proportionality is determined by dividing the total tax equity payments distributed to county boards for FY 2008 by the tax equity payment a county board received for FY 2008. According to the Office of Budget and Management, a recent review of the formula used to calculate the tax equity subsidy revealed the usage of incorrect information for one component beginning with the FY 2005 payment. This provision requires that the payment for FY 2009 be based on the corrected FY 2008 calculation. In addition, in the event of GRF budget reductions in FY 2009, this provision authorizes ODMR/DD to calculate FY 2009 payments in proportion to those made in FY 2008. In FY 2008 and FY 2009, \$14 million is appropriated for this purpose. If there are GRF budget reductions for FY 2009, the county MR/DD boards will experience a loss of revenue. The magnitude of such a loss will depend on the amount of a reduction.

### **Ohio Department of Health (ODH) and Attorney General**

#### **Pneumococcal Vaccines for Children**

The bill transfers \$950,000 from the General Reimbursement Fund (Fund 1060) to the Public Health Priority Trust Fund (Fund L087) in FY 2009 and appropriates this amount to line item 440-423, Pneumococcal Vaccines for Children.

### **Ohio Department of Health and Board of Regents (BOR)**

#### **Dentist Loan Repayment Program**

The bill requires ODH to exclusively oversee the implementation and administration of the Dentist Loan Repayment Program, rather than participate in a joint effort between ODH and BOR. Currently, appropriations are in BOR. The bill cancels existing encumbrances against BOR's line item 235-624, Ohio Dental Loan Repayment (Fund 5ZY), and re-establishes them against ODH's newly created line item 440-624, Ohio Dental Loan Repayment. These re-established amounts are appropriated. The bill also appropriates at least \$140,000 in FY 2009 to line item 440-624, Ohio Dental Loan Repayment (SSR Fund 5Z7). Additionally, the bill transfers the amount of cash remaining from BOR's Fund 3T0, National Health Services Corps – Ohio Loan Repayment, to ODH's Fund 392, Federal Public Health Programs. Any outstanding encumbrances for the program for FY 2008 in Fund 3T0 are cancelled and re-established in Fund 392. Appropriations will likely be established in ODH in future years in the main biennial operating appropriations act.

### **Physician Loan Repayment Program**

The bill requires ODH to exclusively oversee the implementation and administration of the Physician Loan Repayment Program, rather than participate in a joint effort between ODH and BOR. The bill also increases physicians' loan repayment amounts from not more than \$20,000 in each of the four years of repayment, to \$25,000 in each of the first two years and \$35,000 in each of the last two years. The bill adds more primary care specialties to the list of those that qualify for participation in the program.

Currently, appropriations for the program are in BOR. The bill cancels existing encumbrances against BOR line item 235-604, Physician Loan Repayment (Fund 4P4), and re-establishes them against ODH's newly created line item 440-628, Ohio Physician Loan Repayment (Fund 4P4). The bill also increases the appropriation to line item 440-628, Ohio Physician Loan Repayment, by \$476,870 in FY 2009 and eliminates the appropriation for the same amount in BOR's line item 235-604, Physician Loan Repayment. Additionally, the bill transfers the amount of cash remaining from BOR's Fund 3T0, National Health Services Corps – Ohio Loan Repayment, to ODH's Fund 392, Federal Public Health Programs. Appropriations will likely be established in ODH in future years in the main biennial operating appropriations act.

### **Rehabilitation Services Commission (RSC)**

#### **Community Rehabilitation Program**

H.B. 119 requires that RSC use \$125,000 in FY 2008 and \$125,000 in FY 2009 of line item 415-616, Federal Vocational Rehabilitation, to establish and implement a Community Rehabilitation Program national accreditation compliance and monitoring program administered by the Ohio Association of Rehabilitation Facilities (OARF). The bill alters the earmark by requiring the use of \$250,000 *over the biennium* and requires RSC to enter into contract with OARF within 30 days of the effective date of the bill.

#### **Services for the deaf**

The bill requires that dollars in GRF line item 415-508, Services for the Deaf, be provided to community centers for the deaf and prohibits those dollars from being provided in lieu of Social Security reimbursement funds.

### **Respiratory Care Board**

#### **Home medical equipment service providers license and registration renewal**

The bill requires the Ohio Respiratory Care Board to issue and renew licenses and certificates of registration to providers of home medical equipment services according to biennial periods based on even-numbered years. Currently, these licenses and registrations are renewed biennially according to time of application/renewal. Thus, renewal could be required in an odd or even-numbered year depending upon initial registration or licensure. This provision could have an effect on revenues initially (during the first year of the biennial registration period that this change takes place); however, it is expected that this effect will be revenue neutral over the course of the biennial registration period.

The bill authorizes the Board to waive all or part of the fee for an initial license or certificate, if the license or certificate is issued in the last six months of the biennial licensing or registration period. The bill also authorizes the Board to waive all or part of the continuing education requirements for the first renewal of a license that was issued in the last six months of the biennial licensing period. Waiving the fee could result in a decrease in revenue to the Board if this is not currently done.

**Local community mental health boards and alcohol and drug addiction services boards**

**Merger of local boards**

The bill permits a county with a community mental health (CMH) board and an alcohol and drug addiction services (ADAS) board to combine the boards into a single board of alcohol, drug addiction, and mental health services board (ADAMH). The bill also requires that all ADAMH board memberships equally represent people interested in mental health programs and alcohol and drug addiction programs. There are five ADAS and five CMH boards in the state. Combining an ADAS and CMH board into an ADAMH board may result in administrative cost savings for the local boards due to potential economies of scale.

## Section 3: Education

### State Fiscal Highlights

STATE FUND	FY 2008	FY 2009	FUTURE YEARS
<b>General Revenue Fund</b>			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	- 0 -	Increase of approximately \$1.1 million annually for Ohio College Opportunity Grants for nursing diploma students	
	Increase of \$483,426	Increase of \$483,426	- 0 -
<b>Federal Special Revenue Fund 3AF0</b>			
Revenues	- 0 -	Increase of \$1.0 million	Potential annual increase of approximately \$1.0 million
Expenditures	- 0 -	Increase of \$1.0 million	Potential annual increase of approximately \$1.0 million

Note: The state fiscal year is July 1 through June 30. For example, FY 2009 is July 1, 2008 – June 30, 2009.

#### Board of Regents

- **Ohio College Opportunity Grants (OCOG).** The bill extends eligibility for OCOG to include students of nursing diploma programs. The cost of state financial aid for these additional students may be approximately \$1.1 million per year.
- **Appropriation adjustments.** The bill increases GRF appropriation item 235-552, Capital Component, by \$483,426 in FY 2008 and FY 2009. The bill also transfers \$700,000 from capital appropriation item C315F5, Wood County Center for Agriculture, under The Ohio State University, to capital appropriation item C24036, Wood County Environmental Health Project, under Bowling Green University.

#### School Facilities Commission

- **Construction of new facilities for the state schools for the blind and deaf.** The bill earmarks \$37,080,000 from Fund 7032, capital appropriation item C23002, School Building Program Assistance, for use in the construction of new and the renovation of old buildings on the current campuses of the State School for the Blind and the School for the Deaf.
- **Adjustments to certain districts' local shares.** The bill makes various changes that lower certain school districts' local shares of the costs of facilities projects. This will reduce the costs of the projects borne by the school districts and increase the costs borne by the state.

#### Department of Education

- **Medicaid School Component.** The bill temporarily transfers \$1.0 million from the GRF to federal special revenue fund Schools Medicaid Administrative Claims (Fund 3AF0) in FY 2009. These funds are to be reimbursed by federal revenues and transferred back to the GRF before the end of FY 2009. The funds will be used to support the Ohio Department of Education's (ODE) administrative costs related to the Medicaid School Component of the Medicaid program, which is established by the bill. In future years these revenues and expenditures may continue as the program continues.

## *School for the Blind and School for the Deaf*

- **Medicaid School Component.** The bill establishes, subject to the approval of the federal government, the Medicaid School Component of the Medicaid program. This provision may assist the schools in obtaining federal reimbursement for certain services provided to Medicaid-eligible students.

## *Local Fiscal Highlights*

### *School districts*

- **Medicaid School Component.** The bill establishes, subject to the approval of the federal government, the Medicaid School Component of the Medicaid program. This provision may assist schools in obtaining federal reimbursement for certain services provided to Medicaid-eligible students.
- **Open enrollment adjustment.** Am. Sub. H.B. 119 of the 127th General Assembly instituted a policy change to allow a school district to be served sooner and receive more funding from the state if the district's net gain in open enrollment students is at least 10% of the district's formula average daily membership. The H.B. 119 provision affects funding beginning in FY 2010. The bill allows approximately 19 districts that have not yet been offered funding under the state's Classroom Facilities Assistance Program (CFAP) and approximately three districts that have been offered funding to receive the benefits of this policy change before FY 2010.
- **Property valuation adjustment.** The bill permits districts with large decreases in adjusted property valuation per pupil for FY 2008 to base their local shares of CFAP funding on their adjusted property valuation per pupil for that year rather than on a three-year average. This provision is expected to lower the local share of approximately one school district.
- **Local shares for additional School Facilities Commission projects.** For districts that are approved for funding for additional facility projects after previously receiving funding, the bill caps the local shares of the additional projects. This provision is expected to benefit about 15 districts.
- **Joint vocational school district (JVSD) funding.** The bill permits, in FY 2008, the School Facilities Commission to spend up to 3% instead of up to 2% of certain state facilities funding on the Joint Vocational School Facilities Assistance Program. This may allow more joint vocational school districts to receive funding in FY 2008.
- **Fees for jointly operated educational programs.** The bill permits school districts to charge fees or tuition to its resident students who participate in a jointly operated educational program.

- **Reimbursements for property tax losses.** The bill makes some changes to the way reimbursements for property tax losses due to the phase-out of the business tangible personal property tax and due to utility deregulation are calculated. These changes may affect the payments received by certain districts depending on the specific circumstances of each district.

## *Detailed Fiscal Analysis*

### **Board of Regents**

#### **Ohio College Opportunity Grants**

The bill extends eligibility for the Ohio College Opportunity Grant (OCOG) to include students of nursing diploma programs approved by the Board of Nursing. In FY 2007 there were five nursing diploma programs statewide, with about 855 enrolled students. Full-time students of these programs would be eligible to receive a maximum award of almost \$4,000, however, the average award for students of career colleges is about \$2,800. The Board of Regents (BOR) indicates that approximately 45% of career college students receive state financial aid. If 45% of nursing diploma students (385 students) receive an average award, the cost of the additional eligible students may be approximately \$1.1 million (385 x \$2,800) per year.

The bill also delays a provision of Am. Sub. H.B. 119 of the 127th General Assembly that denies OCOG eligibility to newly enrolled students of proprietary schools unless the schools receive authorization from BOR, as long as the schools apply for authorization by July 1, 2008. Under current law the schools needed to actually *receive* authorization before the 2008-2009 academic year. BOR indicates that additional time is needed to complete authorization requirements. The bill delays the authorization requirement until the 2009-2010 academic year. Appropriations for OCOG were made under the assumption that these schools would receive authorization in time and their students would be eligible during the 2008-2009 academic year, so the delay is not expected to increase expenditures.

