CORRECTED VERSION*

Ohio Legislative Service Commission

Bill Analysis Megan Cummiskey and other LSC staff

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(As Introduced)

Rep. Amstutz

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This analysis is arranged by state agency, beginning with the Accountancy Board and continuing in alphabetical order. Items that do not directly involve an agency are located under the agency that has regulatory authority over the item, or otherwise deals with the subject matter of the item. The analysis also includes, at the end, a Retirement Systems category, a Local Government category, and a Miscellaneous category.

Within each agency and category, a summary of the items appears first (in the form of dot points), followed by a discussion of their content and operation. Items generally are presented in the order in which they appear in the Revised Code.

* This version of the analysis corrects the dates upon which the county and transit authority sales and use tax rates are to be adjusted and makes technical changes.

- Removes the language specifying the applicable pay ranges in the exempt employee salary schedule that the Executive Director of the Accountancy Board must be paid from.

Pay range for the Executive Director

(R.C. 4701.03)

The bill removes the language specifying the applicable pay ranges in the exempt employee salary schedule that the Executive Director of the Accountancy Board must be paid from. Continuing law requires that the Board pay the Executive Director in accordance with the exempt employee salary schedule.

DEPARTMENT OF ADMINISTRATIVE SERVICES

Public employees health care program

- Requires that all health care benefits provided to persons employed by public employers must be provided by health care plans that contain best practices established by the Department of Administrative Services or the former School Employees Health Care Board.

- Requires all policies or contracts for health care benefits that are issued or renewed after the expiration of any applicable collective bargaining agreement to contain all established best practices at the time of renewal.

- Allows a political subdivision, upon consulting with the Department, to adopt a delivery system of benefits that is not in accordance with the Department's adopted best practices if it is considered by the Department to be most financially advantageous to the political subdivision.

- Requires the Department to assist in the design of health care plans for public employers separate from the health care plans for state agencies.

- Permits the Director of Administrative Services to convene a Public Health Care Advisory Committee.

Alternative fuel

- Eliminates the following: the annual fleet reporting requirement made by higher education institutions to the Department, the Credit Banking and Selling Program of the Department, and the position of State Alternative Fuel Officer currently located within the Department.

- Transfers control of the State Biodiesel Revolving Fund from the Department to the Development Services Agency.

- Eliminates quarterly and annual reporting on alternative fuel usage by state agencies.

Public exigency power

- Eliminates the power of the Director to declare a public exigency, which power the Director currently shares with the Executive Director of the Ohio Facilities Construction Commission (OFCC).

- Eliminates the ability of the Director to ask OFCC, in order to respond to a public exigency, to enter into public contracts without competitive bidding or selection.

- Transfers, from the Director to the Executive Director of OFCC, the power to take and use lands, materials, and other property necessary for the maintenance, protection, or repair of the public works during a public exigency.

Other provisions

- Increases, from pay range 44 to pay range 47, the maximum compensation that each state department may pay to up to five of its unclassified employees who are involved in policy development and implementation.

- Eliminates the requirement that the Director establish job classification plans and appointment incentive programs by rule.

- Specifies that the positions, offices, and employments for which the Director must establish job classification plans are those in the service of the state.

- Clarifies that the Director's authority to approve a policy to grant compensatory time or pay applies only with respect to "employees in the service of the state."

- Renames the Payroll Withholding Fund within the state treasury to the Payroll Deduction Fund.

- Provides that the Life Insurance Investment Fund include money from state agencies and removes the requirement that the Fund include amounts from the renamed Payroll Deduction Fund.

- Prohibits the Controlling Board from authorizing transfers of cash balances in excess of needs from the Building Improvement Fund to the GRF or to another fund to which the money would have been credited in the absence of the Building Improvement Fund.

- Codifies the Building Improvement Fund, providing that the fund consists of payments made by intrastate transfer voucher from the appropriation for office building operating payments, and requires money in the fund to be used for major maintenance or improvements in certain state office buildings.

- Creates the Building Operation Fund within the state treasury and allows the Department to deposit money collected for operating expenses of facilities owned or maintained by the Department into the new fund or into the Building Management Fund where it is currently deposited.

- Replaces the current-law phrase "skilled trade services" with "minor construction project management."

- Allows the Director to provide, and collect reimbursements for the cost of providing, the newly renamed minor construction project management services to any state agency instead of just state agencies that occupy space in a facility not owned by the Department.

- Renames the Skilled Trades Fund in the state treasury to the Minor Construction Project Management Fund and provides that money collected for minor construction project management services be deposited into the renamed fund.

- Authorizes an appointing authority, in cases where no vacancy exists, and with the written consent of an exempt employee, to assign the duties of a higher classification to the exempt employee for a period of time not to exceed two years.

Public employees health care program

(R.C. 9.833, 9.90, 9.901, and 1545.071)

Best practices

Under the bill, all health care benefits provided to persons employed by public employers must be provided by health care plans that contain best practices established by the Department of Administrative Services or the former School Employees Health Care Board. A "public employer" is a political subdivision, public school district, or state institution of higher education. All policies or contracts for health care benefits that are issued or renewed after the expiration of any applicable collective bargaining agreement must contain all best practices at the time of renewal.

Continuing law permits a political subdivision, upon consulting with the Department, to adopt a delivery system of benefits that is not in accordance with the Department's adopted best practices if it is considered by the Department to be most financially advantageous to the political subdivision.

Requirements of Department

The bill requires the Department to do the following:

(1) Identify strategies to manage health care costs;

(2) Study the potential benefits of state or regional consortiums of public employers' health care plans;

(3) Publish information regarding health care plans offered by public employers and existing consortiums;

(4) Assist in the design of health care plans for public employers separate from the health care plans for state agencies;

(5) Adopt and release a set of standards that are considered the best practices for health care plans offered to public employees;

(6) Require that plans administered by health plan sponsors make readily available to the public all cost and design elements of the plan;

(7) Promote cooperation among all organizations affected by this phase of the bill in identifying the elements for its successful implementation; and

(8) Promote cost containment measures aligned with patient, plan, and provider management strategies in developing and managing health care plans.

A provision carried forward from current law requires the Department to prepare and disseminate to the public, an annual report on the status of health care plan sponsors' effectiveness in complying with best practices and in making progress toward reducing the rate of increase in insurance premiums and out-of-pocket expenses and in improving the health status of employees and their families.

Miscellaneous provisions related to public employees health care

The bill renames the Political Subdivisions and Public Employees Health Care Fund the Public Employees Health Care Fund.

The bill allows the Director of Administrative Services to convene a Public Health Care Advisory Committee and specifies that members of the committee serve without compensation. Under current law, the Committee is created under the Department. Current law also requires the Committee to include representatives from state and local government employers, state and local government employees, insurance agents, health insurance companies, and joint purchasing arrangements currently in existence. The bill removes these provisions.

Provisions removed by bill

The bill *removes* provisions that require the Department to design health care plans for use by public employers that are separate from plans for state agencies. In more detail, the bill *removes* provisions that:

(1) Require, upon completion of the consultant's report and once the plans are released in final form by the Department, all health care benefits provided to persons employed by public employers to be provided by health care plans designed by the Department;

(2) Permit the Department, in consultation with the Superintendent of Insurance, to negotiate with and contract with one or more insurance companies for the issuance of the plans;

(3) Require the Department, in consultation with the Superintendent of Insurance, to determine what geographic regions exist in Ohio based on the availability of providers, networks, costs, and other factors relating to providing health care benefits, and then to determine what health care plans offered by public employers and existing consortiums in the region offer the most cost-effective plan;

(4) Require the Department, in consultation with the Superintendent, to develop a request for proposals and solicit bids for health care plans similar to existing plans;

(5) Prohibit requiring a public employer to offer the health care plans designed by the Department until the Department has contracted with an independent consultant;

(6) Permit public employers offering employee health care benefits through a plan offered by a consortium to continue offering consortium plans if they contain the required best practices;

(7) Require the Department to include disease management and consumer education programs;

(8) Require the Department to adopt and release a set of best practices for health care plans;

(9) Require plans administered by health plan sponsors to make readily available to the public all cost and design elements of the plan;

(10) Require the Department to set employee and employer health care plan premiums for the designed plans;

(11) Require the Department to promote cooperation among all affected organizations, and to include cost containment measures aligned with patient, plan, and provider management strategies in developing and managing health care plans;

(12) Require the Department to contract with an independent consultant to analyze costs related to employee health care benefits provided by existing political subdivision, public school district, and state institution plans, and to submit written recommendations to the Department for the development and implementation of a successful program for the acquisition of employee health care plans by pooling purchasing power; and

(13) Require, not more than 90 days before coverage begins for public employees under health care plans designed by the Department, a public employer's governing body, board, or managing authority to provide detailed information about the health care plans to the employees.

Annual fleet reporting by state higher education institutions

(R.C. 125.832)

The bill eliminates the requirement that state institutions of higher education submit annual reports to the Department of Administrative Services concerning their motor vehicle fleets. Specifically, current law requires each state higher education institution to report annually to the Department (1) the methods it uses to track the motor vehicles it acquires and manages, (2) whether or not it uses a fuel card program to purchase fuel for, or to pay for the maintenance of, the motor vehicles, and (3) whether or not it makes bulk purchases of fuel for the motor vehicles.

Alternative fuel usage; Credit Banking and Selling Program

(R.C. 122.075, 125.832, 125.837 (repealed), and 125.838 (repealed))

The bill eliminates the following: (1) the Credit Banking and Selling Program of the Department of Administrative Services, (2) the position of State Alternative Fuel Resource Officer within the Department, and (3) the requirement of quarterly and annual reporting on alternative fuel usage by state agencies. The bill also transfers control of the state Biodiesel Revolving Fund from the Department to the Development Services Agency.

The Credit Banking and Selling Program is established for purposes of the federal "Energy Policy Act of 1992." Under that Act, certain entities, including state governments, are required to acquire certain numbers of alternative fuel vehicles (AFVs). Fleets that acquire AFVs in excess of requirements, or prior to requirements,

receive acquisition credits. Fleets can bank these credits for application to later years' requirements, or sell or trade the credits to other fleets.

The State Alternative Fuel Resource Officer, who is within the Department, monitors federal activity for any federal action that affects Ohio in its use of motor vehicles that are capable of using an alternative fuel. The officer also is available to explain to state departments and agencies the laws that apply to the purchase of motor vehicles that are capable of using an alternative fuel and the laws that govern alternative fuels, and any other relevant issues that relate to motor vehicles that are capable of using an alternative fuel.

The Department must compile on a quarterly basis all data relating to the purchase by each state department and agency of alternative fuels, including the amounts of alternative fuels and conventional fuels purchased, the per-gallon prices paid for each fuel, the locations at which alternative fuels were purchased, and the fuel amounts purchased at each such location. By April 1 of each year, the Department must issue an annual report containing all this data for the previous calendar year.

Public exigency power

(R.C. 123.10, 123.11, 123.23 (repealed), and 126.14)

The bill eliminates the power of the Director of Administrative Services to declare a public exigency. The Director currently shares this power with the Executive Director of the Ohio Facilities Construction Commission (OFCC). Further, the bill eliminates the ability of the Director to ask OFCC to enter into public contracts without competitive bidding or selection in order to respond to a public exigency. Finally, the bill transfers from the Director to Executive Director of OFCC the power to take and use lands, materials, and other property necessary for the maintenance, protection, or repair of the public works during a public exigency.

Maximum pay range of state departments' unclassified employees

(R.C. 124.11; R.C. 124.152, not in the bill)

The bill increases the maximum pay range of certain unclassified employees of each state department, from pay range 44 (up to $49.50 per hour or $102,960 annually) to pay range 47 (up to $64.45 per hour or $134,056 annually). Under continuing law, the head of the administrative department or other state agency must set the compensation for up to five unclassified positions that the department or agency head determines is involved in policy development and implementation. Under the bill, the maximum compensation for these positions is the maximum compensation specified in pay range 47.

The departments to which this compensation change applies are the Departments of Administrative Services, Aging, Agriculture, Alcohol and Drug Addiction Services, Commerce, Developmental Disabilities, Education, Health, Insurance, Job and Family Services, Mental Health, Natural Resources, Public Safety, Rehabilitation and Correction, Taxation, Transportation, Veterans Services, and Youth Services; the Environmental Protection Agency; the Development Services Agency; the Office of Budget and Management; the Ohio Board of Regents; the Department of the Adjutant General; the Bureau of Workers' Compensation; the Industrial Commission; the State Lottery Commission; and the Public Utilities Commission of Ohio.

Job classification plans

Not established by rule

(R.C. 124.14, 124.141, and 124.15)

The bill eliminates the requirement that the Director of Administrative Services establish and maintain job classification plans by rule. The bill also eliminates the specification that if the Director establishes an appointment incentive program, it must be established by rule.

Under the bill, when the Director proposes to modify a classification or the assignment of classes to appropriate pay ranges, the Director must send written notice to the appointing authorities of the affected employees, who must notify the employees regarding the modification 30 days before the modification occurs. The Director also must send the appointing authorities a notice within ten days after the modification is finalized.[1] These provisions replace a requirement that the Director provide notice of rulemaking with regard to such a modification.

Job classification plans for state employees

(R.C. 124.14)

Under the bill, the Director must establish job classification plans only for positions, offices, and employments in the service of the state, which includes only positions of trust or employment with the government of the state, and specifically does not include positions with state supported colleges and universities, counties, and general health districts. Under current law, the Director establishes job classification plans for all positions, offices, and employments "the salaries of which are paid in whole or in part by the state."

[1] R.C. 124.12(D) (not in the bill).

Compensatory time and pay policy approvals

(R.C. 124.18)

The bill clarifies that the Director of Administrative Services' authority to approve a policy under which an appointing authority grants compensatory time or pay to employees who do not receive overtime pay applies only with respect to employees in the service of the state. The phrase "state employees" is replaced with the phrase "employees in the service of the state." The phrase "service of the state" is a defined term in continuing civil service law, meaning "offices and positions of trust or employment with the government of the state."[2]

Payroll Withholding Fund

(R.C. 125.21)

The bill renames the existing Payroll Withholding Fund within the state treasury to the Payroll Deduction Fund. The purpose of this Fund is to consolidate all deductions from the salaries or wages of all officials and employees made in any month in order to make the appropriate payments for the intended purpose of the deductions or to make a refund where it is determined that deductions were made in error.

Life Insurance Investment Fund

(R.C. 125.212)

The bill (1) removes the requirement that the existing Life Insurance Investment Fund include amounts from the renamed Payroll Deduction Fund (see "**Payroll Withholding Fund**," above), and (2) adds that the Fund include money from state agencies. The Fund, which is used to pay the costs of the state's life insurance benefit program, also includes amounts from life insurance premium refunds received by the state and other receipts related to the state's life insurance benefit program.

The Building Improvement Fund

(R.C. 125.27 and 127.14)

The bill prohibits the Controlling Board from authorizing transfers of cash balances in excess of needs from the Building Improvement Fund to the General Revenue Fund or to another fund to which the money would have been credited in the

[2] R.C. 124.01 (not in the bill).

absence of the Building Improvement Fund. The same prohibition currently exists for numerous other funds.

The bill also codifies the Building Improvement Fund, which had been created by the Director of Office of Budget and Management under authority of the previous main operating budget (Am. Sub. H.B. 153 of the 129th General Assembly). That law had transferred the building and facility operations of the Ohio Building Authority to the Department of Administrative Services. As part of the transfer, the Director of OBM was required, if requested by the Department, to make necessary budget changes, including creating new funds.[3] Thus, the Building Improvement Fund was born. In codifying the fund, the bill requires that it consist of any payments made by intrastate transfer voucher from the appropriation item for office building operating payments. It also requires that the fund be used for major maintenance or improvements required in certain state office buildings, specifically the James A. Rhodes or Frank J. Lausche State Office Tower, the Toledo Government Center, the Senator Oliver R. Ocasek Government Office Building, and the Vern Riffe Center for Government and the Arts. The bill creates the fund in the State Treasury and specifies that it retains its interest.

Building Operation Fund

(R.C. 125.28(C))

The bill creates the Building Operation Fund within the state treasury and allows the Department of Administrative Services to deposit money collected for operating expenses of facilities owned or maintained by the Department into the new fund or into the Building Management Fund where it is currently deposited.

Minor construction project management services

(R.C. 125.28(B))

The bill replaces the current-law phrase "skilled trade services" with "minor construction project management services" and allows the Director of Administrative Services to provide, and collect reimbursements for the cost of providing, the renamed minor construction project management services to any state agency instead of just those state agencies that occupy space in a facility not owned by the Department.

[3] Section 515.40 of Am. Sub. H.B. 153 (not in the bill).

Minor Construction Project Management Fund

(R.C. 125.28(C))

The bill renames the Skilled Trades Fund in the state treasury to the Minor Construction Project Management Fund and provides that money collected for minor construction project management services (see "**Minor construction project management services**," above) be deposited into the renamed fund.

Exempt employee consent to certain duties

(Section 701.10)

The bill authorizes an appointing authority, in cases where no vacancy exists, and with the written consent of an exempt employee, to assign the duties of a higher classification to the exempt employee for a period of time not to exceed two years. The exempt employee is entitled to compensation at a rate commensurate with the duties of the higher classification. For purposes of this provision, "appointing authority" means an officer, commission, board, or body having the power of appointment to, or removal from, positions in any office, department, commission, board, or institution. An "exempt employee" is an employee who holds a position that is not subject to public employee collective bargaining.

Under continuing law, whenever an employee is assigned to work in a higher level position for a continuous period of more than two weeks but not more than two years because of a vacancy, the employee's pay may be established at a rate that is approximately 4% above the employee's current base rate.

DEPARTMENT OF AGING

Record checks

- Makes a regional long-term care ombudsperson program the responsible party for purposes of database reviews and criminal records checks for individuals who are under final consideration for employment with the regional program or employed by the regional program.

- Specifies that the requirements applicable to database reviews and criminal records checks regarding community-based long-term care services covered by Department of Aging (ODA) administered programs apply to:

  (1) A person applying for employment with (or referred by an employment service to);

  (2) A community-based long-term care provider; and

  (3) If ODA rules so require, a person already employed by (or referred to) such a provider when the person seeks or holds a direct-care position involving (a) in-person contact with one or more consumers or (b) access to one or more consumers' personal property or records.

- Makes the database review and criminal records check requirements applicable to:

  (1) Persons under final consideration for employment in a direct-care position with an area agency on aging (AAA), PASSPORT administrative agency (PAA), or subcontractor; and

  (2) Persons referred to an AAA, PAA, or subcontractor by an employment service for a direct-care position.

- Permits the ODA Director to adopt rules making the database review and criminal records check requirements applicable to a person (1) employed in a direct-care position by an AAA, PAA, or subcontractor or (2) working in a direct-care position following referral by an employment service to an AAA, PAA, or subcontractor.

- Specifies that the Excluded Parties List System, which is to be reviewed as part of a database review regarding certain types of employment, is available at the federal web site known as the System for Award Management.

PASSPORT and assisted living programs

- Requires ODA to establish new appeal procedures for the state-funded components of the PASSPORT and assisted living programs.

- Provides that, if the Choices Program is terminated, ODA is authorized to suspend new enrollments and transfer existing participants to either the PASSPORT program or a unified long-term services and support Medicaid waiver component.

- Requires an applicant for the Medicaid-funded or state-funded component of the Assisted Living Program to undergo an assessment to determine whether the applicant needs an intermediate level of care.

- Requires the Department of Medicaid (ODM) to enter into an interagency agreement with ODA under which ODA performs assessments to determine if a person requires a nursing facility level of care.

- Permits ODA to design and utilize a payment method for PASSPORT administrative agency operations that includes a pay-for-performance component.

Nursing homes

- Beginning July 1, 2013, requires nursing homes to participate in at least one quality improvement project listed by ODA every two years.

- Beginning July 1, 2015, requires nursing homes to participate in advance care planning and generally prohibits the use of overhead paging.

- Requires ODA to implement a nursing home quality initiative to improve person-centered care that nursing homes provide and make available a list of quality improvement projects under the initiative.

Board of Executives of Long-term Services and Supports

- Renames the Board of Examiners of Nursing Home Administrators to the Board of Executives of Long-Term Services and Supports and transfers the Board from the Department of Health to ODA.

- Increases, from 9 to 11, the number of Board members and modifies the eligibility requirements for Board members.

- Requires the Board to enter into a written agreement with ODA for ODA to serve as the Board's fiscal agent.

- Creates the Board of Executives of Long-Term Services and Supports Fund and requires license and registration fees collected by the Board to be deposited to the credit of the Fund instead of the General Operations Fund.

- Requires the Board to create opportunities for education, training, and credentialing of nursing home administrators and others in leadership positions in long-term services and supports settings.

- Provides guidelines for the Board's agency transition, membership changes, and name change, including provisions governing the transfer of duties and obligations.

Other provisions

- Bases the annual fee paid by a long-term care facility on the number of beds the facility was licensed or otherwise authorized to maintain for the previous year, rather than the number of beds maintained for use by residents.

- Eliminates the requirement that ODA prepare an annual report on individuals who, after long-term care consultations, elect to receive home and community-based services covered by ODA-administered Medicaid components.

- Permits the ODA Director, in consultation with the ODM Director, to expand the Program for All-inclusive Care for the Elderly (PACE) to new regions of Ohio under certain circumstances.

Ombudsperson-related criminal records checks

(R.C. 173.27 (primary) and 109.57)

As a condition of employment with the Office of the State Long-Term Care Ombudsperson program in a position that involves providing ombudsperson services, an individual must undergo a database review and, unless the individual fails the database review and therefore cannot be employed, a criminal records check. An existing employee must undergo a database review and criminal records check only if so required by Department of Aging (ODA) rules.

Regional long-term care ombudsperson programs

The bill distinguishes individuals applying for employment with, or employed by, the Office of the State Long-Term Care Ombudsperson program from individuals applying for employment with, or employed by, regional long-term care programs. Under the bill, regional programs have responsibilities regarding the database reviews

and criminal records checks that are currently assigned to the State Long-Term Care Ombudsperson. For example, the State Long-Term Care Ombudsperson, or the Ombudsperson's designee, is required by current law to provide information regarding the database reviews and criminal records checks to each individual under final consideration for employment in a position for which a database review and criminal records check must be conducted. Under the bill, a regional long-term care ombudsperson program, or the program's designee, must provide the information when the individual is under final consideration for employment in such a position with the regional program. The head of a regional program may not act as the program's designee when the head is the employee for whom a database review or criminal records check is being conducted.

System for Award Management web site

Continuing law specifies various databases that are to be checked as part of a database review. The ODA Director is permitted to specify additional databases in rules. The Excluded Parties List System is one of the databases specified in statute. It is maintained by the U.S. General Services Administration. The bill specifies that the Excluded Parties List System is available at the federal web site known as the System for Award Management.

Standards that permit a disqualified individual to be employed

Current law requires the ODA Director to adopt rules specifying circumstances under which the State Long-Term Care Ombudsperson program may employ an individual who is found by a criminal records check to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for, a disqualifying offense but meets personal character standards. The bill requires that the ODA Director instead adopt rules specifying standards that an individual must meet for the State Long-Term Care Ombudsperson **or a regional long-term care ombudsperson** program to be permitted to employ the individual if the employee is found to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for, a disqualifying offense.

