



Ohio Legislative Service Commission

Final Analysis

Megan Cummiskey

Sub. H.B. 482*

129th General Assembly
(As Passed by the General Assembly)

Reps. Amstutz, R. Adams, Anielski, Antonio, Baker, Beck, Blair, Blessing, Boyd, Combs, Conditt, Derickson, DeVitis, Dovilla, Garland, Gerberry, Goyal, Grossman, Hackett, Hayes, Hill, Letson, Luckie, Maag, Martin, Matheney, McClain, McGregor, Newbold, Pelanda, Rose, Schuring, Sears, Slaby, Stebelton, Szollosi, Terhar, Thompson, Uecker, Batchelder

Sens. Balderson, Eklund, Lehner, Manning, Niehaus, Oelslager, Patton, Peterson, Schaffer

Effective date: July 3, 2012

ACT SUMMARY

- Eliminates the requirement that the Chancellor of the Ohio Board of Regents adopt rules governing the allocation of state capital appropriations to state colleges and universities.
- Creates in the state treasury the Higher Education Improvement Taxable Fund to consist of the net proceeds of federally taxable higher education obligations issued by the Treasurer of State or the Public Facilities Commission to pay the costs of capital facilities for state-supported and state-assisted institutions of higher education.
- Authorizes the Director of Budget and Management to transfer appropriations between the Higher Education Improvement Fund and the Higher Education Improvement Taxable Fund as necessary to maintain the exclusion from the calculation of gross income under federal income taxation law.

* This analysis does not address appropriations, fund transfers, and similar provisions. See the Legislative Service Commission's Fiscal Note and Capital Item Analysis for Sub. H.B. 482, As Enacted, for an analysis of such provisions.

- Authorizes the Director to manage funds in the Higher Education Improvement Taxable Fund in the same manner as the Director is authorized to manage funds in the Higher Education Improvement Fund under continuing law.
- Authorizes the Director to create new appropriation items within the Higher Education Improvement Taxable Fund and make certain transfers to those items.
- Authorizes the Department of Administrative Services to upgrade the Multi-Agency Radio Communications System (MARCS).
- Requires that any MARCS-related communications project using state funds or federal grants must be a P25 system that cannot limit interoperability and must meet certain system requirements.
- Requires the Department of Administrative Services to submit a business plan or model to the Controlling Board before any allocation of money for improvements to MARCS may be made and to seek the Board's approval prior to making purchases of the P25 system.
- Authorizes the Department of Administrative Services, in conjunction with the Department of Taxation, to acquire and implement the State Taxation Accounting and Revenue System.
- Provides that certain provisions of law governing the powers and duties of the Director of Administrative Services and authorizing the Controlling Board to approve the making of certain purchases or leases without competitive selection do not apply to projects of community college districts.
- Provides that capital appropriations authorized by the act may be used to satisfy judgments and settlements against the state, with certain limitations.
- Provides that the state's Prevailing Wage Law applies to public improvement projects funded by appropriations or reappropriations of the 129th General Assembly.

CONTENT AND OPERATION

Allocation of state capital appropriations to state colleges and universities

(R.C. 3333.072 (repealed))

The act eliminates the requirement that the Chancellor of the Ohio Board of Regents, after consulting with the state colleges and universities and the Office of

Budget and Management, adopt Chapter 119. rules to govern the allocation of state capital appropriations to those colleges and universities.

Higher Education Improvement Taxable Fund

(R.C. 151.01, 151.04, and 154.21)

The act creates the Higher Education Improvement Taxable Fund in the state treasury. Generally, the net proceeds of federally taxable higher education obligations issued under continuing law by the Treasurer of State or the Public Facilities Commission are to be credited to the Fund. The Fund may also be comprised of gifts, grants, appropriated moneys, and other sums and securities received for purposes of the Fund. The Fund must be used only to pay the costs of capital facilities for state-supported and state-assisted institutions of higher education, which may include participation with one or more of the institutions in a capital facility by way of grants, loans, or contributions to them for the facility.

Director of Budget and Management authority over higher education capital projects

(R.C. 126.14; Section 518.30)

The act authorizes the Director of Budget and Management to transfer appropriations between the Higher Education Improvement Fund and the Higher Education Improvement Taxable Fund as necessary to maintain the exclusion from the calculation of gross income for federal taxation purposes under the federal Internal Revenue Code with respect to obligations issued to fund projects appropriated from the Higher Education Improvement Fund.

The act also provides that specific capital projects may include specific higher education projects funded from general purpose appropriations from the Higher Education Improvement Taxable Fund, in addition to the Higher Education Improvement Fund, as provided under continuing law. Also under continuing law, the Director is authorized to release money appropriated for projects the Director deems specific.

Additionally, the act provides that projects funded from general purpose appropriations from the Higher Education Improvement Taxable Fund, in addition to the Higher Education Improvement Fund as provided in continuing law, that are not included on the list of specific projects are subject to Controlling Board approval. Law unchanged by the act requires the Director to create and submit to the Controlling

Board a list of specific projects within 60 days after the effective date of any act appropriating money for capital projects.

Under the act, the Director may create new appropriations items and make transfers of appropriations to them for specific higher education projects included on the list of specific projects that are to be funded from general purpose appropriations for basic renovations that are made from the Higher Education Improvement Taxable Fund, in addition to the Higher Education Improvement Fund, as provided in continuing law.