#### **Appropriation adjustments**

The bill increases GRF appropriation item 235-552, Capital Component, by \$483,426 in FY 2008 and FY 2009. These funds are distributed to state institutions of higher education as an incentive to use capital funds efficiently. Each institution is allocated a formula-determined amount of funds for debt service on bonds issued to pay for the institution's capital projects. The allocated amount is based on campus size, enrollment, and other indicators of capital needs. If an institution requires a lesser amount of funds for debt service than what is allocated to it, the institution receives a payment through this appropriation.

The bill transfers \$700,000 from capital appropriation item C315F5, Wood County Center for Agriculture, under The Ohio State University, to capital appropriation item C24036, Wood County Environmental Health Project, under Bowling Green University.



The bill transfers responsibility for the Dental Loan Repayment Program and the Physician Loan Repayment Program to the Department of Health exclusively. Please see the Health and Human Services section of this fiscal note for an analysis of the fiscal impact of these provisions.

### **Marion County Land Conveyance**

The bill authorizes the sale of a parcel of state-owned land in Marion County. The property was previously a day care center operated by The Ohio State University at Marion, but is currently vacant. It will be sold for \$365,000 and net proceeds of the sale will be deposited in The Ohio State University Land Purchase Account. This account is part of the general funds administered by The Ohio State University and is used for land purchases not directly funded through state capital appropriations.

### **Distance Learning Clearinghouse**

The bill transfers the Distance Learning Clearinghouse from the eTech Ohio Commission to the Chancellor of the Board of Regents. It also expands the types of course providers with access to the Clearinghouse from public primary and secondary schools to include public and private colleges and universities and other nonprofit and for-profit course providers. Establishment of the Clearinghouse was required by Am. Sub. H.B. 119 of the 127th General Assembly. Currently, the Clearinghouse is still in its planning stage, with applications from providers scheduled to start to be accepted in the fall of 2008. The bill requires the Chancellor to approve a common software program for the delivery of courses through the Clearinghouse. This requirement and the other responsibilities of maintaining and administering the Clearinghouse may increase BOR's administrative costs. The bill authorizes the Chancellor to retain a percentage of the fees charged by providers to course users to offset these costs.

### **University treasurers' insurance**

Under current law, the treasurers of The Ohio State University, Bowling Green State University, Kent State University, Central State University, Cleveland State University, Wright State University, Youngstown State University, University of Akron, University of Cincinnati, and University of Toledo are required to take out a bond generally for the amount of money that may be in the university treasurer's control at any one time. The bill permits the universities to insure treasurers for this amount in lieu of the bond. The bill also eliminates the requirement that The Ohio State University treasurer have a bond (or insurance) that covers the probable amount that will be under the treasurer's control *in any one year*. The insurance option may decrease expenditures for the universities affected.

### **School Facilities Commission**

#### **Construction of new schools for the blind and deaf**

The bill earmarks \$37,080,000 from Fund 7032, capital appropriation item C23002, School Building Program Assistance, for use in the construction of new and the renovation of old buildings on the current campuses of the schools for the blind and the deaf. The School Facilities Commission (SFC) is required to administer the projects according to a memorandum of understanding signed by the three parties. In addition, the bill states that these parties agree,

in the memorandum, that the earmarked amount will be sufficient to complete the construction and renovation of both projects and that no additional appropriations will be needed.

**Adjustments to certain districts' local shares**

The bill makes various changes that affect certain school districts' local shares under the Classroom Facilities Assistance Program (CFAP), the main program of SFC. CFAP is a state and local partnership to rebuild all Ohio schools. It is designed to address all of a school district's facility needs. The funding priority as well as the state and local shares of a project cost are largely determined by a district's percentile ranking in its three-year average property valuation per pupil (with a small income adjustment). A school district with a lower percentile ranking (i.e., a lower wealth district) is generally served first and has a greater state share of the project cost than a district with a higher percentile ranking (i.e., a higher wealth district). For most districts, in fact, the percentage of the project cost that comprises their local share is equal to their percentile ranking. Under current law, the Ohio Department of Education (ODE) is required to certify to SFC, by September 1st of each year, a list of school district percentile rankings in valuations per pupil. This percentile-ranking list is also commonly known as the equity list. In a given fiscal year the prior year's equity list is used for purposes of determining CFAP funding eligibility as well as state and local shares of a project cost. Therefore, CFAP funding for FY 2009 is based on the equity list for FY 2008.

The bill requires the recalculation of certain districts' percentile rankings, which will result in lowering the local share of certain districts' CFAP projects. This will reduce the costs of the projects borne by the school districts and increase the costs borne by the state. The actual cost changes will depend on the project costs of the affected districts, which in most cases have not yet been determined. This analysis gives estimates, where available, of the decrease in affected districts' percentile rankings. For most districts, this decrease in percentile ranking will translate into an equivalent decrease in the districts' local share percentages of their basic project costs.

**Open enrollment adjustment.** Am. Sub. H.B. 119 of the 127th General Assembly instituted a policy change to include a district's net gain in open enrollment students in its formula average daily membership (ADM) for purposes of calculating the district's valuation per pupil if the district's net gain in open enrollment students is at least 10% of its formula ADM.<sup>2</sup> With a constant total taxable valuation, adding additional students to a district's formula ADM effectively lowers the district's valuation per pupil, thus lowering the district's percentile ranking and allowing the district to be served sooner and receive a greater state share. This policy change took effect September 29, 2007, a date after the deadline by which ODE is required to certify the equity list for FY 2008. Therefore, the policy change made in H.B. 119 will first affect the equity list for FY 2009, which will be used for CFAP funding in FY 2010.

The bill requires ODE to calculate an alternate equity list for FY 2008. This alternate list is to include net open enrollment students in a district's formula ADM as required by H.B. 119 for purposes of calculating a district's valuation per pupil. SFC is to use this alternate list to determine FY 2009 CFAP funding for a district that has not previously been offered funding.

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<sup>2</sup> A district's formula ADM generally includes students who are residents of the district. Open enrollment students are those nonresident students who enroll in the district through an interdistrict open enrollment policy.

This provision effectively allows school districts to start receiving the H.B. 119 benefits one year sooner, in FY 2009 instead of FY 2010.

According to the most current data received from ODE, about 47 districts will receive lower percentile rankings in the alternate equity list for FY 2008. Of these 47 districts, 28 districts either have already been offered CFAP funding or have percentile rankings on the alternate list that are too high to qualify the district for funding in FY 2009. SFC anticipates that many of the remaining 19 districts, shown in the table below, may be offered CFAP funding in FY 2009. As seen from the table, the differences in school district percentile rankings between the original and alternate equity lists for FY 2008 range from a thirty-seven percentile rank change for New Boston Local in Scioto County to a two percentile rank change for Elgin Local in Marion County. Note that the number of districts, as well as their percentile rank changes, may be somewhat different by the time the final alternate list is calculated.

<b>Comparison of Percentile Rankings for School Districts that May Be Served in FY 2009</b>				
<b>School Districts</b>	<b>County</b>	<b>Percentile Ranking – Original Equity List for FY 2008</b>	<b>Percentile Ranking – Alternate Equity List for FY 2008</b>	<b>Ranking Difference</b>
New Boston Local SD	Scioto	49	12	-37
Old Fort Local SD	Seneca	53	25	-28
Fairport Harbor Ex Vill SD	Lake	72	50	-22
Pettisville Local SD	Fulton	39	18	-21
Weathersfield Local SD	Trumbull	58	40	-18
Franklin-Monroe Local SD	Darke	34	17	-17
Hopewell-Loudon Local SD	Seneca	67	52	-15
Botkins Local SD	Shelby	44	30	-14
Jefferson Township Local SD	Montgomery	48	35	-13
Shadyside Local SD	Belmont	57	45	-12
Clay Local SD	Scioto	32	20	-12
Ridgedale Local SD	Marion	52	41	-11
Arcadia Local SD	Hancock	59	49	-10
Western Reserve Local SD	Mahoning	56	46	-10
Pleasant Local SD	Marion	66	57	-9
Crestview Local SD	Columbiana	27	20	-7
Russia Local SD	Shelby	41	35	-6
College Corner Local SD	Preble	13	10	-3
Elgin Local SD	Marion	45	43	-2

The bill also applies the open enrollment net gain count to certain school districts that received conditional approval from SFC for a CFAP project after July 1, 2006 and prior to September 29, 2007 (the date the H.B. 119 policy change went into effect). These districts must have an open enrollment net gain of 10% or more of their formula ADM in the fiscal year prior to the fiscal year they received SFC approval. In addition, the districts must have received approval from their electors for a bond issue to pay for the local share within one year of SFC approval and must not have completed the project before September 29, 2007.

For each district that meets these criteria, the bill requires ODE to recalculate that district's percentile ranking for the fiscal year prior to the fiscal year it received SFC approval including the district's net enrollment gain for that year. The bill then requires SFC to use the recalculated percentile ranking to redetermine the district's local share of the basic project cost. SFC estimates that three districts will have reduced local shares as a result: Fairlawn Local (Shelby), Millcreek West Unity Local (Williams), and Ridgemoor Local (Hardin).

**Property valuation adjustment.** As mentioned above, the equity list used for CFAP funding is based on each district's three-year average adjusted property valuation per pupil. The bill requires ODE to create a second alternate equity list (in addition to the one that includes the open enrollment adjustment as described above) for FY 2008 that is based on only the current year's adjusted valuation per pupil. SFC is to use the second alternate equity list to determine funding priority and the state and local shares for FY 2009 for those school districts that have not received CFAP assistance in any year prior to FY 2009 and for which the district's rank on this second alternate equity list is at least 15 percentiles lower than the district's ranking on the original equity list. Based on data received from ODE, it appears that Switzerland of Ohio Local in Monroe County would be affected by this provision. Switzerland of Ohio's ranking on the original equity list (three-year average adjusted valuation per pupil) is 52, which will fall by 15 to 37 based on this alternate equity list (one-year average adjusted valuation per pupil).

**Local shares for additional SFC projects.** In general, when a district receives facilities assistance from the state, this assistance addresses all of the district's facility needs. However, districts that received facilities assistance prior to SFC creation in May 1997 may have only received assistance for partial fixes and, therefore, may be awarded assistance for an additional project. Also, some districts are found to require additional assistance while their initial project is under construction.<sup>3</sup> Other districts that receive facilities assistance through ENP<sup>4</sup> also may need assistance for an additional project to address all their facility needs. The bill establishes a new method for determining local shares of the additional projects funded for these districts.

For most districts, the local share of the basic project cost is equal to the district's percentile ranking on the equity list. However, a district's local share may be higher if the district's required level of indebtedness<sup>5</sup> is not met using the percentile ranking. Generally, the required level of indebtedness provision only applies to a district that has a small project size relative to its property valuation. Districts receiving funding for additional projects as described above are more likely to have small projects since a portion of their facility needs have already been met. Therefore, under current law, the local shares for these projects may be higher than the district's percentile ranking.