Community-based long-term care, Area Agency on Aging (AAA), and PASSPORT Administrative Agency (PAA) record checks

(R.C. 173.38 (primary), 109.57, 109.572, 173.14, 173.39, 173.391, 173.392, 3701.881, 5164.34, and 5164.342; Sections 110.20, 110.21, and 110.22)

Current law requires an individual to undergo a database review and criminal records check when the individual is under final consideration for employment with a community-based long-term care agency (renamed "provider" by the bill) in a position

that involves providing direct care to an individual, or is referred to such an agency by an employment service for such a position. (The criminal records check is unnecessary if the results of the database review show that the individual cannot be employed in the position.) The ODA Director is permitted to adopt rules also requiring individuals employed by providers in such positions to undergo database reviews and criminal records checks. A provider is a person or government entity that provides community-based long-term care services under an ODA-administered program. Community-based long-term care services are health and social services provided to persons in their own homes or in community care settings.

Direct-care positions

As discussed above, current law's database review and criminal records check requirements apply to individuals under final consideration for employment in positions that involve providing direct care with (or referred by an employment service to) community-based long-term care agencies (providers), and, if so required by ODA rules, individuals already employed by providers. Current law does not specify what a direct-care position is. The bill defines "direct-care position" as an employment position in which an employee has either or both of the following: (1) in-person contact with one or more consumers and (2) access to one or more consumers' personal property or records.

Criminal records checks applied to AAAs, PAAs, and subcontractors

The bill requires additional individuals to undergo database reviews and criminal records checks. The additional individuals are individuals under final consideration for employment with (or referred by employment services to) any of the following in a full-time, part-time, or temporary direct-care position: (1) AAAs, (2) PAAs, and (3) subcontractors.[4] The ODA Director is permitted to adopt rules requiring individuals to undergo database reviews and criminal records checks also when **employed** by AAAs, PAAs, and subcontractors in full-time, part-time, or temporary direct-care positions. The database reviews and criminal records checks are to be conducted for the additional individuals in the same manner as they are conducted for employees (if so required by rules) and prospective employees of community-based long-term care agencies (providers).

Subcontractors that are also home health agencies or waiver agencies

Continuing law establishes similar database review and criminal records check requirements for home health agencies and waiver agencies. A home health agency is a

[4] The ODA Director is to define "subcontractor" in rules.

person or government entity (other than a nursing home, residential care facility, hospice care program, or pediatric respite care program) that has the primary function of providing certain services, such as skilled nursing care and physical therapy, to a patient at a place of residence used as the patient's home. A waiver agency is a person or government entity that provides home and community-based services under an ODM-administered Medicaid waiver program, other than (1) such a person or government entity certified under the Medicare program and (2) an independent provider of those services.

It is possible for a community-based long-term care agency (provider) to be, in addition, a home health agency, waiver agency, or both. Continuing law provides that the database review and criminal records check requirements regarding providers do not apply to individuals subject to the database review and criminal records check requirements regarding home health agencies and that a provider that is also a waiver agency may provide for employees and prospective employees to undergo database reviews and criminal records checks in accordance with the requirements regarding waiver agencies rather than the requirements regarding providers. The ODA Director, or the Director's designee, may receive the results of a criminal records check conducted in accordance with the requirements regarding home health agencies or waiver agencies when the subject of the check is an employee or prospective employee of a provider that is also a home health agency or waiver agency.

It is possible for a community-based long-term care subcontractor to be, in addition, a home health agency or waiver agency. The bill applies to such subcontractors the provisions discussed above regarding providers.

System for Award Management web site

Continuing law specifies various databases that are to be checked as part of a database review. The ODA Director is permitted to specify additional databases in rules. The Excluded Parties List System is one of the databases specified in statute. It is maintained by the U.S. General Services Administration. The bill specifies that the Excluded Parties List System is available at the federal web site known as the System for Award Management.

Standards that permit a disqualified individual to be employed

Current law requires the ODA Director to adopt rules specifying circumstances under which a community-based long-term care agency (provider) may employ an individual who is found by a criminal records check to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for, a disqualifying offense but meets personal character standards. The bill requires instead that the ODA

Director adopt rules specifying standards that an individual must meet for a provider, subcontractor, AAA, or PAA to be permitted to employ the individual if the employee is found to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense.

State-funded PASSPORT and assisted living programs – appeals

(R.C. 173.523, 173.545, and 173.56)

Appeal procedures

The bill requires ODA to adopt rules establishing new procedures for appeals of adverse actions related to services requested or provided under the state-funded components of the PASSPORT and assisted living programs. The rules are to be adopted under R.C. 111.15, which does not require public notice or hearings on proposed rules.

The state-funded components of the PASSPORT and assisted living programs have limited eligibility. In the case of the assisted living program, eligibility is limited to 90 days. The PASSPORT program provides home and community-based services as an alternative to nursing facility placement for eligible individuals who are aged and disabled. The assisted living program provides assisted living services to eligible individuals.

The rules ODA is to adopt must require notice and an opportunity for a hearing. They may allow appeal hearings to be conducted by telephone and permit ODA to record telephone hearings. Revised Code Chapter 119., which establishes procedures for appeals of administrative rulings, is to apply to hearings only to the extent provided for in the rules.

The bill provides that an appeal is commenced by submission of a written request for a hearing to the ODA Director within the time specified in the rules adopted by ODA. The hearing may be recorded, but neither the recording nor a transcript of the recording is part of the official record of the proceeding. The Director must notify the individual bringing the appeal of the Director's decision and of the procedure for appealing the decision.

The Director's decision may be appealed to a court of common pleas. The appeal is to be governed by Ohio's Administrative Procedure Act (R.C. Chapter 119.) except as follows:

(1) The appeal is to be in the court of common pleas of the county in which the individual who brings the appeal resides or, if the individual does not reside in Ohio, to the Franklin County common pleas court.

(2) The notice of appeal must be mailed to ODA and filed with the court not later than 30 days after ODA mails notice of the Director's decision. For good cause shown, the court may extend the time for mailing and filing the notice of appeal, but the time cannot exceed six months from the date ODA mails the notice of the Director's decision.

(3) If the court grants an individual's application for designation as an indigent, the individual is not to be required to furnish the costs of the appeal.

(4) ODA is required to file a transcript of the testimony of the state hearing with the court only if the court orders that the transcript be filed. The court may make such an order only if it finds that ODA and the individual bringing the appeal are unable to stipulate to the facts of the case and that the transcript is essential to a determination of the appeal. ODA must file the transcript not later than 30 days after such an order is issued.

When an appeal may be brought

Under the bill, an individual who is an applicant for or participant or former participant in the state-funded component of the PASSPORT or assisted living program may appeal an adverse action taken or proposed to be taken by ODA or an entity designated by ODA concerning participation in or services provided under the component if the action will result in any of the following:

(1) Denial of enrollment or continued enrollment in the component;

(2) Denial of or reduction in the amount of services requested by or offered to the individual under the component;

(3) Assessment of any patient liability payment pursuant to rules adopted by ODA.

The appeal is to be made in accordance with the bill and rules adopted by ODA.

When an appeal may <u>not</u> be brought

An appeal may not be brought by an individual if any of the following is the case:

(1) The individual has voluntarily withdrawn the application for enrollment in the component;

(2) The individual has voluntarily terminated enrollment in the component;

(3) The individual agrees with the action being taken or proposed;

(4) The individual fails to submit a written request for a hearing to the Director within the time specified in the rules;

(5) The individual has received services under the component for the maximum time permitted.

Transfer of participants from Choices to PASSPORT

(R.C. 173.53)

Am. Sub. H.B. 153 of the 129th General Assembly (the main operating appropriations act) required the Department of Medicaid (ODM) to seek federal permission to create a unified long-term services and support Medicaid waiver program to provide home and community-based services to eligible individuals of any age who require the level of care provided by nursing facilities. H.B. 153 also provided that, should the waiver component be created, ODA and ODM are to determine whether the Choices program should continue to operate as a separate Medicaid waiver component or be terminated.

The bill provides that, if the Choices program is terminated, ODA, no sooner than six months before Choices ceases to exist, is authorized to do both of the following:

(1) Suspend new enrollment in Choices;

(2) Transfer Choices participants to the unified long-term services and support Medicaid waiver component or, if that component is not created, transfer them to the Medicaid-funded component of the PASSPORT program.

Assisted Living Program assessments

(R.C. 173.546 (primary), 173.42, 173.54, 173.541, and 173.544)

The Assisted Living Program is a program administered by ODA that provides assisted living services to eligible individuals living in residential care facilities. The program has a Medicaid-funded component and a state-funded component. ODA administers both components. The Medicaid-funded component is administered pursuant to an interagency agreement between ODA and the Department of Medicaid (ODM).

An individual must need an intermediate level of care, and meet other requirements, to qualify for the Medicaid-funded or state-funded component of the Assisted Living Program. Under current law, whether an individual needs an intermediate level of care is determined in accordance with an ODM rule. The bill establishes in statute an assessment process for determining whether an individual needs an intermediate level of care.

The bill's assessment process requires each applicant for the Medicaid-funded or state-funded component of the Assisted Living Program to undergo the assessment to determine whether the applicant needs an intermediate level of care. The assessment may be performed concurrently with a long-term care consultation provided under a program developed by ODA.

ODM or an agency under contract with ODM is to conduct the assessments. ODM is permitted to contract with one or more agencies to perform the assessments. A contract must specify the agency's responsibilities regarding the assessments.

An applicant or applicant's representative is given the right to appeal an assessment's findings. If an applicant is applying for the Medicaid-funded component of the Assisted Living Program, the appeal is to be made in accordance with an appeals process ODM is to select for the Medicaid program. The bill defines "representative" as a person acting on behalf of an applicant for the Medicaid-funded or state-funded component of the Assisted Living Program. A representative may be a family member, attorney, hospital social worker, or any other person chosen to act on an applicant's behalf.

ODM or the agency under contract with ODM must provide written notice of the right to appeal to an applicant or applicant's representative and the residential care facility in which an applicant intends to reside if enrolled in the Assisted Living Program. The notice must include an explanation of the appeal procedures. ODM or the agency under contract with ODM is required to represent the state in any appeal of an assessment's findings.

Long-term care assessments

(Section 209.20)

Current law requires a Medicaid recipient who applies or intends to move to a nursing facility to receive an assessment to determine if the recipient requires a nursing facility level of care. The Department of Medicaid (ODM) must conduct the assessment or contract with another entity to conduct the assessment. The bill requires ODM to enter into an interagency agreement with ODA under which ODA performs the assessment.

Performance-based reimbursement for PASSPORT operations

(Section 209.20)

PASSPORT administrative agencies provide assistance for the unified long-term care budget and administer programs on behalf of ODA. The bill permits ODA to design and utilize a payment method for PASSPORT administrative agency operations that include a pay-for-performance incentive component that is earned by a PASSPORT administrative agency when defined consumer and policy outcomes are achieved.

Nursing home licensure requirements

(R.C. 173.60 and 3721.072)

The bill adds the following to requirements that a nursing home must meet to maintain its license:

(1) Beginning July 1, 2013, requires each nursing home to participate biennially in at least one project identified by ODA as a project that improves person-centered care that nursing homes provide (see "**ODA nursing home quality initiative**," below).

(2) Beginning July 1, 2015, requires each nursing home to participate in advance care planning (the opportunity to discuss the resident's care goals on admission and quarterly thereafter) with each resident or, if the resident is unable to participate, the resident's sponsor.

(3) Beginning July 1, 2015, requires each nursing home to prohibit the use of overhead paging (the use of audible announcements via an electronic sound amplification and distribution system throughout part or all of a nursing home) except when a nursing home permits the use of overhead paging for matters of urgent public safety or urgent clinical operations.

ODA nursing home quality initiative

(R.C. 173.60)

For the purpose of improving person-centered care provided by nursing homes, the bill requires ODA, with the assistance of the Office of the State Long-Term Care Ombudsperson Program, to implement a nursing home quality initiative. "Person-centered care" means a relationship-based approach to care that honors and respects the opinions of individuals receiving care and those working closely with them.

The initiative is to include quality improvement projects that provide nursing homes with resources and on-site education promoting person-centered strategies and

positive resident outcomes, as well as other assistance designed to improve the quality of nursing home services. ODA is to make available a list of the projects that may be used by nursing homes to comply with licensure requirements (see "**Nursing home licensure requirements**," above).

ODA may include in the list quality improvement projects offered by any of the following: (1) ODA, (2) a quality improvement organization under contract with the U.S. Secretary of Health and Human Services to provide peer review of the utilization and quality of health care services, (3) other state agencies, (4) the Ohio Person-Centered Care Coalition in the Office of the State Long-Term Care Ombudsperson Program, or (5) any other academic, research, or health care entity identified by ODA.

Board of Executives of Long-Term Services and Supports

(R.C 4751.01 to 4751.08 and 4751.10 to 4751.14; conforming changes in R.C. 149.43 and 1347.08)

The bill renames the Board of Examiners of Nursing Home Administrators to the Board of Executives of Long-Term Services and Supports and transfers the Board from the Department of Health to ODA. The bill defines "long-term services and supports settings" to mean any institutional or community-based setting in which medical, health, psycho-social, habilitative, rehabilitative, or personal care services are provided to individuals on a post-acute care basis.

The bill makes further changes to the Board's membership and duties, explained in more detail below.

Board membership changes

(R.C. 4751.03)

The bill modifies the number and qualifications of Board members. Under the bill, the Board is to consist of the following 11 members, all appointed by the Governor:

- Four members who are nursing administrators, owners of nursing homes, or officers of corporations owning nursing homes, and who have an understanding of person-centered care and experience with a range of long-term services and supports settings;

- Three members who work in long-term services and supports settings that are not nursing homes, and who have an understanding of person-centered care and experience with a range of long-term services and supports settings;

- One member who is a member of the academic community;
- One member who is a consumer of services offered in a long-term services and supports setting;
- One member who is a representative of the Department of Health, designated by the Director of Health, who is involved in the nursing home survey and certification process;
- One member who is a representative of the Office of the State Long-Term Care Ombudsperson, designated by the State Long-Term Care Ombudsperson.

The bill prohibits the following Board members from having or acquiring any direct financial interest in a nursing home or long-term services and supports settings: the member representing the academic community, the consumer member, and the members representing the Department of Health and Ombudsperson.

The bill retains current law provisions governing the Board's administration, including quorum requirements, election of a chairperson and vice-chairperson, removal of members by the Governor, and meeting requirements. Additionally, the bill preserves the current law provision that Board members are to serve three-year terms, and that no member is permitted to serve more than two consecutive full terms. The bill also retains a requirement of current law that all Board members must be U.S. citizens and residents of Ohio.

Under current law, the Board consists of nine members, all appointed by the Governor. Eight members of the Board are representative of the professionals and institutions concerned with care and treatment of chronically ill or infirm aged patients and one member is a public member, at least 60 years of age. Further, current law requires that four members of the Board must be nursing home administrators, owners of nursing homes, or an officer of a corporation owning a nursing home. Current law also requires that less than a majority of the Board members may represent a single profession or institutional category. Under current law, a person appointed as a noninstitutional member is prohibited from having or acquiring any direct financial interest in a nursing home.

Board member transition

(Section 515.40)

The bill requires that, notwithstanding the provision describing the Board's membership above, the individuals serving as members of the Board of Examiners of

Nursing Home Administrators (current Board) on the bill's effective date are to continue to serve as members of the Board of Executives of Long-Term Services and Supports (new Board). The expiration date of these members' terms is to be the date on which their terms as members of the current Board are set to expire. At the time such members' terms expire, members are to be appointed to the new Board in accordance with the requirements outlined above.

Within 90 days after the bill's effective date, the Governor is required to appoint to the new Board the member representing the academic community, the consumer member, and the members representing the Department of Health and Ombudsperson. The initial terms for these members will end on May 27, 2014. After this initial term, the terms are to be for the duration provided above.

Board member compensation

(R.C. 4751.03(E); see also R.C. 124.15(J), not in the bill)

The bill updates a provision of current law by stating that each Board member must be reimbursed for actual and necessary expenses incurred in the discharge of Board duties. Further, all Board members, except for the member designated by the Director of Health and the member designated by the Ombudsperson, are to be paid in accordance with the salaries or wages designated by the Department of Administrative Services.

Board administration and assistance

(R.C. 4751.03(H))

The bill clarifies that the Board must appoint a secretary with no financial interest in a long-term services and supports setting, instead of a nursing home. Additionally, the bill eliminates the obligation of the Department of Health to provide administrative, technical, or other services to the Board.

Deposit of license and registration fees; creation of fund

(R.C. 3701.83, 4751.04(A)(7), 4751.05, and 4751.14)

The bill provides that the Board must pay the license and registration fees it collects into the Board of Executives of Long-Term Services and Support Fund, created by the bill. Money in the Fund is to be used by the Board to administer and enforce the laws governing the Board. Investment earnings of the Fund are to be credited to the Fund.

Under current law, license and registration fees are deposited into the state's General Operations Fund.

Education, training, and credentialing opportunities

(R.C. 4751.04(A)(10))

The bill requires the Board to create opportunities for the education, training, and credentialing of nursing home administrators and others in leadership positions who practice in long-term services and supports settings or who direct the practices of others in those settings. When creating these opportunities, the Board is required to do the following:

- Identify core competencies and areas of knowledge that are appropriate for nursing home administrators and others working within the long-term services and supports settings system, with an emphasis on leadership, person-centered care, principles of management within both the business and regulatory environments, and an understanding of all post-acute settings, including transitions from acute settings and between post-acute settings.

- Assist in the development of a strong, competitive market in Ohio for training, continuing education, and degree programs in long-term services and supports settings administration.

ODA to serve as the Board's fiscal agent

(R.C. 4751.04(A)(9) and 4751.042)

The bill requires the Board to enter into a written agreement with ODA for ODA to serve as the Board's fiscal agent.

Requirements under the written agreement

Under the bill, ODA is responsible for all the Board's fiscal matters and financial transactions, as specified in the written agreement. The written agreement must specify the fees that the Board is to pay to ODA for services performed under the agreement. The bill provides that such fees must be in proportion to the services performed for the Board by ODA. The bill specifies that ODA, in its role as fiscal agent for the Board, serves as a contractor of the Board, and does not assume responsibility for the debts or fiscal obligations of the Board.

The bill requires ODA to provide the following services under the written agreement:

- Preparation and processing of payroll and other personnel documents that the Board approves;

- Maintenance of ledgers of accounts and reports of account balances, and monitoring of budgets and allotment plans in consultation with the Board;

- Performance of other routine support services, specified in the agreement, that ODA considers appropriate to achieve efficiency.

Permitted terms of the written agreement

Under the bill, the written agreement between the Board and ODA may include provisions for the following:

- Any shared services between the Board and ODA;

- Any other services agreed to by the Board and ODA, including administrative or technical services.

Board responsibilities regarding fiscal and administrative matters

The bill provides that the Board, in conjunction and consultation with ODA and relative to fiscal matters, has the sole authority to expend funds from the Board's accounts for programs and any other necessary expenses the Board may incur. Additionally, the bill provides that the Board has a responsibility to cooperate with and inform ODA fully of all financial transactions.

Further, the bill requires the Board to follow all state procurement, fiscal, human resources, information technology, statutory, and administrative rule requirements.

Additional Board transition procedures

(Section 515.40)

The bill sets out terms providing for the transition from the current Board of Examiners of Nursing Home Administrators to the new Board of Executives of Long-Term Services and Supports, including provisions governing the following:

- The transition of assets and liabilities;

- The assumption of obligations and authority by the new Board;

- The effect of the transition on the rights, privileges, and remedies, and duties, liabilities, and obligations accrued by the current Board and their transfer to the new Board;

- The transition of unfinished business that was commenced but not completed by the current Board or the current Board's secretary to the new Board or the new Board's Secretary;

- The continuation of the current Board's rules, orders, and determinations under the new Board;

- Subject to laws governing layoffs of state employees, the transition of employees of the current Board who provide administrative, technical, or other services to the current Board on a full-time, permanent basis to serve under the new Board and provisions requiring that these employees are to retain their positions and benefits, except that those employees in the classified service must be reclassified into the unclassified service and are to serve at the pleasure of the new Board;

- The interpretation of references to the current Board in any statute, contract, or other instrument and deeming the references applicable to the new Board;

- The effect of the transition on pending court or agency actions or procedures and required substitution of the new Board in the old Board's place for such actions or procedures.

Long-term care facility bed fee

(R.C. 173.26)

The bill changes the number of beds used to determine a long-term care facility's annual fee from the number of beds maintained by the facility for use by residents during any part of the previous year to the number of beds the facility was licensed or otherwise authorized to maintain during any part of that year. The fee of six dollars per bed is paid to ODA to be used to operate regional long-term care ombudsman programs.

The bed fee is paid by several types of long-term care facilities, including residential care facilities, nursing homes, and homes for the aging. A residential care facility is a home that provides accommodations to up to 17 individuals, at least three of whom need supervision and personal care services. A nursing home is a home that provides skilled nursing care, as well as accommodations and personal care services. A home for the aging is a home that provides services as a residential care facility and as a nursing home. The bill eliminates the requirement that homes for the aging pay the annual fee.

Report on long-term care consultations

(R.C. 173.425 (repealed))

Under ODA's long-term consultation program, individuals receive information about options available to meet long-term care needs and factors to consider when making long-term care decisions. The bill eliminates a requirement that ODA prepare an annual report on individuals who are the subjects of long-term care consultations and elect to receive home and community-based services covered by ODA-administered Medicaid components. The report being eliminated addresses the following: (1) the total savings realized by providing the home and community-based services, rather than nursing facility services, (2) the average number of days the services are received before and after receiving nursing facility services, and (3) a categorical analysis of the acuity levels of the recipients of the services.

Expansion of the Program for All-inclusive Care for the Elderly (PACE)

(Section 323.120)

To effectively administer and manage growth within the Program for All-inclusive Care for the Elderly (PACE), the bill permits the ODA Director, in consultation with the ODM Director, to expand PACE to regions of Ohio that are not being served by the program. PACE, or the Program of All-Inclusive Care for the Elderly, is a managed care system that provides participants with coverage of *all* of needed health care, including care in both institutional and community settings. It is funded by both Medicaid and Medicare.[5]

The PACE expansion may occur only if the following apply: (1) funding is available for the expansion, (2) the Directors mutually determine that PACE is a cost-effective alternative to nursing home care, and (3) the U.S. Centers for Medicare and Medicaid Services agrees to share with Ohio any savings to Medicare resulting from an expansion of PACE. In implementing an expansion, the ODA Director cannot decrease the number of PACE participants in the original PACE sites to a number that is below the number of individuals in those areas who were participants in the program on July 1, 2011.

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[5] Ohio Department of Aging, *About PACE* (last visited February 14, 2013) available at: http://aging.ohio.gov/services/PACE/. The two PACE providers in Ohio are TriHealth Senior Link and McGregor PACE Center for Senior Independence. The service area for the PACE agreement with TriHealth Senior Link is Hamilton County and certain zip codes in Warren, Butler, and Clermont counties. Cuyahoga County is the service area for the PACE agreement with McGregor PACE.