The act also permits the Director to create new appropriation items within the Higher Education Improvement Taxable Fund and make transfers of appropriations to them for projects originally funded from appropriations made from the Higher Education Improvement Fund. The projects that are funded under new appropriation items created within the Higher Education Improvement Taxable Fund in this manner are to be automatically designated as specific.

Improvements to the Multi-Agency Radio Communications System

(R.C. 4501.30 to 4501.303; Section 701.20)

The act recites that the Multi-Agency Radio Communications System (MARCS) is a statewide computer and communications network designed to provide instant voice and data communication and supply a communications backbone to public safety and emergency management.

The act authorizes the Department of Administrative Services to update or add functionality to MARCS to upgrade the existing system to a 700/800 megahertz voice and data system specifically designed to support interoperable communications for public safety law enforcement and first responders. Under the act, the improvements may include hardware and software upgrades and the installation and implementation of such acquisitions. The act requires the Department to present to the Controlling Board a business plan or model regarding the MARCS improvements before any money to make those improvements is allocated. Any lease-purchase agreement utilized under the state Purchasing Law to finance MARCS and the enhancements described above, including any fractionalized interest as defined in the Public Securities Law, is limited in amount to not more than \$90,000,000, and must provide at the end of the lease period that the financed asset becomes the property of the state.

The act further provides that any communications project related to MARCS that is funded in whole or in part with federal grant funds or funds from the state must be a P25 system and may not limit interoperability in mission critical communications.

Under the act, the Department must seek Controlling Board approval prior to purchasing a P25 system. The act defines "P25 system" to mean a communications system that meets P25 standards and fosters interoperability in mission critical communications as certified by the MARCS steering committee. Under the act, "P25 standards" means standards for digital radio communications for use by federal, state, provincial, and local public safety agencies in North America to enable communications with other agencies and mutual aid response teams in emergencies. These standards are produced through the joint efforts of the Association of Public-Safety Communications Officials, the National Association of State Technology Directors, selected federal agencies, and the National Communications System.

The act requires the MARCS steering committee to certify that the P25 system complies with P25 standards based on business planning documents it approves (as discussed above, such a system already must be certified by the MARCS steering committee in order to be a P25 system). The planning documents must outline the various end user costs for monthly access to the system depending on the number of MARCS users and including adequate funding for future repairs, maintenance, and upgrades of MARCS statewide.

State Taxation Accounting and Revenue System

(Section 757.10)

The act authorizes the Department of Administrative Services, in conjunction with the Department of Taxation, to acquire and implement the State Taxation Accounting and Revenue System (STARS) pursuant to the state Purchasing Law. STARS is an integrated tax collection and audit system that will replace all of the state's existing separate tax software and administration systems for the various taxes collected by the state. The acquisition may include the necessary application hardware and software and also services related to the installation and implementation of such hardware and software, for the use of the Department of Taxation. Any lease-purchase agreement utilized under the state Purchasing Law to finance STARS, including any fractionalized interest as defined in the Public Securities Law, is limited in amount to not more than \$20,000,000, and must provide at the end of the lease period that the financed asset becomes the property of the state.

Application of law to community college projects

(Section 205.39.60)

The act provides that certain provisions of law do not apply to projects of community college districts. The districts are exempt from the following provisions:

- Statutes outlining the powers and duties of the Director of Administrative Services regarding public work and improvements (R.C. Chapters 123. and 153.).
- A provision of law that authorizes the Controlling Board to approve the making of certain purchases of goods or services or leases of real estate without competitive selection (R.C. 127.16).

Use of capital funds to satisfy judgments and settlements

(Section 509.50)

The act states that an appropriation contained within the act may be used for the purpose of satisfying judgments, settlements, or administrative awards ordered or approved by the Court of Claims or by any other court of competent jurisdiction in connection with civil actions against the state. Appropriations that are to be applied to or used for payment of guarantees by or on behalf of the state, or for payments under lease agreements relating to or debt service on bonds, notes, or other obligations of the state may not be used in this manner. The act provides that, notwithstanding any other section of law to the contrary, this authorization includes appropriations from funds into which proceeds or direct obligations of the state are deposited only to the extent that the judgment, settlement, or administrative award is for or represents capital costs for which the appropriation may otherwise be used and is consistent with the purpose for which any related obligations were issued or entered into. The act also states that this provision is not intended to subject the state to suit in any forum in which it is not otherwise subject to suit, and it is not intended to waive or compromise any defense or right available to the state in any suit against it.

Application of prevailing wage laws

(Section 509.70)

The act states that, except as provided in the state Prevailing Wage Law, moneys appropriated or reappropriated by the 129th General Assembly must not be used for the construction of public improvements unless the mechanics, laborers, or workers engaged in the construction are paid the prevailing rate of wages prescribed in the Prevailing Wage Law. This provision does not affect the wages and salaries established for state employees under state personnel laws or collective bargaining agreements entered into by the state under the Public Collective Bargaining Law, while engaged on force account work. This provision also does not interfere with the use of inmate and patient labor by the state.

HISTORY

ACTION	DATE
Introduced	03-14-12
Reported, H. Finance & Appropriations	03-21-12
Passed House (93-2)	03-22-12
Reported, S. Finance	03-28-12
Passed Senate (33-0)	03-28-12
House concurred in Senate amendments (89-0)	03-28-12

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