The bill caps these districts' local share percentages. The cap is the greater of their percentile ranking at the time the additional project is approved or their local share percentage

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<sup>3</sup> The additional assistance can be for reasons such as correcting an oversight or deficiency in a district's initial assessment or for extreme enrollment growth.

<sup>4</sup> ENP generally assists school districts in addressing the health and safety needs associated with a specific building instead of addressing the entire district's needs as under CFAP. No school districts reasonably expected to be served by CFAP within three years can apply for ENP assistance.

<sup>5</sup> The calculation of indebtedness for this provision is specified in the Revised Code.

paid for the previous project. According to SFC, about 15 districts may be affected by this provision.

### **Joint vocational school district (JVSD) funding**

Under current law, SFC is permitted to set aside annually up to 2% of the aggregate amount appropriated to the Education Facilities Trust Fund (Fund N087), the Public School Building Fund (Fund 7021), and the School Building Program Assistance Fund (Fund 7032) for the Joint Vocational School Facilities Assistance Program (VFAP), which is the main classroom facilities program that supports the state's 49 JVSDs. The bill increases the set-aside amount to up to 3% for FY 2008 only. This increase would allow JVSDs to receive more funding in FY 2008 if SFC chooses to spend up to the 3% limit. About eight JVSDs have been served by VFAP since its creation in FY 2003, with another seven being offered SFC funding in FY 2008.

### **Segmenting school facilities projects**

The bill permits school districts to divide their project into segments when they become eligible for assistance under the Classroom Facilities Assistance Program (CFAP). Currently, only the six urban districts (Akron, Cincinnati, Cleveland, Columbus, Dayton, Toledo) participating in SFC's Accelerated Urban Initiative are allowed to divide their CFAP projects into segments. Segmenting generally allows SFC and a district to more easily manage a large project and permits more funding flexibility for the district by allowing them to obtain funding for a smaller portion of the project rather than having to obtain all of the funding for a district-wide fix at once.

### **Adjustments in reported tax value for certain school districts**

The bill requires ODE to recompute and adjust state education aid for FY 2007 and FY 2008 for certain districts with certified taxable values for both those years including an error of at least \$10 million in assessed value of tax-exempt public utility property. If state aid is owed as a result of the recomputations, the bill requires ODE to make payments from FY 2008 appropriations. In addition, the bill requires ODE to recompute an eligible school district's adjusted valuation per pupil for purposes of ranking the district on the equity list, which is used to determine the local share of an eligible school district's SFC project. As a result of the recalculation and subsequent payments and rankings adjustment, eligible districts could benefit from additional state aid for operations and facility project costs. At this time, one school district, Westfall Local School District in Pickaway County, appears to be eligible for this recalculation.

### **Reimbursement from proceeds of tobacco settlement**

The bill requires the Executive Director of SFC to report to the Director of Budget and Management, prior to January 1, 2009, the amount of funds expended between September 1, 2007, and June 30, 2008, from the Education Facilities Trust Fund (Fund N087) and from the Public School Building Fund (Fund 7021) that were eligible to be financed from the proceeds of the tobacco settlement bonds that were deposited into the School Building Program Assistance Fund (Fund 7032). The bill then authorizes the Director of Budget and Management to transfer the reported amount from Fund 7032 to funds N087 and 7021 and appropriates any amounts transferred. These funds are all used to support SFC programs.

### **Department of Education**

#### **Medicaid School Component**

The bill establishes, subject to the approval of the federal government, the Medicaid School Component of the Medicaid program. If approved, qualified Medicaid school providers that participate in the component could submit claims to the Ohio Department of Job and Family Services (ODJFS) for federal reimbursement for some portion of the cost of certain services offered in the school to Medicaid-eligible students. This provision may assist schools, including the Ohio State School for the Blind and the Ohio School for the Deaf in obtaining federal reimbursement for certain services provided to Medicaid-eligible students. The provision may also increase administrative costs for ODE and ODJFS. The bill temporarily transfers \$1.0 million from the GRF to federal special revenue fund Schools Medicaid Administrative Claims (Fund 3AF0) in FY 2009. These funds are to be reimbursed by federal revenues and transferred back to the GRF before the end of FY 2009. The funds will be used to support the Ohio Department of Education's (ODE) administrative costs related to the Medicaid School Component of the Medicaid program.

#### **Seniors to Sophomores**

The bill requires that the new Seniors to Sophomores Program permit nonpublic school students to participate. The program aims to enable high school seniors to take college courses and earn both a year of high school and a year of college credit at the same time. Currently, public school districts and community schools may apply for planning grants to assist them in beginning to offer the program during the 2008-2009 school year. Applicants for these grants are to show how the program will become fiscally self-sustaining in future years by using current state funding paid to schools and higher education institutions as well as contributions from partnering organizations. The bill does not specify how the participation of nonpublic school students is to be funded.

#### **Criminal records checks for educators**

Current law requires that educators submit to a criminal records check upon the initial issuance and each renewal of an educator license. The bill modifies this requirement for educators with more than one license, so that, generally, only one criminal records check is necessary upon the renewal of the license with the longest duration. The cost of these criminal records checks are generally borne by the license applicants.

### **Repayment of Title IV-A Head Start start-up grants**

A provision in H.B. 119 postpones the obligation to repay Head Start start-up grants from FY 2004 and FY 2005 for grantees that became providers under the Early Learning Initiative (ELI). ELI is the program that replaced state-funded Head Start. The bill clarifies that repayment obligations incurred prior to FY 2008 are not cancelled. This clarification may result in an increase in repayments. However, the bill also extends the deadline for repayments by ten years from June 30, 2009 until June 30, 2019. Any repayments received by the state are deposited into the GRF.

### **Educational service center payments**

The bill allows an educational service center (ESC) to receive per pupil state funds in FY 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, and (2) entered into the original agreement by January 1, 1997. Under existing temporary law, an ESC cannot receive per pupil state funds for services to city or exempted village school districts unless the ESC entered into an agreement for those services by January 1, 1997. Under the bill, funding for services provided may shift from one ESC to another, but total payments made by the state are determined by an earmark and therefore, will not change.

The bill also allows a Science, Technology, Engineering, and Math (STEM) school to contract with a joint vocational school district or educational service center for services. Under the bill, payment of the contract amounts are made by ODE and deducted from the state aid account of the STEM school. The contract may also specify that the ESC is to receive state per-pupil payments as well. The bill permits these payments only if funds remain after payments for all other students are made. As above, since total payments made by the state are determined by an earmark, they will not change due to this provision of the bill.

### **Ohio Center for Autism and Low Incidence**

The bill requires the Franklin County Educational Service Center, instead of ODE as under current law, to establish the Ohio Center for Autism and Low Incidence (OCALI), which was created under Am. Sub. H.B. 66 of the 126th General Assembly. The bill requires ODE to contract with an entity to provide services currently being provided by OCALI, but to give primary consideration to OCALI when selecting the entity. This provision may affect ODE's administrative costs as ODE will need to award and monitor the contract and will no longer be responsible for appointing and overseeing OCALI's executive director. The majority of funding for OCALI comes through a federal grant that passes through ODE.

The bill also requires OCALI to establish the Autism Preschool Program. Please see the Health and Human Services section of this fiscal note for an analysis of the fiscal impact of this provision.

## **Community schools**

The bill permits a community school to be located in more than one facility and to assign students of the same grade level to different facilities under certain restrictive conditions. It also permits a community school to have facilities located in two separate school districts under other conditions. In addition, the bill permits the governing authority of a start-up community school sponsored by a Big Eight school district to open an additional start-up school under certain conditions. Finally, it permits ESCs, instead of only school districts, to sponsor conversion community schools. These provisions may result in an increase in community school enrollment. If community school enrollment increases, state funding is shifted from community school students' resident school districts to the community school. On the other hand, the school districts are no longer responsible for educating the students.

For funding purposes, a student's full-time equivalency (FTE) enrollment at a community school is determined by the portion of the school's regular annual schedule attended by the student. For FY 2008 funding only, the bill requires the Superintendent of Public Instruction to waive hours or days that community schools were closed for public calamities when calculating the FTE enrollment of the school's students so long as the school was actually open for instruction with students in attendance for at least 920 hours.<sup>6</sup> This provision allows the community school to receive full state funding without having to make up the hours or days it was closed.

The bill permits two or more community schools to enter into pooling agreements to jointly purchase goods and services, including health insurance for employees or liability insurance for the schools, or to provide student transportation. Presumably, community schools may be able to realize a decrease in expenditures by purchasing through pooling agreements.

The bill establishes a five-year demonstration project at the ISUS (Improved Solutions for Urban Systems) Institutes of Construction Technology, Manufacturing, and Health Care to run from FY 2009 through FY 2013. The purpose of the project is to collect and analyze data concerning community schools that operate dropout prevention and recovery programs. The bill requires the ISUS schools to select, subject to ODE approval, and pay the costs of hiring an independent evaluator to create a study plan and collect and analyze data from the institutes. The evaluator is required to report data to various groups and individuals by September 30 of each year, with a final report due by December 31, 2013. This provision will likely increase expenditures for ISUS community schools.

## **School Districts**

### **STEM schools**

The bill permits a school district, subject to approval of the Partnership for Continued Learning, to be the governing body of a science, technology, engineering, and mathematics (STEM) school. In that case, the school district board of education may govern and control the school as one of the schools of its district, and per pupil funding would be calculated in a manner similar to the funding of open enrollment students. Generally, for open enrollment students base

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<sup>6</sup> Continuing law requires that community schools offer a minimum of 920 hours of instruction during the school year.



cost funding and special and career-technical education weighted cost funding is transferred from the school district in which the student resides to the school district in which the student is educated. Under current law, if a student attends a STEM school, base cost funding, special and career-technical education weighted cost funding, poverty-based assistance, and parity aid are transferred from the school district in which the student resides to the STEM school. The bill also requires that the Auditor of State include in its regular audit of the district the bill's requirements for the financing of district-operated STEM schools. The provision may result in a minimal increase in costs for the Auditor.

### **Calamity days**

Continuing law generally requires that school districts provide 182 days of instruction during each school year,<sup>7</sup> except that districts are permitted to close schools for up to five days per year for public calamities without making up these days. If districts close schools for more than five days in a school year, they must make up that lost instructional time. If they do not make up the time, districts forfeit state aid for the next school year. The bill waives the requirement to make up a day a school was closed due to flooding from a burst water pipe during the 2007-2008 school year if a district meets certain restrictive conditions. Under the bill, a district that meets these criteria will save the cost of making up the day. If, on the other hand, the district is not able to make up the day, even without the bill's passage, the bill prevents the district from losing state aid in FY 2009.

### **Fees for jointly operated educational programs**

The bill 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. This may allow school districts to increase revenues. The amount of the increase will depend on the fees or tuition charged and the number of participating students.

### **School district property transfers**

The bill requires the written consent of 75% of the affected property owners when a school district proposes, on its own initiative, to transfer five acres or more of its territory to another school district. To the extent this provision prevents transfers of territory, the resulting transfers of local revenues as well as of the responsibility for educating certain students will also be prevented.