DEPARTMENT OF AGRICULTURE

Agricultural easements; Farmland Preservation Advisory Board

- Authorizes an agricultural easement acquired by the Director of Agriculture or a political subdivision or charitable organization that has received a matching grant from the Director to include a provision to preserve a unique natural or physical feature on the land so long as the use of the land remains predominantly agricultural.

- Requires one representative on the existing Farmland Preservation Advisory Board to be from a nonprofit organization dedicated to the preservation of farmland rather than from a national nonprofit organization that is so dedicated as under current law.

Concentrated animal feeding facilities

- Requires the Attorney General, upon the written request of the Director, to prosecute any person who violates or fails to perform any duty required by specified provisions of the Concentrated Animal Feeding Facilities Law, a rule adopted by the Director under that Law, or an order or term or condition of a permit issued by the Director under that Law or rules adopted under it.

- Establishes a general prohibition against violations or failures to perform any duty as described above, establishes different penalties for violations of the prohibition depending on the culpable mental state of the violator, and establishes a different standard for actions that constitute acting negligently for purposes of those penalties.

Apiaries

- Credits money that is collected from registration fees and fines under the Apiaries Law to the existing Plant Pest Program Fund rather than the GRF as in current law.

- Requires money credited to the Plant Pest Program Fund to be used to administer the Apiaries Law in addition to the Nursery Stock and Plant Pest Law as in current law.

Weights and measures

- Requires the Director to verify advertised prices, price representations, and point-of-sale systems to determine their accuracy, and requires the Director to perform specified actions in order to implement that requirement, including adopting rules

establishing requirements governing the accuracy of advertised prices and point-of-sale systems.

- Prohibits a person from operating specified types of commercially used weighing and measuring devices without a permit to operate issued by the Director or the Director's designee.

- Authorizes only specified persons to install for use, repair, service, or place into service a commercially used weighing and measuring device.

- Requires a service person who is employed by a commercially used weighing and measuring device servicing agency to register with the Director in accordance with rules.

Auctioneers

- Makes technical changes in the Auctioneers' Law to clarify that it applies to limited liability companies.

Agricultural easements; Farmland Preservation Advisory Board

(R.C. 901.21, 901.22, and 901.23; Section 803.20)

The bill authorizes the Director of Agriculture to include, in an agricultural easement acquired by the Director, a provision to preserve a unique natural or physical feature on the land so long as the use of the land remains predominantly agricultural. Similarly, an agricultural easement acquired as a result of a matching grant awarded by the Director may include a provision to preserve a unique natural or physical feature on the land so long as the use of the land remains predominantly agricultural.

Under existing law, the Director, municipal corporations, counties, townships, and soil and water conservation districts may purchase or acquire by gift, devise, or bequest agricultural easements to retain the use of land predominantly in agriculture. Charitable organizations that are exempt from federal income taxation and organized for certain land preservation or protection purposes also may acquire and hold agricultural easements. If a municipal corporation, county, township, soil and water conservation district, or charitable organization cannot fund the purchase of an easement on its own, it may apply for a matching grant from the Director. The Director must use money from the Agricultural Easement Purchase Fund and the Clean Ohio Agricultural Easement Fund exclusively to purchase agricultural easements in the name of the state and to provide matching grants to charitable organizations, municipal

corporations, counties, townships, and soil and water conservation districts for the purchase of such easements.

Under Ohio law, an agricultural easement is a property right or interest in land that is held for the public purpose of retaining the use of land predominantly in agriculture; that imposes limitations on the use or development of the land that are appropriate at the time of creation of the easement to achieve that purpose; that is in the form of articles of dedication, easement, covenant, restriction, or condition; and that includes appropriate provisions for the holder to enter the property subject to the easement at reasonable times to ensure compliance with its provisions.

The bill alters the membership of the existing Farmland Preservation Advisory Board by requiring one member to be a representative of a nonprofit organization dedicated to the preservation of farmland rather than of a national nonprofit organization dedicated for that purpose as under current law. The member that is currently serving on the Board representing the national nonprofit organization must continue to serve until the expiration of the term for which the member was appointed. At the end of that term, a member must be appointed in accordance with the bill.

Concentrated animal feeding facilities

(R.C. 903.30 and R.C. 903.99)

The bill requires the Attorney General, upon the written request of the Director of Agriculture, to prosecute any person who violates or fails to perform any duty required by specified provisions of the Concentrated Animal Feeding Facilities Law, violates a rule adopted by the Director under that Law, or violates an order or term or condition of a permit issued by the Director under that Law or rules adopted under it.

In addition, the bill establishes a general prohibition against violations or failures to perform any duty as described above. It then establishes different penalties depending on the culpable mental state of the violator as follows:

(1) If the violator acted negligently, a fine of not more than $10,000 or imprisonment for not more than 90 days, or both. The bill specifies that for purposes of that provision, a person acts negligently when, because of a lapse from due care, the person fails to perceive or avoid a risk that the person's conduct may cause a certain result or may be of a certain nature. A person is negligent with respect to circumstances when, because of a lapse from due care, the person fails to perceive or avoid a risk that such circumstances may exist. Under the existing Criminal Code, a person acts negligently when, because of a substantial lapse from due care, the person fails to perceive or avoid a risk that the person's conduct may cause a certain result or may be

of a certain nature. A person is negligent with respect to circumstances when, because of a substantial lapse from due care, the person fails to perceive or avoid a risk that such circumstances may exist. Thus, by removing the stipulation that there be a *substantial* lapse from due care, the bill lowers the threshold for what constitutes negligence for the above purpose.

(2) If the violator acted recklessly, a fine of not more than $10,000 or imprisonment for not more than one year, or both; and

(3) If the violator acted knowingly, a fine of at least $10,000, but not more than $25,000, or imprisonment for not more than three years, or both. Additionally, the violator is guilty of a felony.

Under the bill, each day of violation constitutes a separate offense.

The Criminal Code's provisions establishing what actions constitute acting recklessly and knowingly apply to items (2) and (3), above.

Current law instead establishes penalties for violations of specific prohibitions in the Concentrated Animal Feeding Facilities Law. First, a person that does either of the following is guilty of a third degree misdemeanor on a first offense, a second degree misdemeanor on a second offense, and a first degree misdemeanor on a third or subsequent offense:

(1) Modifies an existing or constructs a new concentrated animal feeding facility (CAFF) without first obtaining a permit to install issued by the Director; or

(2) Owns or operates a CAFF without a permit to operate issued by the Director.

Each ten-day period that the offense continues constitutes a separate offense.

Second, a person that does any of the following must be fined not more than $25,000:

(1) Violates the terms and conditions of a permit to install or a permit to operate;

(2) Discharges pollutants from a concentrated animal feeding operation into waters of the state without first obtaining a national pollutant discharge elimination system (NPDES) permit issued by the Director;

(3) Discharges storm water resulting from an animal feeding facility without first obtaining a NPDES permit issued by the Director in accordance with rules adopted by the Director when such a permit is required by the federal Water Pollution Control Act;

(4) Violates any effluent limitation established by the Director in rules;

(5) Violates any other provision of a NPDES permit issued by the Director; or

(6) Violates the NPDES provisions of a permit to operate.

Each day of violation constitutes a separate offense.

Finally, a person that knowingly does either of the following must be fined not more than $25,000:

(1) Makes any false statement, representation, or certification in an application for a NPDES permit or in any form, notice, or report required to be submitted to the Director pursuant to terms and conditions established in a NPDES permit issued by the Director; or

(2) Renders inaccurate any monitoring method or device that is required under the terms and conditions of a NPDES permit issued by the Director.

Each day of violation constitutes a separate offense.

Apiaries

(R.C. 909.15 and 927.54)

The bill credits money that is collected from registration fees and fines under the Apiaries Law to the existing Plant Pest Program Fund rather than the General Revenue Fund as in current law. It then also requires money credited to the Plant Pest Program Fund to be used to administer the Apiaries Law in addition to the Nursery Stock and Plant Pest Law as in current law.

Weights and measures

(R.C. 1327.46, 1327.50, 1327.501, 1327.502, 1327.61, and 1327.99)

Price and point-of-sale verification

The bill requires the Director of Agriculture to verify advertised prices, price representations, and point-of-sale systems, as necessary, to determine both the accuracy of prices and computations and the correct use of the equipment and the accuracy of prices printed or recalled from a database if a system utilizes scanning or coding in lieu of manual entry. In order to implement that requirement, the Director must do all of the following:

(1) Employ recognized procedures such as those designated in the National Institute of Standards and Technology Handbook 130, Uniform Laws and Regulations, "Examination Procedures for Price Verification";

(2) Adopt rules establishing requirements governing the accuracy of advertised prices and point-of-sale systems and establishing requirements and procedures for the enforcement of the requirement; and

(3) Conduct necessary inspections.

Under provisions of the Weights and Measures Law establishing penalties for violations of the rules adopted under that Law, a person who violates the rules adopted under the bill is guilty of a second degree misdemeanor on a first offense and a first degree misdemeanor on each subsequent offense within seven years after the first offense.

Commercially used weighing and measuring devices

The bill revises an existing prohibition by prohibiting a person from operating in Ohio a commercially used weighing and measuring device that provides the quantity or cost of a final transaction and for which an application fee for a permit to operate such a device is established by the Weights and Measures Law unless the operator of the device obtains a permit to operate from the Director or the Director's designee. Current law prohibits a person from operating in Ohio a commercially used weighing and measuring device that provides the final quantity and final cost of a transaction and for which an application fee for a permit to operate such a device is established unless the operator of the device obtains such a permit.

In addition, the bill prohibits a person from installing for use, repairing, servicing, or placing into service a commercially used weighing and measuring device unless the installation, repair, service, or placement is performed by one of the following:

(1) A Department of Agriculture Division of Weights and Measures inspector;

(2) A service person registered with the Department; or

(3) A county or municipal weights and measures inspector.

The bill requires a service person who is employed by a commercially used weighing and measuring device servicing agency to register with the Director in accordance with rules adopted by the Director. Under the bill, a service person is an individual who installs, services, repairs, reconditions, or places into service a

commercially used weighing and measuring device for any type of compensation. The bill revises the existing statute providing rulemaking authority to the Director by requiring the Director to provide by rule for registration with the Director of service persons who are employed by commercially used weighing and measuring device servicing agencies rather than provide by rule for voluntary registration of private weighing and measuring device servicing agencies and personnel.

A commercially used weighing and measuring device is a device described in the National Institute of Standards and Technology Handbook 44 or its supplements and revisions and any other weighing and measuring device designated by rules adopted by the Director under current law. A commercially used weighing and measuring device includes specific types of scales and meters.

Auctioneers

(R.C. 4707.073 and 4707.10)

The bill makes technical changes in the Auctioneers' Law to clarify that it applies to limited liability companies.

- Expands the types of air quality facilities that may be acquired or financed by the Ohio Air Quality Development Authority to include any property, device, or equipment related to the recharging or refueling of vehicles that promotes the reduction of emissions of air contaminants into the ambient air through the use of an alternative fuel or a renewable energy resource.

Air quality facilities

(R.C. 3706.01)

The bill expands the types of air quality facilities that may be acquired or financed by the Ohio Air Quality Development Authority. Under the bill, those facilities include any property, device, or equipment related to the recharging or refueling of vehicles that promotes the reduction of emissions of air contaminants into the ambient air through the use of an alternative fuel or the use of a renewable energy resource.

- Generally requires that a party seeking a judicial sale of real estate include a state lienholder as a party defendant unless no state lien has been recorded against the owner of the real estate for which the judicial sale is sought.
- Presumes the appearance of the state lienholder for jurisdictional purposes.
- Requires the court to take judicial notice that the state has a lien against the real estate subject to a judicial sale.
- Allows the state lienholder to file an answer to the complaint or any other pleading if the amount, validity, or priority of the state lien is not identified as disputed and requires the state lienholder to file an answer if the amount, validity, or priority of the state lien is identified as disputed.
- Requires that, as part of any order confirming the sale of the real estate that is subject to any undisputed state lien or distributing the proceeds of any judicial sale of real estate, the undisputed state lien is protected as if the state had appeared in the action and filed an answer asserting the state lien.
- Requires that notice be given to the state lienholder and the Attorney General if any party asserts a dispute as to the amount, validity, or priority of the state lien or of any lien or other interest that has priority over the state lien.
- Requires that the interest of any undisputed state lien transfer to the proceeds of the sale of the real estate.

Protection of state liens in actions for judicial sale of real estate

(R.C. 2329.192)

The bill requires that, in every action seeking the judicial sale of real estate that is subject to a state lien, all of the following apply:

(1) The party seeking a judicial sale must include the state lienholder as a party defendant and must serve that state lienholder with a copy of the preliminary judicial report or commitment for an owner's fee policy of title insurance filed in accordance with the law regarding preliminary judicial reports related to a judicial sale of real estate.

(2) A state lienholder cannot be made a party defendant if no state lien has been recorded against the owner of the real estate for which the judicial sale is sought.

(3) The appearance of the state lienholder is presumed for purposes of jurisdiction, and the court must take judicial notice that the state has a lien against the real estate.

(4) A state lienholder may, but is not required to, file an answer to the complaint or any other pleading in the action if the amount, validity, or priority of the state lien is not identified in the pleadings as disputed and must file an answer to the complaint or any other pleading in the action if the amount, validity, or priority of the state lien is identified in the pleadings as disputed. If a state lien is not identified as disputed, unless the state files an answer or other responsive pleading, the party seeking the judicial sale is not required to serve the state lienholder with any answer or subsequent pleadings in the action for judicial sale.

(5) As part of any order confirming the sale of the real estate that is subject to any undisputed state lien or distributing the proceeds of any judicial sale of real estate, the undisputed state lien must be protected as if the state had appeared in the action and filed an answer asserting the validity of the state lien as recorded in the office of the clerk of the county court or the office of the county recorder.

(6) Any party asserting a dispute as to the amount, validity, or priority of the state lien or of any lien or other interest that has priority over the state lien must serve the state lienholder and the Attorney General with notice of the dispute, and the state lienholder is permitted to file a responsive pleading and participate in the proceedings as if the state lienholder had been served with a summons on the date the state lienholder received notice of the dispute.

Upon the judicial sale of the real estate that is the subject of an action described above, the interest of any undisputed state lien must transfer to the proceeds of the sale of the real estate, and the state lienholder is entitled to payment from the proceeds of the sale of the real estate in accordance with the state lienholder's priority as set forth in the final judicial report or commitment for an owner's fee policy of title insurance filed in accordance with continuing law.

The bill defines "state lien" as a lien upon real estate, including lands and tenements, of persons indebted to the state for debt, taxes, or in any other manner recorded by a state agency in any office of the clerk of a county court or the county recorder. A "state lienholder" is the department, agency, or other division of the state in whose name a state lien has been filed or recorded.

- Eliminates the special exception that authorized the Auditor of State not to prepare a rule summary and fiscal analysis of proposed auditing rules.

- Authorizes the Auditor of State to send notices of the public hearing on proposed auditing rules and to transmit copies of proposed auditing rules by electronic mail.

Joint Committee on Agency Rule Review hearing notifications

(R.C. 111.15 and 117.20)

The bill eliminates the special exception that authorized the Auditor of State not to prepare a rule summary and fiscal analysis (RSFA) of proposed auditing rules, thereby bringing the procedure for adopting auditing rules into conformity with general rule-making procedures, which require an RSFA to be prepared. An RSFA is a form that is completed in the course of preparing a proposed rule. The RSFA is filed along with the proposed rule, and assists the public and the Joint Committee on Agency Rule Review in reviewing the proposed rule.

The bill authorizes the Auditor of State to send notices of the public hearing on proposed auditing rules and to transmit copies of proposed auditing rules by electronic mail. Under current law, the notices proposed rules must be sent by mail.

OFFICE OF BUDGET AND MANAGEMENT

Office of Internal Audit changes

- Changes the name of the Office of Internal Auditing, within the Office of Budget and Management, to the Office of Internal Audit (OIA).

- Expands the number of state agencies for whom the OIA is required to conduct internal audit programs to include the Opportunities for Ohioans with Disabilities Agency ("the Rehabilitation Services Commission" under current law), the Public Utilities Commission of Ohio, the Adjutant General, and the State Lottery Commission.

- Permits the OIA, on request, to direct internal audits of any other organized body, office, or agency established by the laws of the state.

- Clarifies that the OIA is required to direct the internal audits of state agencies, rather than conduct the internal audits.

- Modifies the scope of internal audits directed by the OIA.

- Clarifies the application of the Public Records Law to certain documents produced or used as part of an internal audit conducted by the OIA.

- Moves to August 1, from July 1, the date by which the Office of Budget and Management must publish the Chief Internal Auditor's annual report.

State Audit Committee

- Modifies the membership qualifications and duties of the State Audit Committee.

State Lottery Commission internal audit plan

- Requires the State Lottery Commission to establish an annual internal audit plan, instead of an internal audit program, and to submit the plan to the OIA instead of the Auditor of State.

- Requires the Commission to submit its annual report on its internal audit work to the OIA for review and approval, instead of the Auditor, and eliminates the authority of the Auditor to prescribe the form and manner of the annual report.

State appropriation limitation

- Provides that the state appropriation limitation for a fiscal year is to be increased by the amount of a nongeneral revenue fund appropriation made in the immediately preceding fiscal year if the nongeneral revenue fund appropriation:

    (1) Was made on or after July 1, 2013;

    (2) Is included in the aggregate general revenue fund appropriations proposed for that fiscal year; *and*

    (3) Is being made for the first time from the general revenue fund.

Other provisions

- Authorizes the Director of Budget and Management to use electronic funds transfers to make payments from the state treasury.

- Eliminates a requirement that the Director of Administrative Services reimburse the Director of Budget and Management for certain costs related to making payments via direct deposit rather than drawing a paper warrant.

- Permits the Director, under certain circumstances, to transfer interest earned by any state fund to the GRF.

- Authorizes the Director, in each fiscal year, to transfer up to $60 million in cash to the GRF from non-GRF funds that are not constitutionally restricted to ensure that GRF receipts and balances are sufficient to support GRF appropriations.

- Permits the Director to issue guidelines to agencies applying for federal money made available to the state for fiscal stabilization and recovery purposes.

Office of Internal Audit (OIA) changes

(R.C. 124.341, 126.45, 126.46, 126.47, 126.48, and 5703.21)

The bill makes several changes to the Office of Internal Auditing within the Office of Budget and Management. In addition to changes outlined below, the bill changes the name of the Office of Internal Auditing to the Office of Internal Audit (OIA).

Expansion of agencies required or eligible for internal audits or audit plans

(R.C. 126.45)

The bill adds the following agencies to the list of state agencies for which the OIA must conduct internal auditing programs:

- Opportunities for Ohioans with Disabilities Agency (known as the "Rehabilitation Services Commission" under current law);
- Public Utilities Commission of Ohio;
- Adjutant General;
- Ohio Lottery Commission.

The bill also permits the OIA to direct an internal audit of all or part of any other organized body, office, or agency established by the laws of the state, at the request of the body, office, or agency. The OIA must charge an amount sufficient to cover the costs it incurs in relation to the requested audit.

Clarification of OIA's auditing responsibility

(R.C. 126.45, 126.46, 126.47, and 5703.21)

The bill clarifies that the OIA is required to direct the internal audits of state agencies, rather than conduct the internal audits.

Scope of internal audits

(R.C. 126.45(C))

The bill provides that internal audit programs directed by the OIA must include periodic audits of systems and controls pertaining to information technology instead of electronic data processing. The bill retains the current law requirement that the OIA include audits of systems and controls pertaining to accounting and administration.

Confidentiality of internal audit documents

(R.C. 126.48)

The bill clarifies that the following documents produced or used by the OIA are not public records under the Public Records Law:

- An internal audit report that is a security record under the Public Records Law;

- Any information derived from a state tax return or state tax return information that is permitted to be used by the OIA when directing an internal audit.

Under current law, any preliminary or final report of an internal audit's findings and recommendations and all work papers of the audit are confidential and not public records until the final report is submitted to the State Audit Committee, the Governor, and the director of the agency being audited.

Publishing the Chief Internal Auditor report

(R.C. 126.47)

The bill requires the Office of Budget and Management to make the Chief Internal Auditor's annual report available on the agency's web site annually before the first of August, instead of the first of July as required under current law.

State Audit Committee

(R.C. 126.46 and 126.47)

The bill modifies several requirements related to the State Audit Committee's membership and duties.

Committee membership

The bill makes the following changes to the subject matter expertise requirements of the Committee's members:

The bill – 5 members	Current law – 5 members
At least one member who is a financial expert	One member who is a financial expert
At least one member who is an active, inactive, or retired certified public accountant	One member who is an active, inactive, or retired certified public accountant
At least one member who is familiar with governmental financial accounting	One member who is familiar with governmental financial accounting
At least one member who is a representative of the public	One member who is a representative of the public

The bill – 5 members	Current law – 5 members
At least one member who is familiar with information technology systems and services	No provision

Committee duties

The bill requires the Committee to evaluate whether internal audits directed by the OIA conform to the Institute of Internal Auditors' International Professional Practices Framework for Internal Auditing. Under current law, the Committee is required to ensure that internal audits conducted by the OIA conform to the Institute of Internal Auditors' International Standards for the Professional Practice of Internal Auditing.

Additionally, the bill eliminates the requirement that the Committee review and comment on the process used by the Office of Budget and Management to prepare its annual budgetary financial report. The bill retains the review and comment requirement with regards to the agency's preparation of the state comprehensive annual financial report.

State Lottery Commission internal audit plan

(R.C. 3770.06)

The bill requires the State Lottery Commission to establish an annual internal audit plan, instead of an internal audit program as required in current law. Additionally, the bill requires the plan to be approved by the OIA. Current law requires the plan to be approved by the Auditor of State.

The bill also requires the Commission to submit to the OIA for its review and approval, instead of the Auditor, an annual report at the end of each fiscal year, specifying the Commission's internal audit work completed for that fiscal year and reporting on the Commission's compliance with its annual internal audit plan. The bill eliminates the authority of the Auditor to prescribe the form and content of the report.

State appropriation limitation

(R.C. 107.033)

The bill revises the manner in which the state appropriation limitation (SAL) is determined. Under the bill, the SAL for a fiscal year is to be increased by the amount of a nongeneral revenue fund appropriation made in the immediately preceding fiscal year, if the nongeneral revenue fund appropriation:

(1) Was made on or after July 1, 2013;

(2) Is included in the aggregate general revenue fund appropriations proposed for that fiscal year; ***and***

(3) Is being made for the first time from the general revenue fund.

Authority to use electronic funds transfers

(R.C. 126.07 and 126.35)

The bill permits the Director of Budget and Management to process electronic funds transfers (EFTs) for certain payments from the state treasury. Under current law, the Director is required to draw warrants to make such payments.

Additionally, the bill provides that the Director may review and audit a voucher, documentation accompanying a voucher, and any other documentation related to a transaction prior to processing an EFT. Under current law, the Director may review and audit a voucher and related documentation regarding a request for payment from a state agency prior to drawing a warrant only.

Elimination of reimbursement for additional costs related to direct deposits

(R.C. 126.35)

The bill eliminates a provision that requires the Director of Administrative Services to reimburse the Office of Budget and Management for additional costs incurred making payments via direct deposit rather than drawing paper warrants. The bill also eliminates the authority of the Director to add the reimbursed amount to the processing charge paid by state agencies.

Transfers of interest to the General Revenue Fund (GRF)

(Section 512.10)

The bill permits the Director of Budget and Management, through June 30, 2015, to transfer interest earned by any state fund to the General Revenue Fund (GRF) as long as the source of revenue of the fund is not restricted or protected under the Ohio Constitution or federal law.

Transfers of non-GRF funds to the GRF

(Section 512.20)

The bill authorizes the Director of Budget and Management, in both fiscal year 2014 and 2015, to transfer up to $60 million in cash to the GRF from non-GRF funds that are not constitutionally restricted. These transfers are to be made to ensure that available GRF receipts and balances are sufficient to support GRF appropriations in each fiscal year.

Federal money for fiscal stabilization and recovery

(Section 521.60)

To ensure the level of accountability and transparency required by federal law, the bill permits the Director of Budget and Management to issue guidelines to any agency applying for federal money made available to the state for fiscal stabilization and recovery purposes and to prescribe the process by which agencies are to comply with any reporting requirements established by the federal government.

- States that a casino operator license is transferable, subject to approval by the Ohio Casino Control Commission.
- Specifies that any change or transfer of control of a casino operator requires the filing of an application for transferring the casino operator license and submission of an application fee.
- Removes a provision that states that a change in or transfer of control to an immediate family member is not considered a significant change.
- Permits the Commission to assess a transfer applicant a reasonable fee in the amount necessary to review the transfer application.
- In determining whether to approve a transfer, requires the Commission to consider all factors in the Casino Law that pertain to granting a casino operator license.
- Removes a provision that states that an initial license is not considered transferred, and a new license is not required, when an initial licensee that is licensed before June 1, 2013, meets certain factors.

Casino operator license transfer

(R.C. 3772.03 and 3772.091)

The bill amends the law related to the transfer of licenses under the Casino Law. Under the bill, a casino operator license issued under the Casino Law is transferable, subject to approval by the Ohio Casino Control Commission. Any change or transfer of control of a casino operator requires Commission approval. Before any such change or transfer of control may be approved, the applicant must file an application for the transfer with, and submit an application fee to, the Commission. Additionally, the Commission can assess an applicant a reasonable fee in the amount necessary for the Commission to review the application for the transfer. In determining whether to approve the transfer, the Commission must consider all the factors established in the Casino Law that pertain to the granting of a casino operator license. The bill removes a provision that states that a change in or transfer of control to an immediate family member is not considered a significant change.

Under current law, no license issued under the Casino Law is transferable. Generally, new majority ownership interest or control of a licensee requires a new

license. Before any such change or transfer of control is approved, a *significant* change in or transfer of control requires the filing of an application for a new license and submission of a license fee with the Commission. A change in or transfer of control to an immediate family member is not considered a *significant* change.

Additionally, the bill removes current law provisions that provided that an initial license must not be considered transferred, and a new license must not be required, when an initial licensee that is licensed before June 1, 2013, does or has done both of the following:

(1) Obtained a majority ownership interest in, or a change in or transfer of control of, another initial licensee for the same casino facility; and

(2) Was investigated under the Casino Law as a parent, affiliate, subsidiary, key employee, or partner, or joint venturer with, another initial licensee that has held for the same casino facility a majority ownership interest in or control of the initial license when the initial license was issued and when such an initial licensee obtains a majority ownership interest in or a change in or transfer of control.

DEPARTMENT OF COMMERCE

Unclaimed Funds Law

- Provides for the payment of interest to claimants of unclaimed funds in accordance with a formula devised in the 2009 Ohio Supreme Court case of *Sogg v. Zurz*, 121 Ohio St.3d 449 (2009), its progeny, and final settlement agreement.

- Removes the current prohibition against the payment of interest on unclaimed funds in the possession of the state.

- Specifies time frames and amounts of interest allowed to claimants who otherwise are entitled to the unclaimed funds.

- Provides that the contents of unclaimed safe-deposit boxes are unclaimed funds and authorizes the Superintendent of Financial Institutions to report to the Superintendent of Unclaimed Funds the proceeds from the sale of property removed from safe-deposit boxes unclaimed for three years after the closing, liquidation, or dissolution of a financial institution.

- Establishes the reporting deadline for safe-deposit contents as a date that is not earlier than the first day of February and not later than the first day of April of each year for property dormant as of the preceding thirtieth day of June.

- Includes references to the Attorney General's recently created authority to request owner information and claim unclaimed funds when collecting verified amounts owed to the state and creates a setoff priority for state claims filed by the Attorney General's office under this authority.

- Creates a setoff priority for claims for unclaimed funds that the Department of Job and Family Services currently is allowed to collect for child support enforcement.

- Removes the requirement for newspaper publication for out-of-state addresses and addresses in foreign countries, and replaces it with authority to post the notice on the Department of Commerce's Internet web site or the state public notice web site.

- Increases from $10 to $50 the threshold value of unclaimed funds that triggers the Director of Commerce's duty to maintain the owner's name on a list available in the Director's office indicating whose funds are being held by the state under the Unclaimed Funds Law.

- Requires an FBI background check for persons applying for a certificate of registration to serve in the capacity of a "finder" of unclaimed funds on behalf of others.

Underground Storage Tank Revolving Loan Program

- Creates the Underground Storage Tank Revolving Loan Program, to be administered by the State Fire Marshal (or designee).

- Requires that interest-free loans be made under the Underground Storage Tank Revolving Loan Program to political subdivisions that seek to take action with regard to underground storage tanks when the tanks' owners or operators cannot be identified or cannot pay the costs of the action.

- Requires that the loans under the Underground Storage Tank Revolving Loan Program be financed exclusively through penalties and repaid loan amounts.

- Permits a political subdivision to take legal action to recover costs incurred if the tank owner or operator is identified or is determined to have been or be able to pay the costs of action taken by the political subdivision.

Other provisions

- Reduces from two to one the number of reports that bedding and stuffed toy manufacturers and importers must submit annually to the Superintendent of Industrial Compliance.

- Requires the Director of Commerce to fill mid-term vacancies on the Historical Boilers Licensing Board, but does not require the advice and consent of the Senate for the Director's appointments.

- Changes the index used to calculate biennial changes to the threshold levels that are used to determine whether a horizontal public improvement project is subject to Ohio's Prevailing Wage Law.

Unclaimed Funds Law

Interest payments on unclaimed funds

(R.C. 169.08)

In 2009, the Ohio Supreme Court determined that the prohibition in R.C. 169.08 against the payment of interest to claimants for unclaimed funds constituted an unlawful taking. The bill, therefore, removes the prohibition, and provides that interest earned by the state will be payable in accordance with final court orders derived from the *Sogg v. Zurz*, 121 Ohio St.3d 449 (2009), line of cases and final settlement agreement. The bill states that for properties received by the state on or before July 26, 1991, interest must be paid at a rate of 6% per annum from the date the state received the property up to and including July 26, 1991. No interest will be payable on any properties for the period from July 27, 1991, up to and including August 2, 2000. For properties held by the state on August 3, 2000, or after, interest must be paid at the applicable required rate per annum for the period held from August 3, 2000, or the date of receipt, whichever is later, up to and including the date the claim is paid.

The final settlement agreement requires the Department of Commerce to make payments to future claimants (any persons whose unclaimed funds are returned to them on or after October 10, 2012) as well as to members of the *Sogg* class. Applicable required rates per annum are specified for years 2001 to 2011 in the final settlement agreement with direction for the Department to continue future calculations based on certain testimony in the case and other factors used in determining the chart provided for years 2000 to 2011.

Contents of safe-deposit boxes as unclaimed funds

(R.C. 169.02 and 169.03)

The bill provides that, notwithstanding the provisions of current law that generally provide that moneys received or collected under color of office are not unclaimed funds, moneys reported by the Superintendent of Financial Institutions to the Superintendent of Unclaimed Funds as proceeds from the sale of property removed from a safe-deposit box or safekeeping repository will be unclaimed funds if unclaimed for three or more years from the date of the closing, liquidation, or dissolution of a financial institution.

Current law includes, as a form of unclaimed funds, all moneys, rights to money, or other intangible property removed from a safe-deposit box or other safekeeping repository located in this state or removed from a safe-deposit box or other safekeeping repository of a holder, on which the lease or rental period has expired, or any amount

arising from the sale of such property, less any lawful claims, that are unclaimed for three years from the date on which the lease or rental period expired. The bill removes the specification for the safe-deposit box or safekeeping repository to be located in the state and includes a termination of a lease.

The bill establishes a reporting deadline for properties removed from safe-deposit boxes or safekeeping repositories as a date that is not earlier than the first day of February and not later than the first day of April of each year for property dormant as of the preceding thirtieth day of June. Under current law, holders of unclaimed funds generally are required to report to the Director of Commerce with respect to those funds before the first day of November of each year as of the preceding thirtieth day of June. Holders providing life insurance coverage must file before the first day of May of each year as of the preceding thirty-first day of December.

References to Attorney General collection authority; setoff priority

(R.C. 169.01, 169.03, and 169.08)

In H.B. 153 of the 129th General Assembly, the Attorney General was authorized to seek unclaimed funds of obligors in default to the state when the Attorney General is collecting unpaid funds due the state. The bill includes appropriate references in the Unclaimed Funds Law in similar manner to that currently afforded to the Department of Job and Family Services when collecting unclaimed funds under its current authority to collect child support. For example, both of these are exceptions to the provision making amounts received or collected under color of office (R.C. 9.39) not unclaimed funds. And while social security numbers generally cannot be used by the Department for any purpose other than to carry out the purposes of the Unclaimed Funds Law, they also may be used for child support purposes under the Department of Job and Family Services child support enforcement authority (R.C. 3123.88) and also for response to a request from the Attorney General under the newly acquired authority to obtain unclaimed funds of an obligor in default.

The bill creates priority setoffs for the Attorney General and the Department of Job and Family Services as follows: the Director of Commerce must deduct, for the purpose of setoff, amounts determined due by the Attorney General or the Director of Job and Family Services before payment of any claim or order of attachment, order in aid of execution, and any other legal process issued for payment of a claim for unclaimed funds. If a claimant owes both child support and an amount certified by the Attorney General, the setoff against child support must be applied first, and any remaining amount must be applied next to the payment of delinquent state taxes, penalties or interest, or other amounts certified to the Attorney General.

Internet publication authority

(R.C. 169.06)

The bill authorizes the Director of Commerce annually to notify owners of unclaimed funds with out-of-state or out-of-country addresses by Internet notice, either on the Department's Internet web site or on the state public notice web site for a reasonable period of time as determined by the Director. Under current law, the Director is required to give annual notice by newspaper publication in the county or parish of any state in the United States in which the last known address is known. If the last known address is in a foreign country, the Director has discretion to make publication by the most effective means. The bill removes the current publication requirements for out-of-state or out-of-country addresses and substitutes the Internet provisions; the bill retains the newspaper publication requirements for in-state addresses.

Criminal records check for "finders"

(R.C. 109.572 and 169.16)

The bill requires the Superintendent of Unclaimed Funds to request the Bureau of Criminal Identification and Investigation, or a vendor approved by the Bureau, to conduct a criminal records check based on the applicant's fingerprints and FBI information for any person seeking a certificate of registration to locate, deliver, recover, or assist in recovery of unclaimed funds on behalf of other persons (commonly referred to as serving in the capacity of a "finder"). The bill requires the applicant to pay any fee associated with the criminal records check.

Current law requires the applicant to state that he or she has not violated specified provisions or been convicted of, or pleaded guilty to any felony offense involving moral turpitude. Although the division may investigate the applicant to verify the information provided in the application, the division is not required to have a criminal records check conducted of all applicants. Information from the Department indicates this may be done now only for out-of-state applicants; the bill would extend this to all applicants.

Threshold value of unclaimed funds for identification on Director's list

(R.C. 169.06)

The bill increases from $10 to $50 the threshold value of unclaimed funds that triggers the Director's duty to list the owner's name on the Director's list of owners of identified unclaimed funds. The list is required to be available during business hours in

the Director's office listing owners and beneficiaries if the holder is a person providing life insurance coverage and their last known addresses, if any.

Underground Storage Tank Revolving Loan Program

(R.C. 3737.02 and 3737.883; conforming changes in R.C. 3737.88 and 3737.884 (renumbered from 3737.883))

Program overview and explanation of "corrective actions"

The bill creates the Underground Storage Tank Revolving Loan Program, to be administered by the State Fire Marshal or the Fire Marshal's designee. The program is designed to assist political subdivisions seeking to take action with regard to underground storage tanks if the tanks' owners or operators[6] cannot be identified or cannot pay the costs of taking action. An underground storage tank is a stationary containment device (including the connected underground pipes) used to contain an accumulation of petroleum or any substance classified as hazardous by the Fire Marshal, the volume of which, including the volume of connecting pipes, is 10% or more beneath the surface of the ground.[7] Under the program, the Fire Marshal is required to issue an interest-free loan to a political subdivision that meets the bill's application requirements and plans to spend from its own funds an amount equal to at least 5% of the requested loan amount.

The bill expressly permits political subdivisions to take the actions for which the loans may be requested. Specifically, it permits a political subdivision to do any of the following for an underground storage tank within the subdivision's territorial boundaries, provided the tank owner or operator is unidentifiable or was determined by the Fire Marshal as being unable to pay the costs of the action:

- Initiate, continue, or properly complete the removal of an underground storage tank system;
- Initiate, continue, or properly complete an assessment of the site of an underground storage tank or the site of an underground storage tank system;
- Initiate, continue, or properly complete a "corrective action."

"Corrective action" is extensively defined in continuing law. Therefore, by permitting a subdivision to take a corrective action, the bill permits the subdivision to

[6] R.C. 3737.87(N) (not in the bill).

[7] R.C. 3737.87(L), (O), and (P) (not in the bill).

take any action necessary to protect human health and the environment in the event of a release of petroleum into the environment. This includes any action necessary to monitor, assess, and evaluate the release. For a suspected release, "corrective action" includes an investigation to confirm or disprove the occurrence of the release. For a confirmed release, "corrective action" includes any action taken consistent with a remedial action to clean up contaminated ground water, surface water, soils, and subsurface material and to address the residual effects of a release after the initial corrective action is taken.[8] Despite the bill's grant of authority, continuing law grants the Fire Marshal exclusive jurisdiction, in most cases, to regulate the storage, treatment, and disposal of petroleum-contaminated soil generated from corrective actions. Therefore, the bill's grant of authority may be limited by this exclusive jurisdiction.

Definition of "political subdivision"

The bill defines a "political subdivision" as a municipal corporation, township, county, school district, or other body corporate and politic responsible for governmental activities in a geographic area smaller than that of the state. The term includes certain hospital commissions and boards, certain local planning commissions and councils, port authorities, certain regional councils, certain emergency and fire and ambulance districts, solid waste management districts, community schools, and certain community-based correctional facilities and programs and their facility governing boards.[9] The bill also expressly states that the term includes a community improvement corporation, which is defined as an economic development corporation or a county land reutilization corporation.[10]

Loan applications

In the loan application, the political subdivision must describe the action for which it is requesting the loan, state the requested loan amount, explain how it plans to spend at least 5% of the requested loan amount out of its own funds, and provide any other information requested by the Fire Marshal. The subdivision must also agree to written terms and conditions of the Fire Marshal. The bill prohibits loans from having terms of more than ten years.

Loan repayment and funding

The interest-free loans must be repaid to the Fire Marshal. The repaid amounts are to be credited to the Underground Storage Tank Administration Fund, which is

[8] R.C. 3737.87(B) (not in the bill).

[9] R.C. 2744.01(F) (not in the bill).

[10] R.C. 1724.01(A)(1) (not in the bill).

created in current law. The Fire Marshall must make the loans exclusively from those repaid amounts and from penalties collected for violations of current law governing underground storage tanks, including rules and orders of the Fire Marshal.[11] The bill also permits repaid loan amounts to be used by the Fire Marshal for implementation and enforcement of underground-storage-tank, corrective-action, and installer-certification programs.

Recovery of costs from tank owners or operators

The bill allows that if the Fire Marshal or any law enforcement agency identifies the tank owner or operator or determines, for any reason, that a previously identified owner or operator was or is able to pay the costs of the action for which the loan was issued, the political subdivision may bring any appropriate proceedings against the owner or operator to recover its incurred costs. The identification or determination must be made after the political subdivision has spent loan funds. The proceedings may be brought in either the court of common pleas having jurisdiction where the tank is located or the Court of Common Pleas of Franklin County.

Program administration

The bill requires the Fire Marshal to adopt, and permits the Fire Marshal to amend or rescind, rules as necessary for the administration and operation of the loan program. The rules may do any of the following:

- further define the entities considered "political subdivisions" eligible to receive loans;
- establish qualifying criteria for loan recipients;
- establish criteria for awarding loans, loan amounts, loan payment terms, and permissible expenditures of loan funds, including methods that the Fire Marshal may use to verify the proper use of loan funds or to obtain reimbursement for or the return of improperly used loan funds.

The bill requires the Fire Marshal to consult with the Director of Development Services before issuing any loan under the program.

The bill also permits the Fire Marshal to adopt, amend, or rescind rules for the issuance of emergency underground storage tank revolving loans to qualifying entities during a natural disaster or another similar event, as defined in rules.

[11] R.C. 3737.882(C) (not in the bill).

Facilities excluded from the program

The following are excluded from the definition of "underground storage tank," and therefore not subject to the bill's revolving loan program:

- pipeline facilities, including gathering lines, regulated under federal law;
- farm or residential tanks of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes;
- tanks used for storing heating fuel for consumptive use on the premises where stored;
- surface impoundments, pits, ponds, or lagoons;
- storm or waste water collection systems;
- flow-through process tanks;
- storage tanks located in underground areas, including basements, cellars, mine workings, drifts, shafts, or tunnels, when the tanks are located on or above the surface of the floor;
- septic tanks;
- liquid traps or associated gathering lines directly related to oil or gas production and gathering operations.[12]

Bedding and stuffed toys – reporting requirements

(R.C. 3713.06)

The bill reduces the number of reports that a bedding and stuffed toy manufacturer or importer must submit annually to the Superintendent of Industrial Compliance. Current law requires a registered toy manufacturer or importer who manufactures or imports bedding or stuffed toys for retail sale or use in Ohio to submit a report showing the total number of items of bedding or stuffed toys imported or manufactured in Ohio once every six months. The bill requires a registered toy manufacturer or importer to submit the report once every year.

[12] R.C. 3737.87(P)(1) to (9) (not in the bill).

Historical Boilers Licensing Board vacancies

(R.C. 4104.33)

The bill requires the Director of Commerce to fill mid-term vacancies on the Historical Boilers Licensing Board, but does not require the advice and consent of the Senate for the Director's appointments. Current law requires mid-term vacancies to be filled in the manner provided for during initial appointments, which gives the Governor, the President of the Senate, and the Speaker of the House of Representatives appointment authority.

Prevailing wage threshold index

(R.C. 4115.034; R.C. 4115.03, not in the bill)

Under continuing law and unless an exception applies, the construction of a public improvement in which the total overall project cost is fairly estimated to exceed a statutory price threshold is subject to Ohio's Prevailing Wage Law. The statutory threshold for horizontal projects (projects that involve roads, streets, alleys, sewers, ditches, and other works connected to road or bridge construction) is adjusted biennially by the Director of Commerce. Current law requires the Director to adjust the threshold level based on the Implicit Price Deflator for Construction established by the federal government, with a maximum adjustment of 3% of the threshold level in existence at the time of the adjustment. The federal government no longer establishes that index. The bill instead requires the Director to use the Construction Cost Index published by the Engineering News-Record. If that index ceases being published, a similar recognized industry index chosen by the Director must be used.

DEVELOPMENT SERVICES AGENCY

Alternative Fuel Transportation Program

- Allows the Director of Development Services, under the Alternative Fuel Transportation Program, to make grants and loans to businesses, nonprofit organizations, public school systems, or local governments to pay fleet conversion costs in addition to the existing specified uses of the funds.

- Specifies that the Alternative Fuel Transportation Fund is also to consist of all money received from the repayment of loans made from the Fund or in the event of a default on any such loan.

Technology development assistance

- Terminates the Industrial Technology and Enterprise Advisory Council, which was created to:

  (1) Review applications for, and make final determinations regarding, the issuance of technology investment tax credits; and

  (2) Make recommendations to the Director as to applications for other industrial technology and enterprise development assistance.

- Eliminates the Technology Investment Tax Credit Program, which was established to benefit Ohio taxpayers who invest in certain research and development or technology-oriented businesses.

Community Services Division

- Changes the name of the Office of Community Services within the Development Services Agency to the Community Services Division.

- Prohibits a person or government entity from soliciting, releasing, disclosing, receiving, using, or knowingly permitting or participating in the use of any information regarding an individual receiving assistance from a Division program.

- Specifies the circumstances under which the Division, and any entity receiving funds from the Division, must provide information about individual assistance recipients to:

  --A government entity;

  --A law enforcement agency; or

--A government entity administering a children's protective services program.

- Permits the release of individual assistance recipient information upon written authorization voluntarily given by the recipient and requires the Division, or entity administering a Division program, to provide a copy of each written authorization to the individual who signed it.

- Permits the release of individual assistance recipient information to a state, federal, or federally assisted program that directly provides cash or in-kind assistance or services to individuals based on need.

- Requires the Division, and any entity administering a Division program, to provide access to individual assistance recipient information to:

  --The recipient;

  --The recipient's legal guardian;

  --The recipient's attorney; and

  --The authorized representative of the recipient (as may be defined by the Agency by rule).

Other provisions

- Changes the date by which a taxpayer that has entered into an agreement with the Tax Credit Authority on the basis of home-based employees must report the number of employees and home-based employees employed by the employer in Ohio.

- Adds, to the purposes for which the Director may lend funds for minority business development, loans for contract financing.

- Changes the local government notification requirement when financial assistance under R.C. Chapter 166. is requested from the Agency for the purpose of relocating a facility currently being operated in another county, municipal corporation, or township.

- Eliminates the Ohio Research Commercialization Grant Program.

- Requires the Director to appoint specified members of the technical advisory committee of the Ohio Coal Development Office rather than the Director of the Office, and provides for transition to the new appointing authority.

Alternative Fuel Transportation Program

(R.C. 122.075)

The bill allows the Director of Development Services, under the Alternative Fuel Transportation Program, to make grants and loans to businesses, nonprofit organizations, public school systems, or local governments to pay fleet conversion costs. This use of the funds is in addition to the existing use of the funds for: (1) the purchase and installation of alternative fuel refueling or distribution facilities and terminals, (2) the purchase and use of alternative fuel, and (3) paying the costs of educational and promotional materials and activities intended for prospective alternative fuel consumers and fuel marketers.

The bill also specifies that the Alternative Fuel Transportation Fund, which is used by the Director to make grants and loans under the Program, is to additionally consist of all money received from the repayment of those loans or in the event of a default on any of the loans.

Industrial Technology and Enterprise Advisory Council

(R.C. 121.22, 122.28, 122.30, 122.31, 122.32, 122.33, 122.34, 122.35, and 122.36; R.C. 122.29, repealed)

The bill terminates the Industrial Technology and Enterprise Advisory Council, which was created to (1) review applications for technology investment tax credits and issue final determinations as to their approval or disapproval and (2) review applications for, and make recommendations to the Director of Development Services regarding, other industrial technology and enterprise development assistance.