### **Tangible personal property tax reimbursement calculations**

Under current law, the state education offset, which represents the increase in state aid due to the phase-out of the business tangible personal property tax, is calculated at the beginning of each fiscal year using projected data. The bill requires that the state education offset be recalculated on August 31 of the following fiscal year using actual data. Theoretically, the calculations should not be very different. However, due to the supplements and the guarantees in the formula there will be some level of uncertainty each fiscal year as to what the offset will be until the final calculation is made. The offset is subtracted from the total amount of each

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<sup>7</sup> Including designated time for parent-teacher conferences and teacher professional development.

district's tax loss to determine the district's direct reimbursement payments. Under the bill, therefore, these direct reimbursement payments may be higher or lower for certain school districts than under current law. The total state payment may also be either higher or lower.

### **School district fixed-sum levy loss reimbursement**

Under current law, losses due to the phase-out of the business tangible personal property tax from school district emergency levies that are greater than one-half mill may be reimbursed, under certain conditions, even after they expire. The term "emergency levy" generally refers to a fixed-sum levy used for current expenses that is enacted under R.C. 5705.194. The bill clarifies that a phased-in fixed amount levy enacted under R.C. 5705.213, which is also a fixed-sum levy used for current expenses, but is much less common than the typical emergency levy, may also be reimbursed after it expires. There are two school districts that have a levy enacted under R.C. 5705.213: Woodridge Local School District in Summit County and Perrysburg Exempted Village School District in Wood County. The annual reimbursable fixed-sum levy losses for these districts are \$85,872 and \$116,742, respectively.

### **Utility property tax replacement payments**

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 tangible personal property taxes. The result is that some school districts may continue to receive property tax replacement payments longer than they otherwise would. This provision is applied retroactively to the calculation made in October 2007.

### **School district tax levies**

The bill permits school districts to levy an "emergency" property tax up to ten years rather than up to five years as under current law. The bill also permits school districts, with voter approval, to "substitute" one or more of their existing emergency property tax levies with a new type of emergency levy that may be in effect for up to ten years or for a continuing period of time. This new type of levy is for a specified amount in the first year it is levied, but in future years the revenue from the levy increases with the addition of real taxable property to the tax list. This new type of levy is excluded from the H.B. 920 20-mill "floor." As a result, a district may allow the effective rate on its current expense levies to decline until the district reaches the 20-mill floor, so that the district will receive inflationary increases in revenue on those current expense levies, but supplement its revenue with a longer-term levy that increases with new construction of real property. If voters approve these new types of levies or longer-term emergency levies, school districts may not need to return to the ballot for voter approval of levies as frequently as under current law.

## *Section 4: Judiciary*

### *State Fiscal Highlights*

<b>STATE FUND</b>	<b>FY 2009 – FUTURE YEARS</b>
<b>General Revenue Fund (GRF)</b>	
Revenues	- 0 -
Expenditures	Potential change in amount of wrongful imprisonment awards, annual magnitude and direction uncertain
<b>Indigent Defense Support Fund (New Fund) – Public Defender</b>	
Revenues	Potential gain, up to \$8.2 million or more annually
Expenditures	Potential annual increase, up to available revenues
<b>Drug Law Enforcement Fund (New Fund) – Public Safety</b>	
Revenues	Potential gain, up to \$5.8 million or more annually
Expenditures	Potential annual increase, up to available revenues
<b>Indigent Drivers Alcohol Treatment Fund (Fund 0490) – Alcohol and Drug Addiction Services</b>	
Revenues	Potential gain, up to \$2.5 million or more annually
Expenditures	Potential annual increase, up to available revenues

Note: The state fiscal year is July 1 through June 30. For example, FY 2009 is July 1, 2008 – June 30, 2009.

#### *Office of the Ohio Public Defender*

- ***Indigent Defense Support Fund.*** The bill directs that 50%, or \$5, of the additional \$10 in court costs be deposited in the state treasury to the credit of the Indigent Defense Support Fund, to be administered by the State Public Defender for the purpose of reimbursing counties for the provision of indigent criminal defense services. LSC fiscal staff estimates the resulting amount of moneys that will be generated to the credit of the Indigent Defense Support Fund at up to \$8.2 million or more annually.

#### *Department of Public Safety*

- ***Drug Law Enforcement Fund.*** The bill creates the Drug Law Enforcement Fund to be administered by the Division of Criminal Justice Services for the purpose of awarding grants to local drug task forces to defray the expenses incurred in performing its functions related to the enforcement of the state's drug laws and other state laws related to illegal drug activity and directs that 35%, or \$3.50, of the additional \$10 in court costs be deposited in the state treasury to the credit of the Drug Law Enforcement Fund. LSC fiscal staff estimates the resulting amount of moneys that will be generated to the credit of the Drug Law Enforcement Fund at up to \$5.8 million or more annually.

#### *Department of Alcohol and Drug Addiction Services*

- ***Indigent Drivers Alcohol Treatment Fund.*** The bill directs that 15%, or \$1.50, of the additional \$10 in court costs is to be deposited in the state treasury to the credit of the existing Indigent Drivers Alcohol Treatment Fund (Fund 049), to be distributed by the Department of Alcohol and Drug Addiction Services to counties and municipalities for the costs of alcohol monitoring provided to indigent defendants. LSC fiscal staff estimates the

resulting amount of moneys that will be generated to the credit of Fund 049 at up to \$2.5 million or more annually.

**Court of Claims and Auditor of State**

- **Wrongful imprisonment determinations.** The bill modifies the formula used by the Auditor of State in determining the amount of the adjustment to be made in the dollar figure specified by statute for a recovery by a wrongfully imprisoned individual. As a result, an individual eligible for a monetary award based on a claim of wrongful imprisonment (as determined by the Court of Claims) may receive a larger or smaller settlement award depending on whether the consumer price index (CPI) adjustment increases or decreases over the two-year period. Given the number of factors that are considered when making such awards, one of which is formula-driven, it is difficult to predict with any certainty the potential annual magnitude and direction of this modification on the state's GRF, which is the typical source of moneys for the payment of wrongful imprisonment settlements.

***Local Fiscal Highlights***

<b>LOCAL GOVERNMENT</b>		<b>FY 2008 – FUTURE YEARS</b>
<b>County Indigent Criminal Defense Systems</b>		
Revenues		Potential gain in state financial assistance, up to \$8.2 million or more annually statewide
Expenditures		- 0 -
<b>Drug Task Forces</b>		
Revenues		Potential gain in state financial assistance, up to \$5.8 million or more annually statewide
Expenditures		- 0 -
<b>County and Municipal Indigent Drivers Alcohol Treatment Funds</b>		
Revenues		Potential gain in state financial assistance, up to \$2.5 million or more annually statewide
Expenditures		- 0 -
<b>Clerks of Courts</b>		
Revenues		- 0 -
Expenditures		Potential, perhaps no more than minimal, annual increase to administer locally collected state court costs

Note: For most local governments, the fiscal year is a calendar year. The school district fiscal year is July 1 through June 30.

**Additional court costs on moving violations**

- **Indigent criminal defense services.** The additional court costs in the bill could generate up to \$8.2 million or more for the purpose of reimbursing counties for the cost of providing indigent criminal defense services.
- **Drug task forces.** The additional court costs in the bill could generate up to \$5.8 million or more to be distributed annually by the Division of Criminal Justice Services to counties, municipal corporations, townships, township police districts, and joint township police districts to defray the expenses that a drug task force incurs in performing its functions

related to the enforcement of the state's drug laws and other state laws related to illegal drug activity.

- **Indigent drivers alcohol treatment funds.** The additional court costs in the bill could generate up to \$2.5 million or more for deposit in county and municipal indigent drivers alcohol treatment funds annually statewide.
- **Clerks of courts.** As of this writing, it would not appear that the potential cost to establish and maintain the appropriate controls for any given clerk of court to collect and forward the additional \$10 in state court costs would exceed minimal on an ongoing basis.

## *Detailed Fiscal Analysis*

### **Additional court costs for moving violations**

The bill requires a court to impose an additional court cost of \$10 for a moving violation to provide funds for certain costs of drug task forces, certain costs of alcohol monitoring provided to indigent offenders, and certain indigent defense costs.

### **State revenues and expenditures**

According to the state's Bureau of Motor Vehicles, in 2006, there were approximately 1,653,000 moving violation convictions statewide, a number that includes violations committed by both commercial and noncommercial drivers. Assuming that the total number of moving violation convictions recorded in subsequent years is more or less similar to calendar year 2006, LSC fiscal staff estimates that the bill's additional court cost of \$10 will generate up to \$16.53 million or more annually statewide (1,653,000 moving violation convictions x \$10).

Compared to more serious criminal violations in which the collection of court costs and fines can become very problematic, it is more likely that persons convicted of moving violations will make an attempt to pay any fines and court costs imposed by a court so as not to risk bench warrants, future arrests on traffic stops, and a possible suspension of their driving privileges. That said, while the collection rate for moving violations is relatively higher than most other types of violations, it is not likely to reach 100%.

The bill directs the additional \$10 in court costs be forwarded to the state treasury as follows:

- Fifty percent, or \$5, is to be credited to the existing Indigent Defense Support Fund, to be administered by the State Public Defender for the purpose of reimbursing counties for the provision of indigent criminal defense services.
- Thirty-five percent, or \$3.50, is to be credited to the Drug Law Enforcement Fund, which the bill creates, to be administered by the Division of Criminal Justice Services for the purpose of awarding grants to counties, municipal corporations, townships, township police districts, and joint township police districts to defray the expenses that a drug task force incurs in performing its functions related to the enforcement of the state's drug laws and other state laws related to illegal drug activity.

- Fifteen percent, or \$1.50, is to be credited to the existing Indigent Drivers Alcohol Treatment Fund (Fund 049), to be distributed by the Department of Alcohol and Drug Addiction Services to counties and municipalities for the costs of alcohol monitoring provided to indigent defendants.

Table 1 immediately below displays the breakdown and distribution of the revenue that the additional \$10 in court costs will generate annually.

<b>Table 1 Distribution of \$10 in Additional Court Costs on Moving Violations</b>			
<b>State Fund</b>	<b>\$10 Additional Court Cost</b>		<b>Total Estimated Annual Revenue</b>
	<b>Dollar Amount</b>	<b>Percentage</b>	
Indigent Defense Support Fund	\$5.00	50%	Up to \$8,265,000 or more
Drug Law Enforcement Fund	\$3.50	35%	Up to \$5,785,500 or more
Indigent Drivers Alcohol Treatment Fund	\$1.50	15%	Up to \$2,479,500 or more
<b>Totals</b>	<b>\$10.00</b>	<b>100%</b>	<b>Up to \$16,530,000 or more</b>

Under the state's Indigent Defense Reimbursement Program, the State Public Defender subsidizes counties for the cost of providing counsel to indigent persons in criminal and juvenile matters pursuant to the requirements of sections 120.18, 120.28, and 120.33 through 120.35 of the Revised Code. The Revised Code requires the Public Defender to reimburse counties 50% of the costs of operating their local indigent defense systems, unless the legislature appropriates less funding than needed to reimburse at 50%, in which case each county receives a reduced share. The currently enacted level of funding corresponds to a reimbursement rate of about 25% in FY 2008 and 24% in FY 2009. Public Defender fiscal staff has indicated that an increase in annual funding of \$8.0 million or so would increase the county reimbursement rate by 6% to 7% each year.

**Local revenues and expenditures**

The bill, as discussed below, will have direct fiscal effects on at least four local government components as follows: (1) clerks of courts, (2) indigent drivers alcohol treatment funds, (3) county indigent criminal defense systems, and (4) drug task forces.

**Clerks of courts.** The clerks of municipal courts, county courts, mayor's courts, and courts of common pleas will be required to collect and then forward the specified court costs for deposit in the state treasury. Presumably, these clerks of courts will need to modify their accounting systems in order to properly receipt and disburse the additional court cost amounts to the state treasury. As of this writing, it would not appear that the potential cost to establish and maintain the appropriate controls for any given clerk of court would exceed minimal on an ongoing basis.

**Indigent drivers alcohol treatment funds.** Under current law, counties and municipalities are eligible to receive state financial assistance from the Indigent Drivers Alcohol Treatment Fund (Fund 0490), which is administered by the Department of Alcohol and Drug Addiction Services for the purpose of funding certain costs incurred by counties and municipalities in administering indigent drivers alcohol treatment programs. The additional

court costs in the bill could generate up \$2.5 million or more to be disbursed by the state and deposited in county and municipal indigent drivers alcohol treatment funds annually statewide.

**County indigent criminal defense systems.** As noted above, the additional court costs in the bill could generate up \$8.0 million or more for the purpose of reimbursing counties for the cost of providing indigent criminal defense services.

**Drug task forces.** The additional court costs in the bill could generate up to \$5.8 million or more to be distributed annually by the Division of Criminal Justice Services to counties, municipal corporations, townships, township police districts, and joint township police districts to defray the expenses that a drug task force incurs in performing its functions related to the enforcement of the state's drug laws and other state laws related to illegal drug activity.

### **Determination of amount recoverable for wrongful imprisonment**

The bill amends section 2743.49 of the Revised Code pertaining to the awards for wrongful imprisonment. Sub. H.B. 551 of the 126th General Assembly (effective April 5, 2007) modified the formula used by the Auditor of State in determining the amount of the adjustment to be made in the dollar figure specified by statute for a recovery by a wrongfully imprisoned individual. The bill returns this section of law to the original language before it was amended.

Under previous law, the formula for determining such settlements is adjusted in January of each odd-numbered year by the Auditor of State. The adjustment is based on the yearly average of the previous two years of the consumer price index (CPI), as defined by the Revised Code. Sub. H.B. 551 of the 126th General Assembly changed how the adjustment for the change in the CPI is to be factored in each year of the two-year adjustment period. Previously, the Auditor of State only factored the CPI adjustment on one year of the two-year adjustment period. The bill will restore this calculation to the methodology used under prior law.

By changing the CPI adjustment, individuals who may be eligible for a monetary award based on a claim of wrongful imprisonment (as determined by the Court of Claims) may receive a larger or smaller settlement award depending on whether the CPI adjustment increases or decreases over the two-year period. Given the number of factors that are considered when making such awards, one of which is formula-driven, it is difficult to predict with any certainty the potential impact on the state's GRF, which is the typical source of moneys for the payment of wrongful imprisonment settlements. Presumably, future payments would increase or decrease by some unknown degree.

### **Driver's license reinstatement fee payment plans**

The bill is intended to clarify a court's authority to establish an installment payment plan or payment extension in pending cases for reinstatement fees required under a license suspension. Prior law authorized courts, in pending cases, to order driver's license reinstatement fees to be paid in installments or extend the time for making payment. Apparently, as a result of changes that became effective April 4, 2000, pursuant to the enactment of Am. Sub. H.B. 461 of the 126th General Assembly, this authority in pending cases became unclear. From LSC fiscal staff's perspective, based on discussions with several clerks of court, the bill's clarifying language will generally have no discernible effect on state or local government revenues and expenditures.

### **Disbursements of net proceeds from instant bingo**

The bill increases from \$75,000 to \$150,000 the base threshold amount of net profit that is derived from instant bingo conducted by a veteran's, fraternal, or sporting organization and that is used to determine the amount of net profit these organizations can keep to pay their expenses.

Under current law, unchanged by the bill, the net profits from the proceeds of the sale of instant bingo are distributed generally as follows:

- At least 25% of the first \$75,000 must be distributed to certain charitable organizations or to a department or agency of the federal government, the state, or any political subdivision, and no more 75% may be retained by the organization in order to cover certain expenses.
- For any amounts in excess of \$75,000, a minimum of 50% must be distributed to certain charitable organizations or to a department or agency of the federal government, the state, or any political subdivision, 5% may be distributed for the organization's own charitable purposes or to a community action center, and 45% may be retained by the organization in order to cover certain expenses.

By raising the base threshold amount from \$75,000 to \$150,000, a veteran's, fraternal, or sporting organization will be able to retain a larger share of their net proceeds from instant bingo for reimbursement of expenses related to conducting instant bingo. As a result, if an organization's net proceeds remain the same, the amount of moneys available for distribution to certain charitable organizations or departments or agencies of the federal government, the state, or any political subdivision will presumably decrease. As of this writing, from LSC fiscal staff's perspective, the manner in which this change to the threshold amount will or may affect any state or local governmental entities is uncertain.

### **Notice of federal firearms prohibition to persons subject to certain protection orders**

The bill requires a court to provide parties to certain protection orders, and defendants who plead guilty or no contest to a misdemeanor crime of violence against certain family members, with oral or written notice that it may be unlawful for the person to possess or purchase a firearm or ammunition pursuant to federal law, upon issuance of the order. This notification requirement appears unlikely to generate any discernible direct state or local fiscal effect, in particular for any affected court that would be required to notify persons subject to certain protection orders.



## Section 5: Taxation and Public Utilities

### State Fiscal Highlights

STATE FUND	FY 2009	FY 2010	FUTURE YEARS
<b>General Revenue Fund</b>			
Revenues	- 0 -	Potential gain from telecommunications company forfeitures	Potential gain from telecommunications company forfeitures
Expenditures	Potential increase of at least \$2.0 million for newly created Discovery Project	- 0 -	- 0 -
	Increase up to \$100,000 for Ohio SaveNOW	Increase up to \$100,000 for Ohio SaveNOW	Increase up to \$100,000 for Ohio SaveNOW
	- 0 -	Potential decrease in spending on electric service	Potential decrease for up to a two-year period for purchases from any one electric utility
	- 0 -	Potential savings from electronic tax filing requirements	Potential savings from electronic tax filing requirements
<b>Discovery Project Fund (Fund 5APO) – Department of Taxation</b>			
Revenues	Gain of at least \$2.0 million from GRF transfer	- 0 -	- 0 -
Expenditures	- 0 -	- 0 -	- 0 -
<b>Telecommunications Relay Service Fund (Fund 5Q50)</b>			
Revenues	- 0 -	Gain of approximately \$5 million per year	Gain of approximately \$5 million per year
Expenditures	- 0 -	Increase of approximately \$5 million per year	Increase of approximately \$5 million per year
<b>Power Siting Board Fund (Fund 5610)</b>			
Revenues	Potential gain	Potential gain	Potential gain
Expenditures	- 0 -	Potential increase	Potential increase
<b>Department of Insurance Operating Fund (Fund 5540)</b>			
Revenues	Potential gain of approximately \$300,000	Potential gain of approximately \$300,000	Potential gain of approximately \$300,000
Expenditures	Potential minimal decrease	Potential minimal decrease	Potential minimal decrease
<b>Medical Liability Fund (Fund 5AG0)</b>			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Increase of \$1.5 million	- 0 -	- 0 -
<b>Board of Deposit (Fund 4M2) – Board of Deposit</b>			
Revenues	Increase up to \$200,000	- 0 -	- 0 -
Expenditures	- 0 -	- 0 -	- 0 -

<b>Other State Funds</b>		
Revenues	- 0 -	- 0 -
Expenditures	- 0 -	Potential decrease in spending on electric service
		Potential decrease for up to a two-year period for purchases from any one electric utility

Note: The state fiscal year is July 1 through June 30. For example, FY 2009 is July 1, 2008 – June 30, 2009.

### **Public Utilities Commission (PUCO)**

- **Telecommunications Relay Service.** Authorizes PUCO to assess service providers, generally meaning companies that provide telephone services, the cost of telecommunications relay service to the hearing and speech impaired beginning January 1, 2009. The resulting revenue is to be deposited into the Telecommunications Relay Service Fund (Fund 5Q50), the establishment of which is codified by the bill. The formula for allocating the assessment across service providers is to be determined by PUCO, but is generally based on the number of customer access lines provided by each company. Based on the contracted amount for FY 2009, the amount of the total assessment is expected to be approximately \$5 million per year.
- **Forfeitures for failure to pay assessment.** Authorizes PUCO to assess forfeitures up to \$1,000 per day on companies that do not pay the assessment established by the bill or do not pay it on time. Any revenue collected under this provision is to be deposited into the GRF. The amount collected would depend on compliance with the requirement to pay the assessment.
- **Electric company standard service offers.** Makes a change to the ramp-up percentage applicable to the second year of a standard service offer determined under the market rate offer option. The ramp-up period limits the speed of phasing in competitively bid prices for certain electric utilities during a five-year ramp-up period. The change will further limit the speed of phasing in those prices in the second year and is likely to result in savings on electric bills to customers, including state government facilities that purchase power from those utilities. The savings would occur for up to two fiscal years when a market rate option is first offered, since the changed percentage may apply across two fiscal years, and may be up to several million dollars in those years, depending on regulatory decisions made by PUCO.
- **Wind farm siting.** Subjects certain wind farms to the oversight of the Power Siting Board (PSB). This provision increases revenue to Fund 5610 from application fees, and increases expenditures from the fund. The magnitude of the increase depends on the number of applications received and on fee amounts that PSB is required to determine, and is unknown at this time. The bill does not increase the FY 2009 appropriation from the fund.

### **Treasurer of State**

- **Ohio SaveNOW program.** Authorizes the Treasurer of State to administer a linked deposit program, the SaveNOW program, designed to encourage personal savings and promote personal financial education.

- **Small Business Linked Deposit Program.** Revises the determination of interest rates for the purpose of the Small Business Linked Deposit Program to a rate below current market rates as determined and calculated by the Treasurer.
- **Definition of financial transaction device.** Expands the definition of "financial transaction device" to include devices or methods other than those currently enumerated for making an electronic payment of funds owed to a state agency.

### **Department of Taxation**

- **Tax discovery data system.** Requires the Department of Taxation to establish and implement a tax discovery data system intended to increase tax collection efficiency, and to purchase the necessary hardware, software, and services by April 1, 2009.
- **Electronic filing requirements.** Requires a tax return preparer that files more than 75 original income tax returns, reports, or other tax payment documents in a calendar year to file them electronically if the Tax Commissioner posts on the Department of Taxation's web site acceptable electronic filing methods. Requires vendors, sellers, and some consumers to file sales and use tax returns and pay the taxes electronically in a manner approved by the Tax Commissioner.