Technology Investment Tax Credit Program

(R.C. 5733.01, 5733.06, 5733.98, and 5747.98; R.C. 122.15, 122.151, 122.152, 122.153, 122.154, 5707.05, 5727.41, 5733.35, and 5747.33 (repealed); Section 803.10)

The bill eliminates the Technology Investment Tax Credit Program. The Program was established to benefit Ohio taxpayers who invest in certain Ohio entities engaging in a trade or business that primarily involves research and development, technology transfer, bio-technology, information technology, or the application of new technology developed through research and development or acquired through technology transfer. The maximum that can be issued under the Program is $45 million of tax credits. The bill specifies that an investor who is issued a tax credit prior to the repeal of the Program may continue to claim the credit as if the law had not changed.

Office of Community Services name change

(R.C. 122.67; conforming changes in 122.66, 122.68, 122.69, 122.70, 122.701, and 3313.98)

The bill renames the Office of Community Services within the Development Services Agency as the Community Services Division. All of the current responsibilities of the Office, including administering federal funds appropriated to Ohio from the federal Community Services Block Grant Act and providing technical assistance to community action agencies, remain responsibilities of the renamed Division.

Community Services Division program assistance confidentiality

(R.C. 122.681)

The bill prohibits (except when required to do so by federal law) a person or government agency from soliciting, releasing, disclosing, receiving, or using any information regarding an individual receiving assistance under a Community Services Division program for any purpose that is not directly related to the administration of the program. The bill also prohibits knowingly permitting or participating in the use of such information.

Release of a recipient's information

Under the bill, the Division, and any entity that receives funds from the Division to administer a Division assistance program, must release information regarding an individual assistance recipient to the extent that the release is allowed by federal law. The information must be released to the entities listed below for the following specified purposes:

Entity to Which Individual Assistance Recipients' Information Must Be Released	Purpose for Receiving Information
Government entity responsible for administering the assistance program	For purposes directly related to the program's administration
Law enforcement agency	For the purpose of any investigation, prosecution, or criminal or civil proceeding relating to the assistance program's administration
Government entity responsible for administering a children's protective services program	For the purpose of protecting children

The bill permits the Division and any entity administering a Division program to release information about an individual assistance recipient under the following circumstances to the extent permitted by federal law:

- To a state, federal, or federally assisted program that provides cash or in-kind assistance or services directly to individuals based on need;

- If the recipient gives voluntary, written authorization for the release.

With regard to an individual assistance recipient's authorization to release information, the bill does not limit such authorized releases or specify to whom they may be made. However, the bill requires the Division, or entity administering a Division program, to provide, at no cost, a copy of each written authorization to the individual who signed it.

Access to a recipient's information

Access to information regarding an individual assistance recipient also must be provided to certain individuals to the extent permitted by federal law and Ohio personal information rights law.[13] Under the bill, the Division and any entity administering a Division program must provide access to an individual assistance recipient's information to the recipient and the recipient's authorized representative, legal guardian, and attorney. The term "authorized representative" is not defined in the bill. However, the bill permits the Agency to adopt rules that define who may serve in this capacity for an individual assistance recipient.

Job creation tax credit reporting date for home-based employees

(R.C. 122.17)

Continuing law allows certain taxpayers, until 2019, to enter into an agreement with the Tax Credit Authority to receive a job creation tax credit for employing home-based employees. Under current law, on or before January 1 of each year, beginning in 2013, a taxpayer that has entered into such an agreement is required to report to the Development Services Agency the number of home-based employees and other employees employed by the taxpayer in Ohio. For years after 2014, the bill requires the employee report to be filed on or before March 1 instead of January 1.

Minority development financing

(R.C. 122.76)

The bill adds, to the purposes for which the Director of Development Services may lend funds for minority business development, loans for contract financing. Under continuing law, when certain criteria are met, the Director, with Controlling Board

[13] R.C. 1347.08.

approval, may lend funds to the following entities, provided that the loans are for purposes authorized by the relevant statute: minority business enterprises, community improvement corporations, Ohio development corporations, minority contractors business assistance organizations, and minority business supplier development councils. The following purposes are authorized under continuing law: lending funds to minority business enterprises for the purpose of procuring or improving real or personal property, or both, for the establishment, location, or expansion of industrial, distribution, commercial, or research facilities in Ohio, and to community development corporations that predominantly benefit minority business enterprises or are located in a census tract that has a population that is 60% or more minority.

Economic development assistance for the relocation of facilities

(R.C. 166.04)

The bill changes the local government notification requirement that applies when certain financial assistance is requested from the Development Services Agency for the purpose of relocating a facility currently being operated in another county, municipal corporation, or township. Under existing law, if a person applies for a loan, loan guarantee, or other assistance under R.C. Chapter 166. to relocate such a facility, the Director of Development Services must provide written notification to (1) the county, and the municipal corporation or township, in which the facility is to be relocated, (2) the county, and the municipal corporation or township, in which the facility to be replaced is located, (3) the state representative and state senator in whose districts the facility is to be relocated, and (4) the state representative and state senator in whose districts the facility to be replaced is located.

Under the bill, the person requesting the financial assistance, rather than the Director, is to provide the written notification of the relocation. Notice only has to be given to the local governmental bodies described in (2), above. Prior to providing the financial assistance, the Director must verify that the notice has been so given.

Ohio Research Commercialization Grant Program

(R.C. 184.04 (repealed))

The bill eliminates the Ohio Research Commercialization Grant Program administered by the Third Frontier Commission. The Grant Program was created to improve the commercial viability of research projects by improving the ability of small technology companies to assess their commercial potential and the commercial potential of their research projects and by promoting the competitiveness of these companies through the augmentation of federal research and development funding.

Appointment of Ohio Coal Development Office's technical advisory committee

(R.C. 1551.33 and 1551.35; Section 803.30)

The bill requires the Director of Development Services to appoint specified members of the technical advisory committee of the Ohio Coal Development Office instead of the Director of the Office. It then provides for transition to the new appointing authority by requiring any member of the technical advisory committee who was appointed by the Director of the Office and who is serving on the committee immediately prior to the provision's effective date to continue in office until the expiration of the member's term. Thereafter, the appointment of a member for that position must be made by the Director of Development Services.

DEPARTMENT OF DEVELOPMENTAL DISABILITIES

Employment First

- Modifies the state's Employment First Policy for individuals with developmental disabilities.

- Authorizes the Ohio Department of Developmental Disabilities (ODODD) Director to establish an employment first task force consisting of certain state departments and enter into interagency agreements with those departments.

- Requires each county board of developmental disabilities (county DD board) to implement an employment first policy that clearly identifies community employment as the desired outcome for every individual of working age who receives services from the board.

Regional council and county DD board cost report

- Requires each regional council and county DD board to file with ODODD a cost report on its expenditures and income and for each report to be audited.

- Permits ODODD to withhold regional council or board subsidy payments if a cost report is not timely filed or determined not auditable.

Intermediate care facilities for individuals with intellectual disabilities (ICF/IID)

- Replaces "intermediate care facility for the mentally retarded" (ICF/MR) in state law with "intermediate care facility for individuals with intellectual disabilities" (ICF/IID).

- Relocates and reorganizes the law governing Medicaid coverage of ICF/IID services as part of the process of ODODD assuming many duties of the Ohio Department of Medicaid (ODM) regarding those services.

- Modifies, effective July 1, 2014, Medicaid payments for capital costs of ICFs/IID by (1) halving the efficiency incentive payments to ICFs/IID with more than eight beds, (2) eliminating nonextensive renovation payments to ICFs/IID with more than eight beds, and (3) eliminating return on equity payments to all ICFs/IID.

- Reduces, beginning with fiscal year 2015, the efficiency incentive that is part of the Medicaid payment rate for the indirect care costs of ICFs/IID with more than eight beds.

- Permits ODODD, subject to ODM's approval, to pay a qualifying ICF/IID a Medicaid rate add-on for outlier ICF/IID services provided on or after July 1, 2014, to a resident who is a Medicaid recipient, is under 22 years of age, is dependent on a ventilator, and meets other requirements established in rules.

- Provides for the ODODD Director to establish in rules a flat Medicaid payment rate for ICF/IID services provided on or after July 1, 2014, to low resource utilization residents.

- For fiscal year 2014, requires ODODD to determine modified rates and capped rates for existing ICFs/IID and provides for an existing ICF/IID to be paid a Medicaid rate that is the average of its modified and capped rates, unless the mean of such rates for all existing ICFs/IID is other than $282.84, in which case the ICF/IID's rate is to be adjusted by a percentage that equals the percentage by which the mean rate is greater or less than $282.84.

- For fiscal year 2015, requires ODODD to determine modified rates and capped rates for existing ICFs/IID and provides for an existing ICF/IID to be paid a rate that is the average of its modified and capped rates, unless the mean of such rates for all existing ICFs/IID is other than $282.77, in which case the ICF/IID's rate is to be adjusted by a percentage that equals the percentage by which the mean rate is greater or less than $282.77.

- Permits an ICF/IID that downsizes or partially converts to providing home and community-based services to file a Medicaid cost report if the ICF/IID has, on the day it downsizes or partially converts, a Medicaid-certified capacity that is at least 10% lower than its Medicaid-certified capacity on the day before and at least five fewer ICF/IID beds than it has on the day before.

- Provides for the cost report to cover the period that begins with the day the ICF/IID downsizes or partially converts and ends on the first day of the month immediately following the first three full months of operation as a downsized ICF/IID or partially converted ICF/IID.

- Provides for the cost report to be used to determine the ICF/IID's Medicaid payment rate for the period:

    (1) Beginning on the day it downsizes or partially converts if that day is the first day of a month or, if not, beginning on the first day of the month following the month the ICF/IID downsizes or partially converts; and

(2) Ending on the first day of the fiscal year for which it begins to be paid a rate determined using a cost report filed in accordance with regular filing procedures.

- Requires ODODD and a workgroup to evaluate revisions to the formula used to determine Medicaid payment rates for ICF/IID services.

- Requires the ODODD Director to pay the nonfederal share of a claim for ICF/IID services using subsidies otherwise allocated to county DD boards if:

  (1) Medicaid covers the services;

  (2) The services are provided to a Medicaid recipient who is eligible for the services and does not occupy a bed in the ICF/IID that used to be included in the Medicaid-certified capacity of another ICF/IID certified before June 1, 2003;

  (3) The services are provided by an ICF/IID whose Medicaid certification was initiated or supported by a county DD board; and

  (4) The provider has a valid Medicaid provider agreement for the time the services are provided.

- Sets the rate for the franchise permit fee charged ICFs/IID at $18.24 for fiscal year 2014 and $18.17 for fiscal year 2015 and thereafter.

Home and community-based services

- Provides for an Individual Options waiver provider to continue to receive for fiscal years 2014 and 2015 at least the higher Medicaid payment rate for routine homemaker/personal care services that the provider received for up to a year during fiscal years 2012 and 2013.

- Provides for ODODD to retain all of the fees that county DD boards pay regarding Medicaid-paid claims for home and community-based services provided to individuals eligible for services from the county DD boards.

- Requires the ODODD Director to establish a methodology to be used in fiscal years 2014 and 2015 to estimate the quarterly amount each county DD board is to pay of the nonfederal share of the Medicaid expenditures for which the board is responsible.

- Permits a developmental center to provide services to persons with mental retardation and developmental disabilities living in the community or to providers of services to these persons.

Innovative pilot projects

- Permits the ODODD Director to authorize, in fiscal years 2014 and 2015, innovative pilot projects that are likely to assist in promoting the objectives of state law governing ODODD and county DD boards.

"Employment First" for individuals with developmental disabilities

(R.C. 5123.022, 5123.023, 5126.05, 5126.051, and 5226.01; Sections 751.30 and 751.31)

Employment First policy

The bill adds to current law expressing the state's policy concerning individuals with developmental disabilities the statement that every individual with a developmental disability is presumed capable of community employment unless proven otherwise through an individualized assessment process. It defines "community employment" for this purpose as competitive employment that takes place in an integrated setting. "Competitive employment" is defined as full-time or part-time work in the competitive labor market in which payment is at or above the minimum wage but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by persons who are not disabled. An "integrated setting" is a setting typically found in the community where individuals with developmental disabilities interact with individuals who do not have disabilities to the same extent that individuals in comparable positions who are not disabled interact with other individuals, including in employment settings in which employees interact with the community through technology.

Task force

The bill authorizes the Ohio Department of Developmental Disabilities (ODODD) Director to establish an employment first task force consisting of ODODD, Ohio Department of Education, Ohio Department of Medicaid (ODM), Ohio Department of Job and Family Services (ODJFS), Ohio Department of Mental Health and Addiction Services, and Opportunities for Ohioans with Disabilities Agency. If established, the purpose of the task force would be to improve the coordination of the state's efforts to address the needs of individuals with developmental disabilities who seek community employment.

ODODD would have authority to enter into interagency agreements with any of the government entities on the task force. The interagency agreements could specify either or both of the following:

(1) The roles and responsibilities of the government entities that are members of the task force, including any money to be contributed by those entities;

(2) The projects and activities of the task force.

The bill creates in the state treasury the Employment First Task Force Fund. Any money received by the task force from its members is to be credited to the fund and used by ODODD to support the work of the task force.

A task force created under the bill would cease to exist on January 1, 2020. Any money, assets, or employees of ODODD that on that date were dedicated to the work of the task force would have to be reallocated by ODODD for employment services for individuals with developmental disabilities.

County boards of developmental disabilities (county DD board)

Each county board of developmental disabilities (county DD board) is required by the bill to do all of the following:

(1) Implement an employment first policy that clearly identifies community employment as the desired outcome for every individual of working age who receives services from the board;

(2) Set benchmarks for improving community employment outcomes;

(3) Establish a list of services, from least to most integrated, that improve community employment outcomes.

The bill modifies current law on services for adults with developmental disabilities by requiring each county DD board, to the extent that resources are available, to provide or arrange for the provision of adult services, including job training, vocational evaluation, and community employment services. Current law provides that those services are optional and are in addition to sheltered employment and work activities.

Regional council and county DD board annual cost report

(R.C. 5126.131)

Each regional council established for the purpose of performing the duties of a county DD board and each county DD board is required by the bill to file with ODODD an annual cost report detailing the council's or board's income and expenditures.[14] ODODD is authorized to withhold subsidy payments from a regional council or board if the report is not filed timely or is not auditable. ODODD must provide annual cost report training to regional council and board employees.

Unless ODODD establishes a later date, regional council reports must be filed with ODODD no later than the last day of April and board reports must be filed no later than the last day of May. At the written request of a regional council or board, ODODD is permitted to grant a 14-day filing extension.

Each report filed by a regional council or board must be audited by ODODD or an entity designated by ODODD. A regional council or board is permitted to submit changes to the cost report until the date the audit begins. ODODD or the designated entity is required to notify the regional council or board of the date the audit begins.

If ODODD or the entity determines that the cost report is not auditable, it must provide written notification to the regional council or board and grant the council or board 60 days to submit additional documentation. After 60 days, ODODD or the entity must determine whether the cost report is auditable with the additional documentation and notify the regional council or board of its determination. The determination of ODODD or the entity is final.

A completed cost report audit must be certified by ODODD or the entity and filed in the office of the clerk of the governing body, executive officer of the governing body, and chief fiscal officer of the audited regional council or board. No changes are permitted to a certified cost report audit that is filed by ODODD or the entity. A cost report is not a public record until copies of the cost report are filed by ODODD or the entity. Cost reports must be retained by regional councils and boards for seven years.

[14] The report is in addition to the cost and operating report the regional council or board is required to provide ODODD under R.C. 5126.12 or 5126.13.

Intermediate care facilities for individuals with intellectual disabilities (ICF/IID)

(R.C. 5124.01 (primary), 1337.11, 2133.01, 2317.02, 3317.02, 3701.74, 3702.62, 3721.10, 3795.01, 4723.17, 5103.02, 5123.171, 5123.19, 5123.192, 5123.198, 5123.38, 5126.054, 5126.055, 5162.01, 5162.21, 5163.01, 5163.31, 5163.33, 5164.01, 5164.35, 5164.37, 5164.38, 5164.46, 5164.70, 5166.01, 5166.02, 5166.04, 5166.20, 5168.60, 5168.61, 5168.62, 5168.63, 5168.64, 5168.65, 5168.66, 5168.67, 5168.68, and 5168.70; Chapter 5124.)

Federal law permits a state's Medicaid program to cover services provided by intermediate care facilities for the mentally retarded (ICFs/MR). Ohio's Medicaid program covers ICF/MR services. State law includes many provisions regarding Medicaid's coverage of ICF/MR services but does not expressly include ICF/MR services as part of Medicaid. The bill expressly requires Medicaid to cover ICF/MR services when all of the following apply:

(1) The services are provided to a Medicaid recipient eligible for the services.

(2) The services are provided by provider that has a valid provider agreement to provide the services.

(3) Federal financial participation is available for the services.

Although federal Medicaid statutes use the term "intermediate care facility for the mentally retarded," federal Medicaid regulations instead use "intermediate care facility for individuals with intellectual disabilities" (ICF/IID).[15] Federal Medicaid regulations refer to services of intermediate care facilities for the mentally retarded as ICF/IID services. An ICF/IID is the same type of facility as an ICF/MR.

The bill replaces references in state law to ICFs/MR and ICF/MR services with references to ICFs/IID and ICF/IID services. The bill defines "ICF/IID" as an ICF/MR, as defined in a federal Medicaid statute, and provides that "ICF/IID services" has the same meaning as in a federal Medicaid regulation.

"ICF/MR" is defined in the federal statute as an institution (or distinct part thereof) for persons with mental retardation or related conditions that (1) has the primary purpose of providing health or rehabilitative services for such persons, (2) meets such standards as may be prescribed by the U.S. Secretary of Health and

[15] 42 U.S.C. 1396d(d) and 42 C.F.R. 400.200.

Human Services, and (3) provides active treatment covered by Medicaid to the persons with respect to whom the institution requests Medicaid payments.[16]

"ICF/IID services" is defined in the federal Medicaid regulation as those items and services furnished in an ICF/IID if (1) the ICF/IID fully meets the requirements for a state license to provide services that are above the level of room and board, (2) the primary purpose of the ICF/IID is to furnish health or rehabilitative services to persons with intellectual disability or persons with related conditions, (3) the ICF/IID meets the standards specified in federal regulations, (4) the beneficiary of the services receives active treatment, and (5) the ICF/IID has been certified to meet the federal requirements, as evidenced by a valid agreement between the state Medicaid agency and the ICF/IID furnishing the services.[17]

Administration of Medicaid coverage of ICF/IID services

(R.C. 5124.02 (primary), 5111.211 (repealed), and 5123.198; Chapters 5124. and 5165.; Sections 259.260 and 259.270)

Am. Sub. H.B. 153 of the 129th General Assembly requires that ODM (ODJFS at the time H.B. 153 was enacted) enter into an interagency agreement with ODODD that provides for ODODD to assume powers and duties of ODM regarding the Medicaid program's coverage of ICF/IID services. The bill relocates and reorganizes the law governing Medicaid coverage of ICF/IID services as part of the process of ODODD assuming many of ODM's duties regarding ICF/IID services. It provides that the ODODD Director is not required to amend any rule for the sole purpose of updating the citation in the Ohio Administrative Code to the Revised Code section that authorizes the rule to reflect that the bill renumbers or otherwise relocates the authorizing statute. The citations are to be updated as the Director amends the rules for other purposes.

Not all of ODM's responsibilities regarding Medicaid's coverage of ICF/IID services are transferred to ODODD. Federal law does not permit ODM to transfer all of its responsibilities. For example, ODM continues to be responsible for entering into Medicaid provider agreements with ICFs/IID.[18] And, the bill specifies that the ODODD Director is to adopt rules governing Medicaid's coverage to the extent authorized by rules adopted by the ODM Director.[19]

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[16] 42 U.S.C. 1396d(d).

[17] 42 C.F.R. 440.150.

[18] 42 C.F.R. 431.107(b).

[19] 42 C.F.R. 431.10(e)(1)(ii).

As part of the process of ODODD assuming this responsibility, the bill eliminates certain laws that cease to be applicable.

First, the bill repeals a law that makes ODODD responsible for the nonfederal share of only certain ICF/IID Medicaid claims. Under that law, ODODD is responsible for the nonfederal share of Medicaid claims submitted for ICF/IID services if (1) the services are provided on or after July 1, 2003, (2) the ICF/IID receives initial certification by the Ohio Department of Health (ODH) Director as an ICF/IID on or after June 1, 2003, (3) the ICF/IID, or a portion of the ICF/IID, is licensed by the ODODD Director as a residential facility, and (4) there is a valid Medicaid provider agreement for the ICF/IID. ODODD is not responsible for Medicaid claims submitted for an ICF/IID if a residential facility license was obtained or modified for the ICF/IID without obtaining approval of a plan for the proposed residential facility. This law provides, however, that the provisions discussed above apply only to the extent, if any, provided in the contract between ODODD and ODM regarding the transfer of the powers and duties regarding ICF/IID services.

The second law that is eliminated permits ODODD to notify ODM of a reduction in the licensed capacity of a residential facility that is an ICF/IID. The reduction occurs under continuing law that requires, with certain exceptions, ODODD to reduce a residential facility's licensed capacity when a resident of the residential facility is involuntarily committed to a state-operated ICF/IID. On receiving the notice about the reduction, ODM is permitted by the law being eliminated to transfer to ODODD the savings in the nonfederal share of Medicaid expenditures for each fiscal year after the year of the commitment to be used for costs of the resident's care in the state-operated ICF/IID.

ICFs/IID's Medicaid rates for capital costs

(R.C. 5124.17, 5124.21, and 5124.28; Section 812.60)

Capital costs are part of an ICF/IID's costs that are used in determining the ICF/IID's total Medicaid payment rate. Under current law, there are four components to an ICF/IID's Medicaid payment rate for capital costs: (1) its cost of ownership, (2) an efficiency incentive, (3) amounts for nonextensive renovations, and (4) amounts for return on equity. The bill modifies, effective July 1, 2014, the Medicaid payments for the capital costs of ICFs/IID by (1) halving the efficiency incentive payments to ICFs/IID with more than eight beds, (2) eliminating nonextensive renovation payments to ICFs/IID with more than eight beds, and (3) eliminating return on equity payments to all ICFs/IID.

Efficiency incentive

Current law provides that an ICF/IID's efficiency incentive is to equal 50% of the difference between its costs of ownership and a limit on costs of ownership payments. The efficiency incentive for an ICF/IID with eight or fewer beds may not exceed a particular cap which is adjusted for inflation annually. The bill provides that, beginning July 1, 2014, the efficiency incentive for an ICF/IID with more than eight beds is not to exceed 25% of the difference between its costs of ownership and the limit on costs of ownership payments.

Nonextensive renovations

Current law uses inconsistent terminology regarding the part of an ICF/IID's Medicaid payment for renovations. Continuing law defines "capital costs" as costs of ownership and costs of nonextensive renovation. However, the provision of current law that governs the amount of an ICF/IID's Medicaid payment for nonextensive renovations uses the terms "renovation" and "nonextensive renovations." This may cause confusion as to whether the provision applies to both renovations and nonextensive renovations or only nonextensive renovations. To avoid that confusion, the bill uses only the term "nonextensive renovation."