### **Department of Insurance**

- **Insurance agent licenses.** Requires applicants for licensure as insurance agents to pay a \$10 licensure fee regardless of whether the applicant is required to pass a licensure examination. This will likely increase revenue to the Department of Insurance Operating Fund by approximately \$300,000.
- **Ohio Family Health Survey.** Establishes a new appropriation line item from Fund 5AG0 in the Department's budget and appropriates \$1.5 million in FY 2009 to provide funding for the Ohio Family Health Survey.
- **Long-term care insurance agent continuing education.** Makes changes to the law governing training requirements for insurance agents selling long-term care insurance. This may reduce expenditures from Fund 5540. Any potential reduction is likely to be minimal.

### **Tax provisions**

- **Income tax.** Exempts from the Ohio income tax amounts received from the Military Injury Relief Fund, which are paid to injured or post-traumatic stress disorder-diagnosed armed services members who served in Operation Iraqi Freedom or Operation Enduring Freedom; this may reduce income tax revenue. Exempts from the Ohio income tax military retirement pay received by the military retirant's surviving spouse after the military retirant's death; this may reduce income tax revenue.
- **Sales and use tax.** Exempts from the sales tax, sales to a "qualified direct selling entity" of tangible personal property used to store, transport, or handle inventory in a warehouse or distribution center when the inventory is held for direct selling and primarily distributed outside Ohio to independent salespersons, and is not sold from a fixed retail location; this

may reduce sales and use tax revenue. Includes as a taxable transaction the sale of "guaranteed auto protection" whereby a party promises to cover the difference between the outstanding loan and the insurance settlement for a "totaled" vehicle, when such protection is included in a motor vehicle sale or lease; this may increase sales and use tax revenue. Exempts from sales and use taxation the sale of full flight simulators and related parts and maintenance; and the sale of aircraft and avionics repair and replacement materials, parts, equipment, and engines, and repair, remodeling, replacement, or maintenance services on aircraft that have a certified maximum takeoff weight greater than 6,000 pounds, or are used in general aviation, when the services are performed at a Federal Aviation Administration certified repair station; this may reduce sales and use tax revenue.

- ***Job retention tax credit.*** Changes the number of years a taxpayer is required to maintain operations at a project site to the greater of seven years or the term of the tax credit plus three years, for the violation of which the taxpayer must repay the state up to 50% of the credit received, and also eliminates the 25% repayment requirement for not maintaining operations longer than one and one-half but not as long as twice the term of the credit; this may reduce revenue from the corporate franchise tax, personal income tax, and commercial activity tax.

### *Local Fiscal Highlights*

LOCAL GOVERNMENT	FY 2009	FY 2010	FUTURE YEARS
<b>Counties, Municipalities, Townships, School Districts (Electricity Purchases)</b>			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	- 0 -	- 0 -	Potential decrease during up to two fiscal years for purchases from any one electric utility
	- 0 -	Potential increase for political subdivisions that purchase power through a governmental aggregation	Potential increase for political subdivisions that purchase power through a governmental aggregation
<b>Counties, Municipalities, Townships (Wind Farms)</b>			
Revenues	Potential gain or loss	Potential gain or loss	Potential gain or loss
Expenditures	Potential increase or decrease	Potential increase or decrease	Potential increase or decrease

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

#### **Local governments and school districts**

- ***Local government and school district purchases of electricity.*** Makes a change to the ramp-up percentage applicable to the second year of a standard service offer determined under the market rate offer option. The ramp-up period limits the speed of phasing in competitively bid prices for certain electric utilities during a five-year ramp-up period. This will further limit the speed of phasing in those prices and is likely to result in savings on electric bills to customers, including local governments and school districts that purchase power from those utilities. The savings would occur for up to two fiscal years when a market rate option is first offered, since the change may apply across two fiscal years, and may be up to several million dollars statewide in those years, depending on regulatory decisions made by PUCO.

### **Governmental electric aggregation**

- **Local government and school district purchases of electricity.** Makes changes to the law governing electric utility surcharges that may be passed through to customers of a governmental aggregation. The changes may clarify intent, but they may also increase the surcharges that may be passed on to such customers. To the extent that the latter is the case, that would increase costs for electricity for those local governments and school districts that purchase power through a governmental aggregation.

### **Wind farm siting**

- **Wind farm siting.** Preempts local regulatory authority over certain wind farms owned by companies that are not public utilities (or railroads) and gives boards of county commissioners, boards of township trustees, and boards of zoning appeals authority over construction of smaller wind farms within their jurisdictions. The net effect of these changes may be to increase or decrease revenue from application fees and to decrease or (permissively) increase expenditures to process any such applications. The magnitude and direction of any such revenue changes would depend on fees set by the various boards and on the number of applications received, and is uncertain.

### **Tax provisions**

- **Property tax.** Authorizes a county or municipal corporation to extend the duration of a tax exemption granted to the owner of residential real property located in a community reinvestment area; this may reduce revenue collections. Classifies as a charitable institution eligible for real and tangible personal property tax exemption certain nonprofit organizations that are exempt from federal income taxation; this may reduce revenue collections. Temporarily authorizes a board of township trustees of a township with a population exceeding 55,000 to adopt a tax increment financing (TIF) resolution on or before December 31, 2008, by majority vote.
- **Cigarette and alcoholic beverage taxes.** Prohibits new county tax levies on the sale of cigarettes and alcoholic beverages for sports facilities after the bill's effective date.
- **Income tax.** Any changes in state income tax revenue will be shared by the local government funds. The exemption for amounts received from the Military Injury Relief Fund may reduce revenue from some school district income taxes.
- **Sales and use tax.** Any changes in state sales and use tax revenues will be shared by the local government funds. Changes to the sales tax base will also affect county and transit authority sales taxes.
- **Lodging tax.** Authorizes certain counties (or the most populous municipal corporation in such a county) to use existing lodging tax revenue to pay costs of constructing, expanding, maintaining, or operating more than one convention center in the county or municipal corporation, and to designate some of the revenue for promoting the centers by a convention and visitors bureau.

- **Job retention tax credit.** Any reduction in revenue from the corporate franchise tax and personal income tax will be shared by the local government funds. Any reduction in the commercial activity tax will be shared by the School District Tangible Property Tax Replacement Fund and the Local Government Tangible Property Tax Replacement Fund.
- **Tax certificate sales.** Extends the authority to conduct delinquent property tax certificate sales to counties with a population of less than 200,000, and prohibits sales of certificates for parcels of property in a bankruptcy estate. Permits use of different time frames under which a certificate holder may initiate a foreclosure action, not to exceed six years, and limits private attorney's fees with respect to the action. Makes various procedural, clarifying, and technical changes to the delinquent property tax certificate law. Revenues realized by counties and other units of local government may rise as a result of the sale of tax certificates on properties with delinquent real property taxes, in counties not permitted under current law to sell these certificates. Costs will rise for administration of the tax certificate program, in counties that issue the tax certificates, but these added costs appear likely to be less than associated revenue gains. Civil actions for penalties on tax certificate holders who improperly contact the owners of the parcels that are the subjects of the certificates, if commenced by county prosecuting attorneys, would increase costs to the offices of those county prosecuting attorneys. Such civil actions appear likely to be infrequent, so the costs to county prosecuting attorneys appear likely to be low.

## *Detailed Fiscal Analysis*

### **Public Utilities Commission**

#### **Telecommunications Relay Service**

The bill authorizes PUCO to assess service providers, not earlier than January 1, 2009, the cost of telecommunications relay service for the hearing and speech impaired. For this purpose, the bill defines service providers to be those companies that federal law requires to provide access for their customers to telecommunications relay service. PUCO is authorized to determine which companies may be assessed, and the bill mentions specifically telephone companies as defined in section 4905.03 of the Revised Code, commercial mobile radio service providers, and providers of advanced services or Internet protocol-enabled services. The resulting revenue is to be deposited into the Telecommunications Relay Service Fund (Fund 5Q50), the establishment of which is codified by the bill. The formula for allocating the assessment across service providers is to be determined by PUCO, but is required to be competitively neutral and to be based on the number of customer access lines (or their equivalent) provided by each company. PUCO is authorized to assess a forfeiture up to \$1,000 per day on service providers that do not pay the assessment or pay it on time. Any amounts collected due to assessment of such forfeitures are to be deposited into the GRF.

This is not a new program. The Telecommunications Relay Service was required by the federal Americans with Disabilities Act, and has been in existence in Ohio since 1992. Historically, the costs of the vendor were reimbursed by use of a refundable tax credit, first under the public utility excise tax, then under the corporate franchise tax (CFT). Due to the phasing out of the CFT, a new funding mechanism is needed. H.B. 119 of the 127th General Assembly provided a temporary funding mechanism, by initially establishing Fund 5Q50 in uncodified law, and requiring a transfer from the Public Utilities Fund to Fund 5Q50 by

February 28, 2009 to reimburse the vendor for costs of providing the service for calendar year 2008. The current bill retains the fund transfer to cover costs for 2008 and institutes the above funding mechanism for future years. PUCO has reached an agreement with a vendor to provide the service for \$5 million for FY 2009, and the Controlling Board approved a waiver of competitive selection at its November 19, 2007 meeting in connection with this agreement. The bill also amends H.B. 119 to establish a new line item appropriation, 870-626, Telecommunication Relay Service, with an appropriation of \$5 million for FY 2009. H.B. 119 made an appropriation in language, i.e., without establishing a line item, to allow for the vendor to be paid. The bill does not amend the uncodified language establishing Fund 5Q50<sup>8</sup> or the appropriation in language, although the new provisions appear to make the original uncodified language superfluous.

Based on the contracted amount for FY 2009, the amount of the total assessment is expected to be approximately \$5 million per year, beginning in FY 2010. Any forfeiture amounts collected would depend on the compliance of companies required to pay the assessment with the requirement to do so. There is a potential increase in GRF revenue from such forfeitures.

#### **Electric company standard service offers**

The bill makes changes to the ramp-up percentages applicable to standard service offers determined under the market rate offer option. The ramp-up period limits the speed of phasing in competitively bid prices for certain electric utilities during the five-year period. For year two of the ramp-up period, the bill changes the wording from "not less than" 20% to "not more than" 20%. The effect of this change in wording is to further limit the speed of phasing in those prices in that second year.

S.B. 221 of the 127th General Assembly instituted a new legal basis for pricing of retail electric generation service in Ohio. Prices for retail electric generation service are currently based on rate stabilization plans (RSPs) that were agreed upon between the utilities and the PUCO in 2005. With the exception of the Dayton Power and Light RSP, the utilities' RSPs expire on December 31, 2008. The provisions of S.B. 221 would govern electric generation rates after the RSPs expire.