Current law establishes two conditions for an ICF/IID to qualify for a Medicaid payment for nonextensive renovations. First, at least five years must have elapsed since the ICF/IID's date of licensure or date of an extensive renovation of the portion of the ICF/IID that is proposed to be nonextensively renovated, unless the nonextensive renovation is necessary to meet the requirements of federal, state, or local statutes, ordinances, rules, or policies. Second, the ICF/IID must obtain ODODD's prior approval by submitting a plan that describes in detail the changes in capital assets to be accomplished by means of the nonextensive renovation and the timetable for completing the project, which cannot be more than 18 months after the nonextensive renovation begins. The bill adds a third condition for an ICF/IID to qualify for a Medicaid payment for nonextensive renovations: it must have eight or fewer beds. This means that, beginning July 1, 2014 ICFs/IID with eight or more beds will no longer qualify for Medicaid payments for nonextensive renovations.

ICFs/IID's efficiency incentives for indirect care costs

(R.C. 5124.21)

Indirect care costs are part of an ICF/IID's costs that are used in determining the ICF/IID's total Medicaid payment rate. A Medicaid payment rate for indirect care costs is determined for each ICF/IID individually and a maximum payment rate for indirect care costs is determined for each peer group of ICFs/IID. An ICF/IID's Medicaid rate for

its indirect care costs is the lesser of the rate determined for it individually and the maximum rate determined for its peer group. The bill reduces, beginning with fiscal year 2015, the efficiency incentive that is included in determining the individual Medicaid payment rate for the indirect care costs of an ICF/IID with more than eight beds.

Under current law, the efficiency incentive for an ICF/IID with more than eight beds is, for a fiscal year ending in an even-numbered calendar year, 7.1% of the maximum rate established for the ICF/IID's peer group. Its efficiency incentive for a fiscal year ending in an odd-numbered calendar year is the amount calculated for the preceding fiscal year. For fiscal years 2015-2016 and each fiscal year thereafter ending in an even-numbered calendar year, the bill provides for the efficiency incentive for an ICF/IID with more than eight beds, to be 3.55% of the maximum rate established for the ICF/IID's peer group. The efficiency incentive for fiscal year 2017 and each fiscal year thereafter that ends in an odd-numbered calendar year continues to be the amount calculated for the immediately preceding fiscal year.

Return on equity payments

Current law requires ODODD to pay ICFs/IID a return on their net equity as part of their Medicaid payments for capital costs. A return on net equity payment is to be computed at the rate of 1.5 times the average of interest rates on special issues of public debt obligations issued to the federal Hospital Insurance Trust Fund for the cost reporting period. No ICF/IID's return on net equity may exceed one dollar per patient day. In calculating an ICF/IID's rate for return on net equity, ODODD must use the greater of the ICF/IID's inpatient days during the applicable cost reporting period or the number of inpatient days it would have had during that period if its occupancy rate had been 95%.

The bill eliminates, effective July 1, 2014, the requirement that ODODD pay ICFs/IID a return on their net equity.

Medicaid rate add-on for outlier ICF/IID services

(R.C. 5124.25 (primary) and 5124.15)

The bill permits ODODD, subject to ODM's approval, to pay a Medicaid rate add-on to an ICF/IID for outlier ICF/IID services the ICF/IID provides to qualifying ventilator-dependent residents on or after July 1, 2014, if the ICF/IID applies to ODODD to receive the rate add-on and ODODD approves the application. ODODD may approve an ICF/IID's application if all of the following apply:

(1) The ICF/IID submits to ODODD a best practices protocol for providing outlier ICF/IID services and ODODD determines that the protocol is acceptable;

(2) The ICF/IID executes with ODM an addendum to its Medicaid provider agreement regarding the outlier ICF/IID services;

(3) The ICF/IID meets all other eligibility requirements for the rate add-on established in rules the ODODD Director is to adopt.

An ICF/IID that is approved to provide outlier ICF/IID services must provide the services in accordance with (1) the best practices protocol ODODD determines is acceptable and (2) requirements regarding the services established in rules the ODODD Director is to adopt.

To qualify to receive outlier ICF/IID services from an ICF/IID, a resident of the ICF/IID must be a Medicaid recipient, be under 22 years of age, be dependent on a ventilator, and meet all other eligibility requirements established in rules the ODODD Director is to adopt.

ODODD is to negotiate the amount of the Medicaid payment rate add-on, if any, to be paid, or the method by which that amount is to be determined, with ODM. ODODD is prohibited from paying the rate add-on unless ODM approves the amount of the rate add-on or method by which the amount is to be determined.

Medicaid rates for low resource utilization residents

(R.C. 5124.152 (primary) and 5124.01)

The bill provides for the Medicaid payment rate for ICF/IID services provided on or after July 1, 2014, to low resource utilization residents to be a flat rate rather than the regular Medicaid payment rate for ICF/IID services. The ODODD Director is to set the flat rate in rules. "Low resource utilization resident" is defined as a Medicaid recipient residing in an ICF/IID who is placed in the typical adaptive needs and nonsignificant behaviors classification pursuant to the resident assessment instrument and grouper methodology that is used as part of the process of determining ICF/IID's Medicaid rates for direct care costs.

Fiscal year 2014 Medicaid rates for ICF/IID services

(Section 259.200)

The bill provides for an existing ICF/IID's Medicaid reimbursement rate for fiscal year 2014 to be the average of its modified and capped rates unless the mean of such rates for all existing ICFs/IID is other than $282.84, in which case the ICF/IID's rate is to

be adjusted by a percentage that equals the percentage by which the mean rate is greater or less than $282.84. An ICF/IID is considered to be an existing ICF/IID if (1) the provider of the ICF/IID has a valid Medicaid provider agreement for the ICF/IID on June 30, 2013, and a valid Medicaid provider agreement for the ICF/IID during fiscal year 2014 or (2) the ICF/IID undergoes a change of operator that takes effect during fiscal year 2014, the exiting operator has a valid Medicaid provider agreement for the ICF/IID on the day immediately preceding the effective date of the change of operator, and the entering operator has a valid Medicaid provider agreement for the ICF/IID during fiscal year 2014.

An ICF/IID's modified rate is its rate as determined in accordance with Revised Code provisions governing the Medicaid reimbursement rates for ICFs/IID with the following modifications:

(1) In place of the inflation adjustment otherwise made in determining the ICF/IID's rate for other protected costs, its other protected costs, excluding the franchise permit fee component of those costs, from calendar year 2012 is to be multiplied by 1.0123.

(2) In place of the maximum cost per case-mix unit otherwise established for the ICF/IID's peer group, its maximum costs per case-mix unit is to be $108.21 if it has more than eight beds or $102.21 if it has eight or fewer beds.

(3) In place of the inflation adjustment otherwise calculated in determining the ICF/IID's rate for direct care costs, an inflation adjustment of 1.0123 is to be used.

(4) In place of the maximum rate for the indirect care costs of the ICF/IID's peer group, the maximum rate for the indirect care costs for its peer group is to be $68.98 if it has more than eight beds or $59.60 if it has eight or fewer beds.

(5) In place of the inflation adjustment otherwise calculated in determining the ICF/IID's rate for indirect care costs, an inflation adjustment of 1.0123 is to be used.

(6) In place of the efficiency incentive otherwise calculated in determining its rate for indirect care costs, its efficiency incentive for indirect care costs is to be $3.69 if it has more than eight beds or $3.19 if it has eight or fewer beds.

(7) The ICF/IID's efficiency incentive for capital costs is to be reduced by 50%.

An ICF/IID's capped rate is to be its rate as determined in accordance with Revised Code provisions governing the Medicaid reimbursement rates for ICFs/IID reduced by the percentage by which the mean of such rates for all ICFs/IID, weighted by May 2013 Medicaid days and calculated as of July 1, 2013, exceeds $282.84.

ODODD is required by the bill to reduce the amount it pays ICFs/IID for fiscal year 2013 if the U.S. Centers for Medicare and Medicaid Services requires that the ICF/IID franchise permit fee be reduced or eliminated. The amount of the reduction is to reflect the loss to the state of the revenue and federal financial participation generated from the franchise permit fee.

Fiscal year 2015 Medicaid rates for ICF/IID services

(Section 259.210)

The bill provides for an existing ICF/IID's Medicaid reimbursement rate for fiscal year 2015 to be the average of its modified and capped rates unless the mean of such rates for all existing ICFs/IID is other than $282.77, in which case the ICF/IID's rate is to be adjusted by a percentage that equals the percentage by which the mean rate is greater or less than $282.77. An ICF/IID is considered to be an existing ICF/IID if (1) the provider of the ICF/IID has a valid Medicaid provider agreement for the ICF/IID on June 30, 2014, and a valid Medicaid provider agreement for the ICF/IID during fiscal year 2015 or (2) the ICF/IID undergoes a change of operator that takes effect during fiscal year 2015, the exiting operator has a valid Medicaid provider agreement for the ICF/IID on the day immediately preceding the effective date of the change of operator, and the entering operator has a valid Medicaid provider agreement for the ICF/IID during fiscal year 2015.

An ICF/IID's modified rate is its rate as determined in accordance with Revised Code provisions governing the Medicaid reimbursement rates for ICFs/IID with the following modifications:

(1) In place of the inflation adjustment otherwise made in determining the ICF/IID's rate for other protected costs, its other protected costs, excluding the franchise permit fee component of those costs, from calendar year 2013 is to be multiplied by 1.0123.

(2) In place of the maximum cost per case-mix unit otherwise established for the ICF/IID's peer group, its maximum costs per case-mix unit is to be $108.21 if it has more than eight beds or $102.21 if it has eight or fewer beds.

(3) In place of the inflation adjustment otherwise calculated in determining the ICF/IID's rate for direct care costs, an inflation adjustment of 1.0123 is to be used.

(4) In place of the maximum rate for the indirect care costs of the ICF/IID's peer group, the maximum rate for the indirect care costs for its peer group is to be $68.98 if it has more than eight beds or $59.60 if it has eight or fewer beds.

(5) In place of the inflation adjustment otherwise calculated in determining the ICF/IID's rate for indirect care costs, an inflation adjustment of 1.0123 is to be used.

(6) In place of the efficiency incentive otherwise calculated in determining its rate for indirect care costs, its efficiency incentive for indirect care costs is to be $3.69 if it has more than eight beds or $3.19 if it has eight or fewer beds.

(7) The ICF/IID's efficiency incentive for capital costs is to be reduced by 50%.

An ICF/IID's capped rate is to be its rate as determined in accordance with Revised Code provisions governing the Medicaid reimbursement rates for ICFs/IID reduced by the percentage by which the mean of such rates for all ICFs/IID, weighted by May 2014 Medicaid days and calculated as of July 1, 2014, exceeds $282.77.

ODODD is required by the bill to reduce the amount it pays ICFs/IID for fiscal year 2015 if the U.S. Centers for Medicare and Medicaid Services requires that the ICF/IID franchise permit fee be reduced or eliminated. The amount of the reduction is to reflect the loss to the state of the revenue and federal financial participation generated from the franchise permit fee.

Medicaid cost reports

(R.C. 5124.10 (primary), 5124.01, 5124.101, 5124.102, 5124.107, 5124.108, 5124.109, and 5124.522)

Cost report deadline extension

Generally, ICFs/IID are required by continuing law to file annual cost reports with ODODD. Cost reports are a factor in determining the Medicaid payment rates for ICFs/IID.

An annual cost report is to cover the calendar year or portion of the calendar year during which an ICF/IID participated in the Medicaid program. It is due not later than 90 days after the end of the calendar year, or portion of the calendar year, that the cost report covers. However, ODODD, for good cause, may grant a 14-day extension of the time for filing a cost report on written request from an ICF/IID.

There are exceptions to the requirement discussed above. A new ICF/IID is to submit a cost report not later than 90 days after the end of its first three full calendar months of operation. An ICF/IID that undergoes a change of provider that is an arm's length transaction is to submit a cost report not later than 90 days after the end of its first three full calendar months of operation under the new provider. A new ICF/IID that opens, and an ICF/IID that undergoes a change of provider that is an arm's length

transaction after the first day of October in a calendar year is not required to file a cost report for that calendar year. ODODD's authority to extend a 14-day extension to file an annual cost report does not expressly apply to a cost report for a new ICF/IID or an ICF/IID that undergoes a change of provider that is an arm's length transaction. The bill expressly applies the 14-day extension authority to such cost reports.

Cost reports for downsized and partially converted ICFs/IID

The bill permits an ICF/IID that becomes a downsized ICF/IID or partially converted ICF/IID to file with ODODD a cost report sooner than it otherwise would if it meets two conditions. An ICF/IID becomes a downsized ICF/IID by permanently reducing its Medicaid-certified capacity pursuant to a plan approved by ODODD. An ICF/IID becomes a partially converted ICF/IID by converting some, but not all, of its beds to providing home and community-based services under the Individual Options (IO) Medicaid waiver.

To be able to file a cost report sooner than it otherwise would, an ICF/IID must have both of the following on the day it becomes a downsized ICF/IID or partially converted ICF/IID:

(1) A Medicaid-certified capacity that is at least 10% less than its Medicaid-certified capacity on the day immediately preceding the day it becomes a downsized ICF/IID or partially converted ICF/IID;

(2) At least five fewer beds certified as ICF/IID beds than it has on the day immediately preceding the day it becomes a downsized ICF/IID or partially converted ICF/IID.

The cost report of a downsized ICF/IID or partially converted ICF/IID is to cover the period that begins with the day that it becomes a downsized ICF/IID or partially converted ICF/IID and ends on the first day of the month immediately following the first three full months of operation as a downsized ICF/IID or partially converted ICF/IID. ODODD must refuse to accept a cost report if either of the following apply:

(1) Unless ODODD grants a 14-day extension for good cause, the ICF/IID fails to file the cost report not later than 90 days after the last day of the period the cost report covers;

(2) The cost report is incomplete or inadequate.

If ODODD accepts a cost report, it must determine the ICF/IID's Medicaid payment rate using that cost report. The bill specifies the period for which the ICF/IID is to be paid a rate based on the cost report. The period is to begin on the day that the

ICF/IID becomes a downsized ICF/IID or partially converted ICF/IID if that day is the first day of a month. Otherwise, the period is to begin on the first day of the month immediately following the month that the ICF/IID becomes a downsized ICF/IID or partially converted ICF/IID. The period is to end on the first day of the fiscal year for which the ICF/IID begins to be paid a rate determined using its next annual cost report. It is to file its next annual cost report at the regular time for filing annual cost reports if the ICF/IID became a downsized ICF/IID or partially converted ICF/IID on or before the first day of October. An annual cost report is to cover the portion of the first calendar year that the ICF/IID operated as a downsized ICF/IID or partially converted ICF/IID. If the ICF/IID becomes a downsized ICF/IID or partially converted ICF/IID after the first day of October of a calendar year, it is not required to file an annual cost report for that calendar year but must file an annual cost report for the immediately following calendar year.

Evaluation of Medicaid payment rate formula for ICFs/IID

(Section 259.230)

Am. Sub. H.B. 153 of the 129th General Assembly required ODM (ODJFS at the time H.B. 153 was enacted) and ODODD to study issues regarding Medicaid payment rates for ICF/IID services. A workgroup was created to assist with the study. The bill requires that ODODD retain the workgroup for the purpose of assisting ODODD during fiscal years 2014 and 2015 with an evaluation of revisions to the formula used to determine Medicaid payment rates for ICF/IID services. In conducting the evaluation, ODODD and the workgroup must (1) focus primarily on the service needs of individuals with complex challenges that ICFs/IID are able to meet and (2) pursue the goal of reducing the Medicaid-certified capacity of individual ICFs/IID and the total number of ICF/IID beds in the state for the purpose of increasing the service choices and community integration of individuals eligible for ICF/IID services.

Use of county subsidies to pay nonfederal share of ICF/IID services

(Section 259.240)

The bill requires the ODODD Director to pay the nonfederal share of a claim for ICF/IID services using funds otherwise appropriated for subsidies to county DD boards if (1) Medicaid covers the ICF/IID services, (2) the ICF/IID services are provided to a Medicaid recipient who is eligible for the ICF/IID services and the recipient does not occupy a bed in the ICF/IID that used to be included in the Medicaid-certified capacity of another ICF/IID certified by the Ohio Department of Health (ODH) Director before June 1, 2003, (3) the ICF/IID services are provided by an ICF/IID whose Medicaid certification by the ODH Director was initiated or supported by a county DD board,

and (4) the provider of the ICF/IID services has a valid Medicaid provider agreement for the services for the time that the services are provided.

ICF/IID franchise permit fee

(R.C. 5168.60)

Continuing law imposes an annual assessment on ICFs/IID. The assessment is termed a "franchise permit fee." Revenue raised by the franchise permit fee is to be used for the expenses of the programs ODODD administers and ODODD's administrative expenses.

The bill revises the rate at which the ICF/IID franchise permit fee is assessed. The rate is currently $18.32 per bed per day. Under the bill, the rate is $18.24 for fiscal year 2014 and $18.17 for fiscal year 2015 and thereafter.

Home and community-based services

Medicaid rates for certain Individual Options (IO) services

(Section 259.250)

Am. Sub. H.B. 153 of the 128th General Assembly required ODODD to increase the rate paid to a provider under the IO Medicaid waiver by 52¢ for each 15 minutes of routine homemaker/personal care provided to an individual for up to a year if all of the following applied:

(1) The individual was a resident of a developmental center immediately prior to enrollment in the waiver;

(2) The provider began serving the individual on or after July 1, 2011;

(3) The ODODD Director determined that the increased rate was warranted by the individual's special circumstances, including the individual's diagnosis, service needs, or length of stay at the developmental center, and that serving the individual through the IO waiver was fiscally prudent for the Medicaid program.

The bill continues the rate increase for fiscal years 2014 and 2015 and provides for the higher rate to be provided under more circumstances. The higher rate is to be paid for routine homemaker/personal care services to which both of the following apply:

(1) The services are provided to an IO waiver enrollee (a) who began to receive the services from the provider on or after July 1, 2011, (b) who resided in a

developmental center, converted facility,[20] or public hospital immediately before enrolling in the IO wavier, and (c) for whom the ODODD Director has determined that paying the higher rate is warranted because of the enrollee's special circumstances, including the enrollee's diagnosis, service needs, or length of stay at the developmental center, converted facility, or public hospital.

(2) The provider of the services has a valid Medicaid provider agreement for the services for the period during which the enrollee receives the services from the provider.

A provider is to receive the regular Medicaid payment rate rather than the rate discussed above if ODODD sets the regular rate at an amount higher than the rate discussed above.

Fees charged county DD boards for HCB services

(R.C. 5123.0412; Section 323.390)

Continuing law requires ODODD to charge each county DD board an annual fee equal to 1.25% of the total value of all Medicaid paid claims for home and community-based services provided during the year to an individual eligible for services from the county DD board. No fee is to be charged, however, for home and community-based services provided under the Transitions Developmental Disabilities waiver program.

Under current law, the fees are deposited into two funds: the ODODD Administration and Oversight Fund and the ODJFS Administration and Oversight Fund. ODODD and ODJFS are required to enter into an interagency agreement to specify which portion of the fees is to be deposited into each fund respectively.

The bill abolishes the ODJFS Administration and Oversight Fund and provides for all of the fees to be deposited into the ODODD Administration and Oversight Fund.

County DD board share of nonfederal Medicaid expenditures

(Section 259.60)

The bill requires the ODODD Director to establish a methodology to be used in fiscal years 2014 and 2015 to estimate the quarterly amount each county DD board is to pay of the nonfederal share of the Medicaid expenditures for which the board is responsible. With certain exceptions, continuing law requires the board to pay this

[20] A converted facility is an ICF/IID, or former ICF/IID, that converted some or all of its beds to providing home and community-based services under the IO waiver.

share for home and community-based services provided to an individual who the board determines is eligible for board services.[21] (ODODD was similarly required to establish the methodology for fiscal years 2012 and 2013.)

Each quarter, the Director must submit to the board written notice of the amount for which the board is responsible. The notice must specify when the payment is due.

Developmental center services

(Section 259.150)

The act continues a temporary provision of Am. Sub. H.B. 153 of the 129th General Assembly that permits an ODODD-operated residential center for persons with mental retardation and developmental disabilities (i.e., a developmental center) to provide services to persons with mental retardation and developmental disabilities living in the community or to providers of services to these persons. ODODD is permitted to develop a method for recovery of all costs associated with the provision of the services.

Innovative pilot projects

(Section 259.180)

For fiscal years 2014 and 2015, the bill continues a temporary provision of Am. Sub. H.B. 153 of the 129th General Assembly that permits the ODODD Director to authorize innovative pilot projects that are likely to assist in promoting the objectives of state law governing ODODD and county DD boards. Under the bill, a pilot project may be implemented in a manner inconsistent with the laws or rules governing ODODD and county DD boards; however, the Director cannot authorize a pilot project to be implemented in a manner that would cause Ohio to be out of compliance with any requirements for a program funded in whole or in part with federal funds. Before authorizing a pilot project, the Director must consult with entities interested in the issue of developmental disabilities, including the Ohio Provider Resource Association, Ohio Association of County Boards of Developmental Disabilities, and ARC of Ohio.

[21] R.C. 5126.0510.

DEPARTMENT OF EDUCATION

I. School Financing

State school funding

- Creates a new system of financing for school districts and other publics entities that provide primary and secondary education.

- Counts kindergarten students on the basis of the full-time equivalency for which they are enrolled, rather than counting each as one full-time student regardless of whether the student attends an all-day or part-day program.

- Authorizes the Superintendent of Public Instruction to make payments of school operating funds in amounts substantially equal to those made in the prior year until the bill's school funding provisions take effect (90 days).

- Creates the Straight A Program to provide grants to school districts; educational service centers; community schools; science, technology, engineering, and mathematics (STEM) schools; individual school buildings; education consortia; institutions of higher education; and private entities for projects that aim to achieve significant advancement in student achievement; spending reduction in the five year fiscal forecast, or utilization of a greater share of resources in the classroom.

- Eliminates formula amount as a factor in the school funding system.

- Establishes a temporary task force to review and make recommendations on open enrollment by December 31, 2013.

Special education funding

- Specifies dollar amounts, rather than multiples as under current law, for each category of special education services.

- Provides for a special education exceptional cost payment to city, local, exempted village, or joint vocational school districts, community schools, or STEM schools, which is comparable to the existing additional payment for high cost special education services, on a per-pupil basis.

- Specifies a formula for additional state aid for preschool special education children for city, local, and exempted village school districts.

Career-technical funding

- Specifies a separate formula for the computation of state career-technical education funds for each career-technical planning district (CTPD) and a process for approval by the CTPD's lead district of each member district's or school's career-technical education program prior to receiving career-technical education funding.

- Requires state funds for career-technical education "associated services" to be paid directly to each lead district of a CTPD.

- Specifies dollar amounts, rather than multiples as under current law, for each category of career-technical education.

- Maintains unit funding for career-technical education at state institutions.

Funding for limited English proficient students

- Specifies dollar amounts for each category of limited English proficiency students.

Accountability for subgroups

- Requires school districts and schools that fail to show consistent progress for a student subgroup for which operating funds are allocated (students with disabilities, economically disadvantaged students, limited English proficiency students, and gifted students) to partner with, and pay these funds to, an organization that has demonstrated ability to improve the educational outcome of students within that subgroup.