S.B. 221 required electric distribution utilities to file applications to provide a standard service offer under an "energy security plan" option, and permitted the utilities to file applications to provide the offer under a market rate option (MRO). Under an MRO, the generation rates would be based in part on prices determined in a competitively bid auction process. For utilities that directly own generating assets as of July 31, 2008, if the utility fulfills the conditions for offering an MRO rate, the MRO rate charged to consumers would be a blend of the competitively bid price and the most recent standard service offer price. First Energy is the only utility in Ohio that no longer directly owns generating assets, so this ramp-up provision would apply only to the other electric utilities (American Electric Power, Duke Energy, and Dayton Power and Light). These utilities currently have electric generation rates that are generally believed to be below market rates, so the wording change provided by the bill is likely to result in savings on electric bills to customers that purchase power from those utilities under

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<sup>8</sup> Please note that the fund number in the language amending H.B. 119 is 5Q5. The change in number is associated with the conversion from the Central Accounting System to OAKS.

an MRO. The savings would occur in year two of the operation of an MRO. The amount saved may be up to several million dollars in that year, depending on regulatory decisions made by PUCO. If the year used to determine the ramp-up period does not correspond to the fiscal year, for either the state or a political subdivision, the savings may occur in two fiscal years.

### **Governmental electric aggregation**

The bill makes changes to the law governing electric utility surcharges that may be passed through to customers of a governmental aggregation. The changes may clarify intent, but they may also increase the surcharges that may be passed on to such customers. To the extent that the latter is the case, that would increase costs for electricity for those local governments and school districts that purchase power through a governmental aggregation.

S.B. 221 (see section above entitled "**Electric company standard service offers**") made a number of changes to the law governing retail electric generation in Ohio. One of those changes was a grant of authority to PUCO to authorize, by rule, any just and reasonable phase-in of a utility rate or price for electric generation service under either an energy security plan option or an MRO. To the extent that such a phase-in prevented the recovery of costs for the utility, PUCO was authorized to defer the cost recovery and impose it, in part, through a nonbypassable surcharge, on customers who chose to purchase electric generation service from a competitive retail electric supplier. The ability to impose the surcharge on customers enrolled in a governmental aggregation was limited. A second change was to allow governmental aggregators to decline standby service from the local electric utility.

In the case of the first change made by S.B. 221, the current bill makes a change to the language governing the portion of such a surcharge that PUCO may permit to be imposed on customers of a governmental aggregation. This change may be clarifying in nature, but may also have the effect of increasing the portion of a surcharge that may be imposed on those customers. Similarly, the second change made by the current bill was to language governing the electric customers that may not be charged for standby service when a governmental aggregator declines standby service. The effect of the change may be clarifying in nature, but may also expand the pool of customers that the utility may charge for standby service. The effect of both changes, then, may be to increase the price of electric service for those local governments and school districts that purchase power through a governmental aggregator. LSC is unable to estimate the magnitude of any potential cost increase.

### **Wind farm siting**

The bill subjects certain wind farms to the oversight of the PSB, preempts local regulation of such wind farms, and gives boards of county commissioners, boards of township trustees, and boards of zoning appeals authority over the construction of others. Specifically, the bill assigns oversight over wind farms with an aggregate generating capacity between five and fifty megawatts to the PSB, and assigns oversight over wind farms with smaller capacities to the relevant local board.

This provision increases revenue to the Power Siting Board Fund (Fund 5610) from application fees. PSB is required to issue rules within 120 days that govern granting of certificates to install and operate such generating facilities, and the rules are to specify fee amounts to accompany applications. The magnitude of the increase in revenue depends on the



number of applications received and on the fee amounts set by PSB, so it is unknown at this time. This provision would also increase expenditures from line item 870-606, Power Siting Board, but the bill does not increase the FY 2009 appropriation.

This provision also exempts wind farms with a capacity less than five megawatts from an existing prohibition against boards of county commissioners, boards of township trustees, and boards of zoning appeals having authority to oversee the location, construction, and operation of facilities owned by public utilities. Since the existing statute refers only to facilities owned by public utilities and railroads, the authority granted to PSB effectively preempts regulatory authority over larger wind farms that are not owned by such entities. The net effect of this provision may thereby (permissively) increase or decrease expenditures by counties, municipalities, and townships related to overseeing such activity. It also may increase or decrease fee-based revenue. The magnitude and direction of any such changes would depend on the fee amounts set by individual jurisdictions and the number of applications received, and is thus uncertain.

### **Other provisions**

The bill extends to regional transit authorities the permissive authority to enter into energy price risk management contracts that are intended to mitigate the price volatility of energy sources. Such authority was granted to the state, counties, municipalities, townships, park districts, and school districts by S.B. 221 of the 127th General Assembly. The authority is permissive, so the bill does not impose costs on local governments. Any political subdivision that employed such a contract might pay less for its energy needs, if prices for the applicable forms of energy were to increase by more than was expected at the time the contract was entered into. They might pay more, though, if energy prices rise by less than was expected (or fall).

### **Treasurer of State**

#### **Ohio SaveNOW Program**

The bill authorizes the Treasurer's Office 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 through the use of SaveNOW linked deposits of state money with eligible savings institutions. The SaveNOW Linked Deposit Program would not have any impact on state earnings on investments and revenues as the amount of state funds that are pledged or invested in this program are already accounted for under the current allowable amount for all linked deposit programs. The bill creates a new category of linked deposit program, but does not change the 12% total percentage of state funds that the Treasurer may invest in all linked deposit programs. According to the Treasurer's Office, its expenditures would increase by approximately \$100,000 annually to administer this new program and existing budget resources would be used to implement and administer the required SaveNOW personal finance education program.

### **Small Business Linked Deposit Program**

The bill revises the determination of interest rates for the purpose of the Small Business Linked Deposit Program to a rate below current market rates as determined and calculated by the Treasurer. Currently, the rate is at up to 3% below current market rates. This provision has no direct fiscal impact on the state or local governments.

### **Expanded definition of financial transaction device**

The bill expands the definition of "financial transaction device" to include devices or methods other than those currently enumerated for making an electronic payment of funds owed to a state agency. This provision may accelerate state financial transactions. This may increase the state's cash flow and earnings on investment and reduce state expenditures on personnel and operations related to the transactions.

## **Department of Taxation**

### **Tax Discovery Data System**

The bill requires the Department of Taxation to establish and implement a tax discovery data system intended to increase tax collection efficiency, and to purchase the necessary hardware, software, and services by April 1, 2009. Additionally, the Tax Commissioner is required to request funds quarterly to pay the costs of operating and administering the system. The bill appropriates \$2 million in FY 2009 from the General Revenue Fund to the newly created Discovery Project Fund (Fund 5APO) to pay the costs of implementing and administering the system. An additional appropriation from the GRF may be needed if the amounts appropriated are insufficient to pay for the costs of the necessary hardware, software, and services of the Tax Discovery Data System. Additional appropriation from the GRF may also be needed to pay the costs of operating and administering the system.

### **Electronic filing of sales and use taxes returns and payments**

The bill requires vendors, sellers, and some consumers to file sales and use tax returns and pay the taxes electronically in a manner approved by the Tax Commissioner. They may apply to the Commissioner to be excused from this requirement, with good cause shown. The bill specifies that the changes to the electronic filing and remittance requirements are effective beginning January 1, 2009. Currently, electronic payment is required only if a vendor's, seller's, or consumer's sales or use tax collections exceed \$75,000 per year. The provisions may increase the efficiency of tax filings and accelerate sales tax collections. This may increase the state's cash flow and earnings on investment and may reduce state expenditures on personnel and operations related to the taxes.

### **Electronic filing of income tax returns and payments**

The bill requires a tax return preparer that files more than 75 original income tax returns, reports, or other tax payment documents in a calendar year to file them electronically if the Tax Commissioner posts on the Department of Taxation's web site acceptable electronic filing methods. If the preparer files more than 75 returns nonelectronically, the bill imposes a \$50 per-return penalty on all nonelectronically filed returns in excess of the 75-return threshold. The

provisions may increase the efficiency of tax filings, accelerate the state personal income tax collections, and reduce the Department of Taxation's expenditures on personnel and operations related to personal income tax. This may also increase the state's cash flow and earnings on investment.

### **Department of Insurance**

#### **Insurance agent licenses**

Current law requires applicants for licensure as insurance agents, except applicants for licensure as limited lines agents and surplus line brokers, to pay a \$10 fee in order to take examinations required for licensure. The bill would modify the wording to require the fee upon application for licensure. This would affect primarily agents who are already licensed in other states who are not required to take an examination in Ohio if they have done so in another state. This provision would likely increase revenue to the Department of Insurance Operating Fund by approximately \$300,000.

#### **Ohio Family Health Survey**

The bill establishes a new line item in the Department's budget, 820-603, Ohio Family Health Survey, and appropriates \$1.5 million in FY 2009 to it. Funding for the appropriation is from the Medical Liability Fund (Fund 5AG0). The bill does not specify whether the Department is responsible for administering the survey.

Fund 5AG0 was established to provide start-up funding for the Medical Liability Underwriting Association (MLUA). The fund received one-time revenue when it was established and does not have an ongoing source of funding.<sup>9</sup> Section 3929.63 of the Revised Code gives the Superintendent of Insurance the authority to establish the MLUA if the Superintendent finds that there has been a disruption in the market for medical malpractice liability insurance in Ohio significant enough to threaten the availability of health care for any group of Ohio patients. The authority was established in 2004, toward the end of a period when medical malpractice insurance premiums had risen significantly and the number of insurers offering the coverage in Ohio had declined. Since then the growth in premiums has moderated and the number of insurers seems to have stabilized. The authority granted the Superintendent has not been invoked, so the amount of money in the fund has accumulated since 2004.

#### **Long-term care insurance agent continuing education**

The bill makes changes to the law governing training requirements for insurance agents that sell long-term care insurance. The changes include the removal of a requirement that the Superintendent of Insurance certify to the Director of Job and Family Services that the Superintendent has verified that all agents selling long-term care insurance have completed the required training. The other changes generally impose the burden of record keeping related to agents' completion of training requirements on insurance companies that market long-term care insurance, and include a grant of authority to the Superintendent to annually audit insurers' records to verify that they have maintained the required records. As these changes generally

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<sup>9</sup> For more details about the source of one-time revenue, see the fiscal note for H.B. 282 of the 125th General Assembly.

give the Department more flexibility in monitoring compliance with the training requirements, they may reduce expenditures on such monitoring. Any savings that may result would be to Fund 5540. LSC staff believe that any such savings, if realized, would likely be minimal.

## **Tax provisions**

### **Income tax**

The bill exempts from the Ohio income tax grants received from the Military Injury Relief Fund (MIRF) by injured military personnel. The MIRF receives direct contributions and money designated by taxpayers who have elected to donate a portion of their income tax refund to the MIRF. Money in the fund is used to make grants to soldiers injured while serving on active duty in Operation Enduring Freedom or Operation Iraqi Freedom. The fund has received approximately \$755,000 from tax check-offs and private donations. H.B. 119 (the operating budget for the FY 2008-FY 2009 biennium) made an appropriation of \$2 million to the fund (Fund 5DB0). The first grants from the fund were made in October 2007 and through April 2008 grants totaling \$102,000 have been given to 204 applicants, an average of \$500 per applicant. The exemption will reduce income tax collections. The revenue loss will depend upon the number and size of the grants given and the recipients' income tax brackets. Assuming that the full appropriation amount of \$2 million is distributed, the state income tax revenue loss from exempting the grants is estimated at \$43,000. The exemption may also reduce the tax base for some school district income taxes, resulting in a minimal loss of revenue.

The bill extends the income tax exemption for retired military personnel pay to include such pay received by the military retiree's surviving spouse after the military retiree's death. In 2006, survivors' retirement benefits totaling approximately \$52 million were received by 6,252 survivors of military personnel in Ohio. The average benefit was \$8,292. The Office of the Actuary of the U.S. Department of Defense did not have a breakdown between military survivors' retirement benefits paid to surviving spouses and to nonspouse recipients. The exemption could result in a reduction in income tax revenue of up to \$1.5 million. This loss would be shared by the GRF and the local government funds. The exemption may also reduce the tax base for some school district income taxes, resulting in a loss of up to \$55,000.

### **Sales and use tax**

The bill includes as a taxable transaction the sale of "guaranteed auto protection" whereby a party promises to cover the difference between the outstanding loan and the insurance settlement for a "totaled" vehicle, when such protection is included in a motor vehicle sale or lease. This change may increase the amount of sales tax collections by the state and by counties and transit authorities, and the amount of distributions to the local government funds. LSC does not have an estimate of the amount of any such increases.

The bill exempts from the sales tax, sales to a "qualified direct selling entity" of tangible personal property used to store, transport, or handle inventory in a warehouse or distribution center when the inventory is held for direct selling and primarily distributed outside Ohio to independent salespersons, and is not sold from a fixed retail location. A "qualified direct selling entity" eligible for the exemption is an entity selling to direct sellers at the time the entity enters into a jobs creation tax credit agreement with the Tax Credit Authority. This change may decrease the amount of sales tax collections by the state and by counties and transit authorities,

and the amount of distributions to the local government funds. LSC does not have an estimate of the amount of any such decreases.

The bill exempts from sales and use taxation the sale of full flight simulators and related parts and maintenance; and the sale of aircraft and avionics repair and replacement materials, parts, equipment, and engines, and repair, remodeling, replacement, or maintenance services on aircraft that have a certified maximum takeoff weight greater than 6,000 pounds, or are used in general aviation, when the services are performed at a Federal Aviation Administration certified repair station. This change may decrease the amount of sales tax collections by the state and by counties and transit authorities, and the amount of distributions to the local government funds. LSC does not have an estimate of the amount of any such decreases.

### **Job retention tax credit**

The bill changes the number of years a taxpayer is required to maintain operations at a project site to the greater of seven years or the term of the tax credit plus three years, for the violation of which the taxpayer must repay the state up to 50% of the credit received. The bill also eliminates the 25% repayment requirement for not maintaining operations longer than one and one-half but not as long as twice the term of the credit.

These changes may reduce state revenues from the corporate franchise tax, the personal income tax, and the commercial activity tax. Receipts from the corporate franchise tax and the personal income tax are shared by the GRF and the local government funds. Receipts from the commercial activity tax are deposited to the School District Tangible Property Tax Replacement Fund and the Local Government Tangible Property Tax Replacement Fund.

### **Property taxes**

The bill classifies as a charitable institution eligible for real and tangible personal 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 also specifies that this classification applies to pending property tax exemption applications. This may increase the value of property qualifying for tax exemption and LSC does not have an estimate of the resulting loss, if any, of property tax revenue to local governments. For tax levies designed to raise a specified amount of money, any reduction in the tax base would be offset by an increase in the tax rate, implying that a portion of the lower tax payments resulting from any increase in tax exempt property could be borne by other taxpayers, in the form of higher taxes, rather than by units of local government.

The bill authorizes a county or municipal corporation to extend the duration of a tax exemption granted to the owner of residential real property located in a Community Reinvestment Area for up to an additional ten years if the property is a structure of historical or architectural significance, is a certified historic structure under 26 U.S.C. 47 and 170(h), and units within the structure have been leased to tenants for five consecutive years. This provision may result in loss of property tax revenues not only for the government entity authorizing the extension but also for school districts and other units of local government. LSC does not have an

estimate of the likely loss of local government revenue, but the amount of such loss is limited by the restrictions on types of property that could qualify for the additional years of tax exemption.

The bill temporarily authorizes a board of township trustees of a township with a population exceeding 55,000 to adopt a tax increment financing (TIF) resolution on or before December 31, 2008, by majority vote. Current law requires a unanimous vote. This change could allow one or more townships that would otherwise be unable to do so, to establish a TIF district. The bill specifies the most recent federal decennial census as the measure of population to be used. Only two Ohio townships had populations in the 2000 Census exceeding 55,000: Colerain and Green townships, both in Hamilton County. This change could result in granting of a property tax exemption to increases in the value of designated parcels, on which owners would instead make service payments equal to the taxes otherwise due. The service payments would fund infrastructure and public improvements.

The bill allows county treasurers in all Ohio counties to sell tax certificates on parcels of real property with delinquent real property taxes. Under current law, such sales are limited to counties with populations of 200,000 or more. The tax certificates provide a way to recover revenues from real property taxes that are owed but have not been paid. By providing local government officials with an additional tool with which to try to recover unpaid real property taxes, the certificates would likely channel additional revenue to units of local government. Costs of administering the tax certificate program fall on county governments. The tax certificate law provides for charges for program costs. A certificate holder who initiates contact with the owner of a parcel that is the subject of the certificate may in certain circumstances be assessed a civil penalty of up to \$5,000 for each offense, under current law unchanged by the bill. This civil penalty is to be paid to the state's General Revenue Fund. By allowing the sale of tax certificates in more counties, the bill may increase the amount of such state revenues. However, the frequency of penalties resulting from such contacts appears likely to be low. Costs to the Attorney General or to the county prosecuting attorney may be increased by such actions. The 2000 Census shows 12 of Ohio's 88 counties with populations of 200,000 or more. By 2007, the United States Bureau of the Census estimates the populations of 13 counties exceeded 200,000. These 13 counties in 2007 accounted for 59% of Ohio's population. Department of Taxation figures for calendar year 2006 show \$981 million in delinquent real property taxes statewide, of which 70% was in the 13 counties with estimated populations of 200,000 or more in 2007. Cuyahoga County, with \$233 million in delinquent real property taxes, accounted for 24% of the state total.

### **Local cigarette and alcohol taxes**

The bill prohibits new county tax levies on the sale of cigarettes and alcoholic beverages for sports facilities, after the bill's effective date. The collection of any tax levied before the effective date is not prevented so long as that tax remains effective. Thus the effect of this change is only prospective, on any future taxes on the sale of cigarettes and alcoholic beverages for these purposes that a county might otherwise impose. This prohibition on future taxes for sports facilities plausibly may reduce revenues to counties relative to the amounts to which they would have increased, but LSC does not have an estimate of any such future revenues that would be forgone.

### **Lodging tax**

The bill authorizes certain counties (or the most populous municipal corporation in such a county) to use existing lodging tax revenue to pay costs of constructing, expanding, maintaining, or operating more than one convention center in the county or municipal corporation, and to designate some of the revenue for promoting the centers by a convention and visitors bureau. This may result in additional spending of lodging tax revenue by one or more counties or municipal corporations on constructing, expanding, maintaining, or operating more than one convention center. LSC does not have an estimate of the amount of any such additional spending.

### **School district income tax**

The bill shortens the timeline for the earliest effective date of a school district income tax rate reduction by specifying that the reduction takes effect on the first day of January 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 60 days, as required under existing law. This change would allow a school board to wait until after the November elections before adopting a resolution to lower the school district income tax rate, which a board can do without a vote of the electors. This would, for example, allow a school board to see if a property tax levy passes before committing to lowering the income tax rate. Nevertheless, only the time period, from 60 to 45 days, between when a copy of the resolution is certified to the Tax Commissioner and the effective date of the income tax reduction on the ensuing first day of January is changed, and the change is assumed to have no fiscal effect.

### **Municipal Income Tax Fund**

The bill clarifies that investment earnings from money in the Municipal Income Tax Fund are credited to the fund. Current law implies this by requiring the pro rata share of investment earnings to be distributed in proportion to the amount certified to each municipal corporation. This clarification will have no fiscal effect.

### **Joint economic development districts**

The bill modifies one of the statutes authorizing creation of joint economic development districts (JEDD) to allow new residents (electors) to live in the JEDD after it is created, to permit residential zoning in the JEDD, and to provide that new residents would not pay the JEDD income tax unless they also work within the JEDD. Currently, no electors may live in a JEDD that is created under that statute at any time. (Electors may reside in a JEDD created under another section of the Revised Code.)

A joint economic development district is created by one or more municipal corporations and one or more townships to facilitate economic development in a designated area. The rate of the JEDD income tax may be no higher than the highest rate levied by any of the municipal corporations that are parties to the contract creating the JEDD. Although a person residing in the JEDD would not be subject to the JEDD income tax based on place of residence, that person would still appear, from the language in the bill, to be subject to municipal income tax, if the location of the person's residence within the JEDD is also within the limits of a municipality levying such a tax.

For a person moving to a JEDD in response to this change, the change could result in a gain or loss of income tax revenue to a municipal corporation, depending on whether the person was subject to municipal income tax in his or her location of previous residence and on whether the residence location in the JEDD is subject to municipal income tax. The situation with regard to school district income taxes is similarly indeterminate. The residence locations in the JEDD would require government services such as police and fire protection. LSC does not have an estimate of the overall fiscal effect of this change on local government revenues or expenses. There appears to be no fiscal impact on the state.

### **Board of Deposit**

#### **Definition of allowable expenses**

The bill expands the definition of allowable expenses for the Board of Deposit Expense Fund (4M2). The expenses include "any and all other necessary expenses," but are not limited to banking charges and fees required for the operation of the State of Ohio Regular Account. The provision may increase the amount of transfer from the Investment Earnings Redistribution Fund (Fund 608) to pay for Board of Deposit expenses.

The bill permits a community development bank located in a county with a population of over 1.3 million people that has previously served as that county's depository of active moneys to again be designated as such during the county's current four-year designation period, notwithstanding any contrary requirements in section 135.33 of the Revised Code. This provision would affect only Cuyahoga County's depository of active moneys and has no fiscal impact.

#### **EFT payments**

The bill increases the Board of Deposit (BDP) appropriation by \$200,000 in FY 2009 to allow the Board to pay for three banking contracts for EFT payments. The authority to issue these payments was transferred from the Auditor of State to the Office of Budget and Management (OBM). However, OBM transferred the management of the three banking contracts to BDP to increase efficiency.

### **Commissioners of the Sinking Fund**

The bill allows the Director of Budget and Management to transfer \$34,549.45 from the Coal Research and Development Bond Services Fund (Fund 7076) into the Coal Research and Development Fund (Fund 7046) to correct deposits that were made in error.



**Ohio Air Quality Development Authority**

The bill allows the Director of Budget and Management to transfer \$5,538.11 from the Coal Research and Development Fund (Fund 7046) into the Coal Research and Development Bond Services Fund (Fund 7076) to correct deposits that were made in error.

**Water Quality Development Authority**

The bill prohibits the Ohio Water Quality Development Authority from charging any fees or fines that in total exceed an amount equal to the principal amount of a loan made by the Authority. This provision has no fiscal impact.

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