- Specifies that the certification of state operating funds to school districts must include the amounts payable to each school building for each subgroup of students that receives certain state-funded services.

Payments for students in county detention facilities

- Requires the county or joint county juvenile detention facility that cares for a child to coordinate the education of that child and provides that the facility, or the chartered nonpublic school that the facility operates, under certain circumstances, may provide education services to the child.

- Permits a county or joint county juvenile detention facility to contract with an educational service center or the school district in which the facility is located to provide education services to a child under the facility's care.

- Permits any entity that provides education services to a child under a county or joint county juvenile detention facility's care to directly bill the school district responsible for paying the costs of educating the child.

Fees for all-day kindergarten

- Maintains current law permitting certain school districts to charge fees or tuition for all-day kindergarten.

Miscellaneous funding provisions

- Repeals provisions that authorize the Superintendent of Public Instruction to issue loans from the Lottery Profits Education Fund to qualifying school districts (subject to Controlling Board approval) and to administer those loans.

- Removes reference to a previously repealed provision of law, which pertained to the authorization of the issuance of certain securities by a district board of education, from an existing provision authorizing the deduction of a district's debt service from its state operating funds.

II. Educational Service Centers (ESCs)

- Defines ESC as a regional public entity that provides services to the public and nonpublic schools and local governments with whom they enter into an agreement for those services.

- Eliminates all future elections for governing board members of ESCs but permits elected members serving unexpired terms on the bill's effective date to continue to serve until their terms expire.

- Requires that the governing board of an ESC consist of one or more persons who are appointed by the governing authorities of the entities that have entered into agreements to receive services from the ESC (the ESC's "clients").

- Makes a number of changes to the relationship between ESCs and school districts, specifically regarding administrative oversight and duties customarily performed by the ESC.

- Repeals a provision of current law regarding the funding and payment system for ESC supervisory services and, instead, makes payments to ESCs subject to their agreements with their clients and any separate state appropriations made for that purpose.

III. Minimum School Year

- Changes the minimum school year for school districts, STEM schools, and chartered nonpublic schools from 182 days to (1) 455 hours for half-day kindergarten, (2) 910 hours for full-day kindergarten and grades 1 to 6, and (3) 1,001 hours for grades 7 to 12, beginning in the 2014-2015 school year.

- Eliminates excused calamity days for schools generally, as well as the requirement for a contingency plan to make up calamity days, but retains (1) a recently enacted allowance of calamity days for community schools and (2) a recently enacted option for districts and schools to make up some calamity days via online lessons or paper "Blizzard Bags."

- Specifies that a chartered nonpublic school may be open for instruction on any day of the week, including Saturday and Sunday.

- Provides that the restructuring of the minimum school year does not apply to any collective bargaining agreement executed prior to the 90-day effective date of bill's minimum school year provisions, but that any collective bargaining agreement or renewal executed after that date must comply with those provisions.

IV. Educational Choice Scholarship Program

- Beginning with the 2016-2017 school year, qualifies for Ed Choice scholarships students in kindergarten through third grade enrolled in a district-operated school that has received a "D" or "F" in "making progress in improving K-3 literacy" in two of the three most recent state report cards.

- Beginning with the 2013-2014 school year, expands the Ed Choice scholarship to qualify students whose family incomes are at or below 200% of the federal poverty guidelines.

- Funds the new income-based Ed Choice scholarships from an appropriation made for that purpose by the General Assembly, rather than a deduct and transfer method as used for all other Ed Choice scholarships.

- Makes a change regarding Ed Choice eligibility based on performance index score ratings in order to comport with the recently enacted performance rating system.

V. College Credit Plus Program

- Renames the Post-Secondary Enrollment Options Program as the College Credit Plus Program.

- Requires all state institutions of higher education to participate in the College Credit Plus Program.

- Requires the Chancellor of the Board of Regents to develop a standard information packet on the College Credit Plus Program that high schools must distribute to students.

- Qualifies students enrolled in a college-preparatory boarding school for the College Credit Plus Program.

- Changes the method for calculating payments to institutions of higher education for enrolling high school students to one based on a statewide average public in-state tuition per credit hour for each type of institution, instead of one based on the base-cost amounts prescribed by former law.

- Bases the percentage of the respective tuition rate per credit hour paid to an institution on how students receive instruction.

- Permits a state institution of higher education to include a student enrolled under the College Credit Plus Program in its "state share of instruction" count for state subsidies.

- Allows an institution of higher education to charge students in the College Credit Plus Program for textbooks and materials and to enter into agreements with a student's school to pay any amount of those charges.

- Eliminates a provision allowing the Superintendent of Public Instruction and the Chancellor of the Board of Regents to adopt rules permitting a high school and an institution of higher education to enter into an agreement to use an alternative funding formula for payment to the institution.

- Eliminates the requirement to bring an action for reimbursement from a student that receives a failing grade in a college course under the program.

Advanced standing programs

- Renames "dual-enrollment program" as "advanced standing program."

- Modifies programs that qualify as advanced standing to specifically include the International Baccalaureate Program, along with the College Credit Plus Program (currently PSEO) and Advanced Placement courses.

- Adds college-preparatory boarding schools to the public schools required to offer an advanced standing program.

Articulation agreements for technical coursework

- States that the bill's changes regarding the College Credit Plus Program and advanced standing do not require the alteration of (1) any existing or future articulation agreement for technical coursework or (2) any corresponding payment structure between a state institution of higher education and a career-technical planning district.

- Requires the Department of Education and the Board of Regents to study implications on current articulation agreements that result from the bill's changes regarding the College Credit Plus Program.

- Requires the Department of Education and the Board of Regents to submit to the Governor's Office of 21st Century Education and the General Assembly, not later than July 1, 2014, recommendations regarding the inclusion of career-technical programs in the College Credit Plus Program and other advanced standing programs.

VI. State Board Standards and Reporting

School district and school operating standards

- Makes changes to the requirements for minimum operating standards for all elementary and secondary schools.

- Removes the specification that the State Board's operating standards for schools require phonics as a technique for teaching reading in grades kindergarten through third and for in-service training.

Financial reporting requirements

- Revises the specifications for State Board's financial reporting standards to require reporting at both the school district and the school building level.

- Requires community schools, STEM schools, and college-preparatory boarding schools to report financial information in the same manner as school districts.

- Requires the Department of Education to post financial reports of each school district and school building in a prominent location on its web site and to notify each school when the reports are made available.

Performance management information

- Requires the Department of Education to create a performance management section on its web site that includes academic and performance metrics for each school district based on performance index score and the expenditure per equivalent pupils, and graphs with comparisons of the performance of like districts.

- Allows the Department to contract with an independent organization to develop and host the performance management section of its web site.

VII. Other Education Provisions

Kindergarten diagnostics

- Modifies the timeline for administering kindergarten readiness assessments, beginning July 1, 2014, to not earlier than the first day of the school year and not later than November 1, from not earlier than four weeks prior to the first day of the school year and not later than October 1 as under current law.

- Specifies that when administering the kindergarten readiness assessments after July 1, 2014, the language and reading skills portion of the assessment must be administered by September 30.

Parent-triggered school reform

- Expands the parent-triggered school reform mechanism, established under the Columbus City School District Pilot Project, to make it a permanent provision applicable to any school of a city, exempted village, or local school district in the state.

Governor's Effective and Efficient Schools Recognition Program

- Makes changes in the administration of the Governor's Effective and Efficient Schools Recognition Program.

- Qualifies college-preparatory schools for the recognition program.

School employees

- Repeals current law that specifies the provisions specifying minimum salary steps for teachers.

- Authorizes the board of education of a school district that elects not to appoint a licensed business manager to assign the statutory duties of a business manager to

other employees or officers, and to give those employees any title that reflects the assignment of those duties.

- Specifies that the officers who may be assigned business manager duties include the district treasurer, notwithstanding current law prohibiting the business manager from having possession of district money, and notwithstanding the current law that the treasurer may not be otherwise regularly employed by the board.

- Expresses the General Assembly's intent to supersede a recent appellate court decision that current law prohibits the assignment of a business manager's duties to the district treasurer.

- Eliminates the requirement for school districts to provide both speech-language pathology services at a ratio of one pathologist per 2,000 students and school psychological services at a ratio of one psychologist per 2,500 students.

- Requires that human trafficking content be included in a school's in-service staff training program for school safety and violence prevention.

Community school sponsorship

- Permits the Department of Education, if a community school sponsor is found not to be compliant with laws and rules, to require the sponsor to remedy those conditions and to place temporary limits on the sponsor's authority pending satisfactory remedies.

I. School Financing

New funding system for primary and secondary education

(R.C. 3310.51, 3310.56, 3313.646, 3313.841, 3313.88, 3313.98, 3313.981, 3314.029, 3314.03, 3314.08, 3314.082, 3314.083, 3314.084, 3314.085, 3314.087, 3314.091, 3314.11, 3314.26, 3315.18, 3317.013, 3317.014, 3317.016, 3317.02, 3317.022, 3317.023, 3317.0212, 3317.0213, 3317.0214, 3317.0215, 3317.0217, 3317.03, 3317.032, 3317.05, 3317.08, 3317.10, 3317.16, 3317.161, 3317.162, 3317.163, 3317.19, 3317.20, 3317.201, 3318.011, 3318.363, 3319.17, 3319.57, 3321.01, 3323.08, 3323.09, 3323.091, 3323.13, 3323.14, 3323.141, 3323.142, 3326.31, 3326.32, 3326.33, 3326.34, 3326.38, 3326.39, 3365.01, 5126.05, 5727.84, and 5751.20; Sections 263.230, 263.240, 263.250, 263.320, and 263.450; repealed R.C. 3314.088, 3314.13, 3317.012, 3317.014, 3317.018, 3317.02, 3317.022, 3317.029, 3317.0217, 3317.051, 3317.052, 3317.053, 3317.16, 3323.16, 3326.34, and 3326.39)

The bill creates a new system of financing for school districts and other public entities that provide primary and secondary education. A detailed analysis of the current and proposed school funding systems is available in the LSC Redbook for the Department of Education, published on the LSC web site at www.lsc.state.oh.us/. Click on "Budget Bills and Related Documents," then on "Main Operating," and then on "Redbooks."

Note, as used below, "ADM" means average daily membership. It is the full-time equivalent number of students counted annually for computing funding a district or school for a particular purpose or category.

Core foundation funding

City, local, and exempted village school districts

(R.C. 3317.022)

The bill specifies that core foundation funding for each city, local, and exempted village school district is the sum of the following:

(1) An opportunity grant based on a district's valuation calculated under the following formula:

{$250,000 – [the district's three-year average valuation / (total ADM + preschool scholarship ADM)]} X 0.02 X (formula ADM + preschool scholarship ADM);

Total ADM includes 100% of a district's resident students enrolled in a joint vocational school district, while formula ADM includes only 20% of such students.

Preschool scholarship ADM refers to preschool children enrolled in a special education program of an alternative provider under the Autism Scholarship Program.

(2) Targeted assistance funding based on a district's property value and income;

(3) A specific amount for each of six categories of disabilities for special education and related services;

(4) Early childhood access funds;

(5) Economically disadvantaged funds;

(6) A specific amount for each of five limited English proficiency categories;

(7) Gifted funds in an amount of $50 per student in the district's formula ADM.

Joint vocational school districts

(R.C. 3317.16)

The bill specifies that core foundation funding for each joint vocational school district is the sum of the following:

(1) An opportunity grant based on a district's valuation calculated under the following formula:

[$10 million – (the district's three-year average valuation / the district's formula ADM)] X 0.0005 X the district's formula ADM;

(2) Targeted assistance funding;

(3) A specific amount for each of six disability categories for special education and related services;

(4) Economically disadvantaged funds;

(5) A specific amount for each of five limited English proficiency categories;

(6) Gifted funds in an amount of $50 per student in the district's formula ADM.

Community schools

(R.C. 3314.08)

For community schools, the bill specifies per-pupil deductions from a student's resident district and payments to the student's school as follows:

(1) An opportunity grant of ($250,000 – its valuation per pupil (which is "0")) X 0.02;

(2) The per-pupil amount of targeted assistance funding for each student's resident school district (except in the case of Internet- or community-based schools (e-schools));

(3) A specific amount for a student's disability category for special education services;

(4) The per-pupil amount of early childhood access funds for each student's resident school district (except in the case of e-schools);

(5) Economically disadvantaged funds based on the resident district's economically disadvantaged index;

(6) A specific amount for a student's limited English proficiency category;

(7) Gifted funds in an amount of $50 per enrolled student.

Science, technology, engineering, and mathematics (STEM) schools

(R.C. 3326.33)

For science, technology, engineering, and mathematics (STEM) schools, the bill specifies per-pupil deductions from a student's resident district and payments to the student's school as follows:

(1) An opportunity grant of ($250,000 – its valuation per pupil (which is "0")) X 0.02;

(2) The per-pupil amount of targeted assistance funding for each student's resident district;

(3) A specific amount for a student's category of special education services;

(4) Economically disadvantaged funds based on the resident district's economically disadvantaged index;

(5) A specific amount for a student's limited English proficiency category;

(6) Gifted funds in an amount of $50 per enrolled student.

Counting kindergarten students

(R.C. 3317.03)

The bill provides for the counting of kindergarten students on the basis of the full-time equivalency for which they are enrolled. Under current law, all kindergarten students are counted as one full-time equivalent student regardless of whether they attend kindergarten for a full day or part of a day.

(See also "**Fees for all-day kindergarten**" below.)

Payments prior to the effective date of the bill's school funding provisions

(Section 263.230)

The bill requires that the Superintendent of Public Instruction, prior to the effective date of the bill's school funding provisions (90 days), make operating payments in amounts "substantially equal" to those made in the prior year, "or otherwise," at the Superintendent's discretion. Additionally, if a new school district, community school, or STEM school opens prior to the effective date of the bill's school funding provisions, the bill requires the Department to pay the new district or school an amount of $5,000 per pupil based on the estimated number of students that the district or school is expected to serve and to credit any amounts paid toward the annual funds calculated for the district or school following the effective date.

Payment caps and guarantees

(Sections 263.240 and 263.250)

The bill adjusts a city, exempted village, or local school district's core foundation funding by imposing the lesser of two caps. The first restricts the increase in core funding over the previous year's adjusted state aid to be no more than 25% of the previous year's adjusted state aid. The second restricts the increase in core funding over the previous year's adjusted state aid to be no more than 10% of the district's total local and state resources calculated for the fiscal year two years prior. This capped funding is further adjusted by guaranteeing that all districts receive at least the prior year's adjusted state aid or the opportunity grant calculated for the current fiscal year, whichever is greater.

Similarly, joint vocational schools districts are guaranteed to receive at least the prior year's adjusted state aid or the opportunity grant calculated for the current fiscal year, whichever is greater, but are also subject to a cap of no more than 25% of the previous year's adjusted state aid.

Straight A Program

(R.C. 3317.52; Sections 263.10 and 263.320)

The bill creates the Straight A Program to provide grants to school districts, educational service centers, community schools, STEM schools, individual school buildings, education consortia (which may represent a partnership with other school districts), institutions of higher education and private entities for projects that aim to achieve significant advancement in one or more of the following goals: (1) student

achievement, (2) spending reduction in the five year fiscal forecast,[22] and (3) utilization of a greater share of resources in the classroom.

The bill appropriates $100 million, for fiscal year 2014, and $200 million, for fiscal year 2015, from the Lottery Profits Education Fund to finance grants under the program.

Grant application process

Grant proposal

The bill requires each grant applicant to submit a proposal that includes all of the following:

(1) A description of the project for which the applicant is seeking a grant, including a description of how the project will have substantial value and lasting impact;

(2) An explanation of how the project will be self-sustaining. If the project will result in increased ongoing spending, the applicant must show how the spending will be offset by "verifiable, credible, permanent spending reductions."

(3) A description of quantifiable results of the project that can be benchmarked.

Grant decision

The bill requires grant decisions to be made by a "governing board" consisting of seven members appointed by the Governor, one member appointed by the Speaker of the House of Representatives, and one member appointed by the President of the Senate. Within 75 days after receiving a grant application, the governing board must issue a decision on the application of "yes," "no," "hold," or "edit." In making its decision, the board must consider whether the project has the capability of being replicated in other school districts and schools or creates something that can be used in other districts or schools.

If the board issues a "hold" or "edit" decision for an application, it must, upon returning the application to the applicant, specify the process for reconsideration of the application. An applicant may work with the grant advisors selected by the governing board and staff to modify or improve a grant application.

[22] *See* R.C. 5705.391 (not in the bill).

Grant agreement

Upon deciding to award a grant to an applicant, the board must enter into a grant agreement with the applicant that includes all of the following:

(1) The content of the applicant's proposal;

(2) The project's deliverables and a timetable for their completion;

(3) Conditions for receiving grant funding;

(4) Conditions for receiving funding in future years if the contract is a multi-year contract;

(5) A provision specifying that funding will be returned to the governing board if the applicant fails to implement the agreement, as determined by the Auditor of State; and

(6) A provision specifying that the agreement may be amended by mutual agreement between the governing board and the applicant.

Annual report regarding the grant program

The bill requires the board to issue an annual report to the Governor, the Speaker of the House, the Senate President, and the chairpersons of the House and Senate Education committees regarding the types of grants awarded, the grant recipients, and the effectiveness of the grant program.

Administration of the grant program

Grant advisors

The bill requires the governing board to select grant advisors with fiscal expertise and education expertise. These advisors must evaluate proposals from grant applicants and advise the staff administering the program.

Administrative support

The bill requires the Department of Education, under the direction of the Director of the Governor's Office of 21st Century Education, to provide administrative support to the governing board.

Advisory committee

The bill establishes an advisory committee that consists of the following members:

(1) Not more than 17 members appointed by the Governor that represent all areas of Ohio and different interests;

(2) Two members of the Senate, one from each political party, appointed by the Senate President;

(3) Two members of the House of Representatives, one from each political party appointed by the Speaker of the House.

The advisory committee must annually review the grant program and provide strategic advice to the governing board and the Director of the Governor's Office of 21st Century Education.

Formula amount

The bill eliminates "formula amount" as a factor in the school funding system. To correspond with this change, the bill makes the following changes to provisions of current law that use that factor.

Jon Peterson Special Needs Scholarship Program

(R.C. 3310.56)

The bill changes the method of calculating scholarships under the Jon Peterson Special Needs Scholarship Program. Under current law, the scholarship amount for a school year must be the least of (1) $20,000, (2) the amount of fees charged for that school year by the alternative public provider or registered private provider, or (3) an amount calculated using the formula amount and the multiple as prescribed for fiscal year 2009 that corresponds with the child's disability. The bill only affects (3) above by providing that the amount is calculated as the sum of the per-pupil amount of the opportunity grant for the child's resident district and the child's special education category dollar amount (see "**Special education amounts**" below). The bill also aligns the definitions of special education categories for the Jon Peterson Special Needs Scholarship Program with the definitions of special education categories that are used in all of the other school funding calculations.

Capital set aside

(R.C. 3315.18)

Each city, exempted village, local, or joint vocational school district is required to have a special fund for capital and maintenance and to make annual deposits into that fund. The bill revises the annual capital set aside requirement to specify that each

district set aside 3% of its opportunity grant, rather than 3% of the product of the formula amount times the number of students in the district as under current law.

Transfer payments

(R.C. 3317.023)

The bill provides that transfer payments for students entitled to attend school in another district due to a shared education contract or other type of agreement be calculated as the per-pupil amount of the opportunity grant (instead of the formula amount) plus the applicable payments for special education or career-technical education categories.

Open enrollment

(R.C. 3313.98 and 3313.981)

In the case of transfers for students attending another school district under open enrollment, the bill substitutes $5,704 for the value of the fiscal year 2009 formula amount plus the fiscal year 2009 base funding supplements. Essentially, that is the same amount prescribed by current law.

Study of open enrollment

(Section 263.450)

The bill establishes a temporary task force to review and make recommendations on open enrollment by December 31, 2013. Under the bill, the Superintendent of Public Instruction, in consultation with the Governor's Office of 21st Century Education must convene the Task Force consisting of representatives from school districts reflecting all sectors of the state's educational community. The state Superintendent must designate the chairperson of the Task Force. All meetings of the Task Force are to be held at the call of the chairperson. The bill requires the Task Force to review and make recommendations regarding the process by which students may enroll in other school districts under open enrollment and the funding mechanisms associated with open enrollment deductions and credits. The Task Force must issue a report of its findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

Special education amounts

(R.C. 3317.013)

The bill specifies the following dollar amounts for the categories of special education services, rather than multiples (or weights) that are multiplied by the formula amount as under current law:

Category	Disability	Dollar amount under the bill	Multiple under current law
1	Speech and language disabled	$1,902	0.2906
2	Specific learning disabled; developmentally disabled; other health impaired-minor; preschool child who is developmentally delayed	$4,827	0.7374
3	Hearing disabled; sever behavior disabled	$11,596	1.7716
4	Vision impaired; other health impairment-major	$15,475	2.3643
5	Orthopedically disabled; multiple disabilities	$20,959	3.2022
6	Autistic; traumatic brain injured; both visually and hearing impaired	$30,896	4.7205

Each district's state index (a factor of its valuation compared with all other districts) is applied to each prescribed amount.

Special education exceptional cost fund

(R.C. 3317.0214 and 3317.0215)

The bill provides for a special education exceptional cost payment to city, local, exempted village, or joint vocational school districts, community schools, or STEM schools as explained below. Previous school funding models included a comparable additional payment for high cost special education services on a per-pupil basis.

Funding

The bill creates a special education exceptional cost fund in the state treasury. The Department is required to transfer both of the following to the fund:

(1) 15% of the core foundation funding for special education and related services that is computed for each city, local, and exempted village school district, excluding those funds transferred to community schools, STEM schools, and parents of special education students who are participating in the Autism Scholarship Program or Jon Peterson Scholarship Program;

(2) 15% of the funding for special education and related services that is computed for joint vocational school districts, community schools, and STEM schools.

Application for funds

The bill permits a city, local, exempted village, or joint vocational school district, a community school, or a STEM school to apply for funds from the special education exceptional cost fund if the district or school meets all of the following criteria:

(1) The district or school did not carry forward more than 40% of the funds allocated under Part B of the federal "Individuals with Disabilities Education Act"[23] and has not lapsed funds awarded under that act for the year in which reimbursement is being requested;

(2) The district or school does not have an annual special education determination by the Department of less than "needs assistance"; and

(3) The district or school has complied with all systems of accountability and reporting required by the Department, including accountability ratings, performance-based monitoring, compliance, fiscal requirements, and procedural safeguard processes.

Payment

For each district or school that requests reimbursement from the special education exceptional cost fund, the Department must compute and pay additional state aid for students in categories two through six special education ADM. Payment may only be made for the costs of educational expenses and the related services provided to the student in accordance with the student's individualized education program (IEP), but not legal fees, court costs, or other costs associated with any cause of action relating to the student.

If a district's or school's costs for the fiscal year that a student in its categories two through six special education ADM exceed the threshold exceptional cost for serving the student, the district or school may submit to the Superintendent of Public Instruction documentation, as prescribed by the Superintendent, of all its costs for that

[23] 20 U.S.C. 1400 et. seq., as amended.

student. For purposes of this provision, the threshold exceptional costs are the same as under current law: $27,375 for a student in categories two through five special education ADM and $32,850 for a student in category six ADM.

Upon submission of documentation for a student of the type and in the manner prescribed, the Department must pay to a school district an amount equal to the sum of the following:

(1) One-half of the district's costs for the student in excess of the threshold exceptional cost;

(2) The product of one-half of the district's costs for the student in excess of the threshold exceptional cost multiplied by the district's state share index.

Upon submission of documentation for a student of the type and in the manner prescribed, the Department must pay to a community school or STEM school an amount equal to the school's costs for the student in excess of the threshold exceptional cost.

Preschool special education funding

(R.C. 3317.0213)

The bill specifies a formula for additional state aid for preschool special education children for each city, local, and exempted village school district and eliminates all existing references to unit funding for preschool children with disabilities. The bill's formula pays $4,000 plus one-half of the categorical special education amount times the district's state share index for each preschool special education student.

Career-technical education funding

(R.C. 3317.162)

The bill specifies a formula for the computation of state career-technical education funds for each career-technical planning district (CTPD). These funds are calculated based on the ADM of students receiving career-technical education services on a full-time equivalency basis that are reported by each city, local, exempted village, and joint vocational school district, community school, and STEM school that is assigned to the CTPD.

In order for a city, local, exempted village, or joint vocational school district, community school, or STEM school to receive career-technical education funding, the lead district of a CTPD must review the career-technical education program of the district or school and determine whether to approve or disapprove the program. If a

program is approved, the Department must transfer the funds attributable to the career-technical students enrolled in the district or school, according to a payment schedule prescribed by the Department. If the program is disapproved, the Department must automatically review the lead district's decision and, if it decides to approve the program, transfer the funds at that time.

The bill also requires state funds for career-technical education "associated services" to be paid directly to each lead district of a CTPD. The amount for associated services is equal to $150 times the career-technical ADM of the CTPD.

Career-technical education categories and amounts

(R.C. 3317.014)

The bill changes career-technical education program categories that exist in current law by changing the types of programs that are considered category one and two under current law and by creating three additional categories of career-technical education programs. It also specifies dollar amounts for all five categories of career-technical education programs (rather than the multiples of the formula amount that apply to categories one and two in current law).

The following table explains these changes in greater detail:

Category	Career-technical education program under the bill	Dollar amount under the bill	Career-technical education program under current law	Multiple under current law
1	Workforce development programs in environmental and agricultural systems, construction technologies, engineering and science technologies, finance, health science, information technology, and manufacturing technologies	$2,900	Job-training and workforce development programs approved by the Department	0.57
2	Workforce development programs in business and administration, hospitality and tourism, human services, law and public safety, and transportation systems	$2,600	Classes other than job training and workforce development programs	0.28
3	Workforce development career-based intervention programs	$1,650	None	None

Category	Career-technical education program under the bill	Dollar amount under the bill	Career-technical education program under current law	Multiple under current law
4	Workforce development programs in arts and communications, education and training, marketing, workforce development academics, and career development	$1,200	None	None
5	Family and consumer science programs	$900	None	None

Career-technical education at state institutions

(R.C. 3317.05)

The bill maintains "unit funding" for career-technical education at state institutions operated by the Departments of Mental Health, Developmental Disabilities, Youth Services, and Rehabilitation and Correction.

Limited English proficiency amounts

(R.C. 3317.016)

The bill establishes the following dollar amounts for categories of limited English proficiency students:

Category	Type of student	Dollar amount in the bill
1	A student who has been enrolled in schools in the United States for 180 school days or less and was not previously exempted from taking the spring administration of either of the state's English language arts assessments (reading or writing)	$1,500
2	A student who has been enrolled in schools in the United States for more than 180 school days or was previously exempted from taking the spring administration of either of the state's English language arts assessments (reading or writing)	$1,125
3	A student who does not qualify for inclusion in categories 1 or 2 and is in a trial-mainstream period, as defined by the Department	$750

Category	Type of student	Dollar amount in the bill
4	A student who does not qualify for inclusion in categories 1, 2, or 3 and for whom the main language spoken at home is not English, as defined by the Department	$375

As in the case of special education payments, a district's state share index is applied to the limited English proficiency amounts.

Accountability for subgroups

(R.C. 3317.01 and 3317.40)

The bill states that, when state operating funds are provided to school districts for services for a subgroup of students, the General Assembly has determined that these students experience unique challenges requiring additional resources and intends that the funds be used for services that will allow students in those subgroups to master the knowledge base required for high school graduation.[24] A subgroup of students is one of the following subsets of the entire student population of a school district or a school building: (1) students with disabilities, (2) economically disadvantaged students, (3) limited English proficiency students, or (4) students identified as gifted in superior cognitive ability and specific academic ability fields. The bill also requires the Department in its certification of state operating funds to school districts to include the amounts payable to each school building, "at a frequency determined by the Superintendent of Public Instruction," for each subgroup of students receiving services by the district or school.

If a district or school fails to show consistent progress for any subgroup of students based on the annual state report card performance measures for that subgroup, as determined by the Department of Education, the district or school must partner with, and pay the funds provided for that subgroup, to another organization that has demonstrated the ability to improve the educational outcome for that subgroup of students to provide services to those students. The partner organization may be another school, district, or other educational provider.

[24] In making this statement, the bill specifies that it is the intent of the General Assembly that state operating funds provided to school districts be used "for the provision of a system of common schools and the advancement of the knowledge of all students." It provides that school districts and schools must be held accountable for those funds to ensure that all students are provided an opportunity to master a common knowledge base in order to graduate from high school prepared for a career or for post-secondary education.

The Department must publish a list of schools, school districts, and other educational providers that have demonstrated an ability to serve each subgroup of students.

Education services for students in county juvenile detention facilities

(R.C. 2151.362, 3313.64, and 3313.847 (renumbered as 3317.30))

A child who is between ages five (three, if disabled) and 22 is entitled to attend school in the school district in which the child's parent resides. In some cases, however, a child may be entitled to attend school in a different district. One such case is the situation in which a child has been placed in the custody of an agency or a person other than a parent, such as a county or joint county juvenile detention facility. Current law already permits an educational service center (ESC) that provides education services to a child under the care of such a juvenile detention facility to directly bill the school district responsible for paying the cost of educating the child.[25] The bill extends this policy option to other entities.

Coordination of education

A child placed in the custody of a county or district juvenile detention facility may receive educational services from the school district in which the facility is located. The bill places the responsibility for coordinating that education on the facility itself. Under the bill, that facility may take several measures to coordinate the education of the child. First, the facility may use the chartered nonpublic school that the facility operates, if it has one, to educate the child. Second, the facility may arrange with the student's resident district or other responsible district for the facility to educate the child on its own. Finally, the facility may, by contract, have an ESC or the school district where the facility is located educate the child.

Direct billing for services

The bill permits the entity that educates the child (the facility, chartered nonpublic school the facility operates, or a school district) to submit an invoice for payment directly to the school district responsible for paying the cost of educating each child (as determined by the court that issued the child's custody order), instead of first billing the district in which the facility is located. Moreover, it instructs the school district responsible for paying the cost of educating the child to pay the entity that educates the child for those services.

[25] R.C. 3313.847, as enacted by Am. Sub. S.B. 316 of the 129th General Assembly.

The bill also directs the district responsible for paying the cost of educating the child to include that child in the district's "average daily membership" (student count for state operating funding) and prohibits any other district from including the child in that count. These provisions currently apply in the case of an ESC providing services to a child in a juvenile detention facility and direct billing for those services.

Fees for all-day kindergarten

(R.C. 3321.01(G))

The bill maintains current law permitting school districts and community schools to charge fees or tuition for all-day kindergarten services if they did not receive a poverty-based assistance payment for all-day kindergarten for fiscal year 2009 under former law. It also retains the stipulation that the fees or tuition must be structured on a sliding scale according to family income.

Background

As noted above, the bill provides that each kindergarten student be included in a district's ADM according to the full-time equivalency of the time the student attends kindergarten. That is, if a student attends an all-day program, the student will be counted as one full-time equivalent student. On the other hand, if a student attends a half-day program, the student will be counted as one-half of one full-time equivalent student. Current law, enacted in 2009, requires that each kindergarten student be counted as one full-time equivalent student, regardless of the type of program the student attends. Prior to fiscal year 2010, however, all kindergarten students were counted only as one-half of one full-time equivalent student, but an additional poverty-based assistance payment was available to certain districts and community schools to fund the other half of the formula amount for all-day kindergarten students.[26] When the General Assembly authorized the practice of charging for all-day kindergarten in 2007, it restricted that authority to only those districts or schools *not* receiving the additional poverty-based assistance payment for all-day kindergarten.[27] Amendments since have maintained that restriction.

[26] R.C. 3317.029(D), repealed by the bill.

[27] R.C. 3321.01, as amended by Sub. H.B. 190 of the 127th General Assembly.

Loans to school districts

(Repealed R.C. 3313.4811, 3317.62, 3317.63, and 3317.64; conforming changes in R.C. 133.06, 3311.22, 3311.231, 3311.38, 3313.483, 3313.484, 3313.488, 3313.4810, 3315.42, 3316.041, and 3316.06)

The bill repeals provisions that authorize the Superintendent of Public Instruction to issue loans from the Lottery Profits Education Fund to qualifying school districts (subject to Controlling Board approval) and to administer those loans. These provisions apply to pre-1997 loans, which appear not to have been issued for the past several years.

School district debt service deductions

(R.C. 3317.18)

The bill removes a reference to R.C. 133.301, which was repealed in 2002, from a provision authorizing the deduction of a school district's debt service from its state operating funds. The repealed section pertained to the authorization of the issuance of certain securities by a district board.

Note: For a discussion of funding for educational service centers, see "**ESC funding**" below.

II. Educational Service Centers (ESCs)

Definition of educational service center

(R.C. 3311.05)

Under the bill, an "educational service center" (ESC) is a regional public entity that provides services to the public and nonpublic schools and local governments with whom they enter into an agreement for those services. Current law defines an "educational service center" as the territory within the territorial limits of a county, or the territory included in multi-county ESC, exclusive of the territory embraced in any city school district or exempted village school district, and excluding detached territory for school purpose and including attached territory for school purposes. The bill also defines "client" as nay local government, local, city, or exempted village school district, STEM school, community school, or chartered nonpublic school. The bill's definition comports with its elimination of elected membership of ESC governing boards (see below).

ESC governing board members

(R.C. 3311.051)

Most ESCs, under current law, are under the oversight of their own elected governing boards. The bill reorganizes the structure for choosing board members. As noted above, under current law, the territory from which members of an ESC's governing board are elected is the combined territory of the "local" school districts in the county or counties of the ESC's service area and does not include the territory of other districts the ESC might serve. The bill eliminates all future elections and territory lines and requires that each ESC board consist of one or more persons who have been appointed by the governing authority of the "clients" that have entered into agreements to receive services from the ESC.

Those clients then determine for themselves by a majority decision the manner in which the governing board members will be selected. That determination is set forth in a governance plan that musts be filed with the State Board of Education.

The bill provides that any members of any existing ESC may serve their unexpired terms but may not seek reelection. Additionally, under the bill, if an elected member vacates office before the expiration of that member's term, the vacancy must be filled according to the ESC's governance plan.

School districts and ESCs

The bill makes the following changes with respect to an ESC's supervisory relationship with school districts:

- Requires each "local" district board to prescribe a curriculum for all schools under its control, and removes this requirement for ESCs with respect to "local" districts (R.C. 3313.60).

- Removes a requirement that each ESC annually certify the average daily membership (ADM) of students receiving services from schools under the ESC superintendent's supervision (i.e., "local" school districts) (R.C. 3317.03).

- Permits a "local" district superintendent to excuse a child that resides in the district from attendance for any part of the remainder of the current school year upon satisfying conditions specified in law and in accordance with district board and State Board rules, and removes this authority for an ESC superintendent acting on behalf of a "local" district (R.C. 3321.04).

- Requires the superintendent of a "local" district in which a child withdraws from school to immediately receive notice of the withdrawal from the child's teacher, and removes this requirement as it applies to ESC superintendents acting on behalf of "local" districts (R.C. 3321.13).

- Permits a city or exempted village district board to obtain services from an ESC attendance officer instead of employing its own attendance officer (R.C. 3321.14).

- Permits, rather than requires, every ESC governing board to employ an ESC attendance officer, and requires an ESC to make the decision regarding employment of an attendance officer based on consultation with the districts that have agreements with the ESC (R.C. 3321.15).

- Removes a requirement that a "local" district board submit a copy of a resolution declaring the impracticality of transportation for certain students to an ESC for its concurrence (R.C. 3327.02).

- With respect to the salary schedule that any district board participating in the school foundation program must adopt, removes a requirement that each "local" district board file a copy of its salary schedule with the ESC superintendent for certification of the correct salary to be paid to each teacher (R.C. 3317.14).

- Permits a "local" district to provide an instructional program for the employees of the district, in the same manner as currently authorized for "city" and "exempted village" districts (R.C. 3315.07(A)).

- Specifies that any school district board that has an agreement with an ESC to receive services may authorize the ESC to purchase or accept upon donation supplies and equipment for the district. Current law specifies that a "city" or "exempted village" district may make this authorization, subject to approval by the ESC, and a "local" district may make this authorization without any approval from the ESC (R.C. 3315.07(D)).

- Permits the superintendent of a "local" district to certify the qualifications of the school bus drivers employed or contracted by the district (R.C. 3327.10).

- Requires a "local" district board to appoint a business advisory council unless the district and an ESC have an agreement providing that the ESC's business advisory council will represent the district's business (R.C. 3313.82).

- Applies the above exception to the requirement to appoint a business advisory council to city and exempted village districts, which are already required to appoint a council under existing law (R.C. 3313.82).

- With respect to an ESC that has members of its governing board serving on a joint vocational school district (JVSD) board, does both of the following:

  (1) Provides that the ESC may request that one or more board members of city, exempted village, and local districts within the JVSD that have agreements with the ESC, rather than only members of "local" district boards within the JVSD that are also within the territory of the ESC's territory, serve in place of or in addition to its board members; and

  (2) Provides that a majority of all of the district boards within the JVSD that have agreements with the ESC must approve revisions to a JVSD's plan regarding the JVSD's board membership rather than a majority of the "local" districts within the JVSD that are within the territory of the ESC's service district (R.C. 3311.19).

- Provides that each ESC governing board may call and pay the expenses of conducting a meeting of the members of all district boards served by the ESC, rather than only the members of all "local" district boards within the ESC's territory (R.C. 3315.06).

- For purposes of each ESC appointing the committee for selecting and recommending high school graduates for the Ohio Scholarship Fund for Teacher Trainees, removes the requirement that the high school principal and classroom teacher appointed to the committee be from only a "city" or "exempted village" district, thus permitting the principal or teacher to be from a "local" district as well (R.C. 3315.33).

ESC funding

(R.C. 3317.11 (repealed); conforming changes in R.C. 3311.0510, 3312.08, 3313.376, 3313.843, 3313.845, 3315.40, 3317.023, 3317.032, 3317.05, 3319.80, and 3326.45; Sections 263.230 and 263.360)

The bill repeals a provision of current law establishing a permanent statutory payment and funding structure for payment for services to school districts. Instead, under the bill, any funds owed by a district to an ESC must be paid in accordance with the agreements entered into by the ESC and its client school districts. Under continuing

law, "client school district" means a city, exempted village, or local school district that has entered into an agreement to receive any services from an ESC.

ESCs also may receive separate state appropriations. The bill appropriates state funds for that purpose. Under the bill, each ESC may receive, in fiscal year 2014, 77½% of its prior year's state funding and, in 2015, 72$\frac{3}{10}$% of its fiscal year 2014 amount. To make those payments, the bill appropriates $27.5 million, for fiscal year 2014, and $20 million, for fiscal year 2015.

Under current law, client school districts are required to make payments for these services as follows:

- $6.50 per pupil from each school district served;
- Either $37.00 or $40.52 (for an ESC made from the merger of at least three smaller ESCs) per pupil of direct state funding for each school district served; and
- One "supervisory unit" for the first 50 classroom teachers required to be employed in the district and one such unit for each additional 100 required classroom teachers; and
- Additional fees for services agreed to separately.

In most years, however, the state amount was prorated subject to appropriations.

Background

Recent changes, adopted in H.B. 153 of the 129th General Assembly, require *every* city, exempted village, and local school district with a student count of 16,000 or less to enter into an agreement with an ESC for services. That law also permits, but does not require, every school district with a student count greater than 16,000 to enter into an agreement with an ESC for services. Prior law had permitted, but did not require, city and exempted village districts with less than 13,000 students to arrange for those services. The bill's changes in ESC governance and funding comport with H.B. 153's provisions.

III. Minimum School Year

School year based on hours rather than days

(R.C. 2151.011, 3313.48, 3313.481, 3313.482, 3313.533, 3313.62, 3313.88, 3314.092, 3317.01, 3317.03, 3321.05, and 3326.11; Sections 733.10, 803.50, 812.10 and 812.30)

Beginning in the 2014-2015 school year, the bill changes the minimum school year for school districts, STEM schools, and chartered nonpublic schools from 182 days to 455 hours for students in half-day kindergarten, 910 hours for students in grades 1 through 6 or in all-day kindergarten, and 1,001 hours for students in grades 7 through 12.[28] The bill does not revise the minimum school year for community (charter) schools, which is 920 hours. For a description of the current law prescribing the school year, see "**Background on current minimum school year requirements**" below.

In addition, the bill eliminates a provision of current law that specifies that a school week consists of five days, but it also adds an explicit statement that chartered nonpublic schools may be open for instruction with pupils in attendance on any day of the week, including Saturday and Sunday. The bill eliminates any requirement for a minimum school month, which is four school weeks under current law,[29] and it eliminates the requirement that a school day be at least five hours long.[30]

Moreover, the bill specifies that when the term "school day" is used throughout the Education Code (R.C. Title 33), unless otherwise specified, it is construed to mean the time during a calendar day that a school is open for instruction under the schedule adopted by each particular school district board.[31] So, for example, if a student is suspended for three days from school for a violation of the district's code of conduct, that suspension will run for three days and the number of hours of each of those days as specified by the board of the district that suspended the student.

Thus, the effect of these changes is that a school may fulfill the state minimum hourly requirements by developing an attendance schedule of its own choosing.

Exceptions

In order to satisfy the bill's minimum hourly requirements, in a manner similar to current law:

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[28] R.C. 3313.48(A); Sections 812.10 and 812.30.

[29] R.C. 3313.62.

[30] R.C. 3313.48.

[31] R.C. 3313.481 as reenacted by the bill.

(1) A school may count up to the equivalent of two school days per year when classes are dismissed for individualized parent-teacher conferences and reporting periods.

(2) A school may count up to the equivalent of two school days per year when the schools are closed for teacher professional meetings.

(3) For students in grades K through 6, a school may count morning and afternoon recess periods of not more than 15 minutes each.

(4) Kindergarten students may be further excused for up to the equivalent of three school days, in order to acclimate to school.

(5) Seniors in high school may be excused for up to the equivalent of three school days.[32]

However, unlike under current law, a school is not permitted to count any "calamity" days or hours (including two-hour delays or early dismissals) toward its minimum hourly requirement (see "**Calamity days eliminated**" below).

Consideration of scheduling needs of other schools

(R.C. 3313.48(B) to (D) and 3314.092)

Joint vocational school districts

The bill requires the board of each city, exempted village, and local school district, prior to making any change in the hours or days in which a high school is open for instruction, to consider the compatibility of the proposed change with the scheduling needs of any joint vocational school district (JVSD) in which any of the high school's students are also enrolled. The board must consider the impact of the proposed change on student access to the instructional programs offered by the JVSD, incentives for students to participate in vocational education, transportation provisions, and the timing of graduation. The board also must provide the JVSD board with advance notice of the proposed change, and both boards must enter into a written agreement prescribing reasonable accommodations to meet the scheduling needs of the JVSD prior to implementing the change.[33]

(City, exempted village, and local school districts are required under continuing law to transport high school students who attend career-technical classes at another

[32] R.C. 3313.48(A)(1) to (3) and 3317.01(B).

[33] R.C. 3313.48(B).

district, including a joint vocational school district, from the public high school operated by the district to which the student is assigned to the career-technical program.[34])

Community schools

The bill further requires the board of each city, exempted village, and local school district, prior to making any change in the hours or days in which a school is open for instruction, to consider the compatibility of the proposed change with the scheduling needs of any community school to which the district is required to transport students. The board must consider the impact of the proposed change on student access to the instructional programs offered by the community school, transportation provisions, and the timing of graduation. The board also must provide the sponsor, governing authority, and operator of an affected community school with advanced notice of the proposed change, and the district board and the governing authority, or operator if so authorized, must enter into a written agreement prescribing reasonable accommodations to meet the scheduling needs of the community school prior to implementing the change.[35]

Conversely, the bill also requires the governing authority of a community school to consult with each district that transports students to the community school prior to making any change in the community school schedule.[36]

Chartered nonpublic schools

Finally, the bill requires the board of education of each city, exempted village, and local school district, before making a change in the hours or days in which its schools are open for instruction, to consult with the chartered nonpublic schools to which the district is required to transport students and to consider the effect of the proposed change on the schedule for transportation of those students. Conversely, the governing authority of a chartered nonpublic school must also consult with each school district board that transports students to the chartered nonpublic school prior to making any change in its schedule.[37]

However, the bill prohibits the State Board of Education from imposing on chartered nonpublic schools by rule any of the other procedural requirements (as described above) that apply to school districts.

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[34] R.C. 3327.01, not in the bill.

[35] R.C. 3313.48(C).

[36] R.C. 3314.092.

[37] R.C. 3313.48(D).

(Continuing law requires school districts to provide transportation to nonpublic school and community school students in grades K to 8 who reside in the district and who live more than two miles from their school. Districts also may transport high school students to and from their nonpublic and community schools. A district, however, is not required to transport students of any age to and from a nonpublic school or community school if the direct travel time by school bus from the district school the student would otherwise attend to the nonpublic or community school is more than 30 minutes. Districts are eligible for state subsidies for transporting nonpublic and community school students.[38])

Calamity days eliminated

(R.C. 3317.01(B))

A school is permitted under current law to excuse students for up to five days a year for calamity days, which are regularly scheduled hours a school is closed due to hazardous weather or comparable circumstances. The bill generally eliminates excused calamity days, and eliminates another provision in current law that permits a school to count up to two hours a day if a school opens late or closes early because of hazardous weather conditions. Thus, under the bill, if a school is required to cancel classes, open late, or close early because of inclement weather, and the closure would cause the school to fall below the state minimum hours for the year, it is the responsibility of the school to make up those hours as it chooses.

Community school calamity hours retained

However, the bill does not affect a provision which excuses calamity days for community schools. Currently, the Department of Education is required to waive the number of hours a community school is closed for a public calamity, as long as the school provides the required minimum of 920 hours of learning opportunities to students during the school year.[39]

Online lessons and Blizzard Bags

(R.C. 3313.482, as renumbered by the bill)

The bill retains the recently enacted provision that allows school districts, chartered nonpublic schools, and community schools to make up no more than three calamity days via online lesson plans or paper "Blizzard Bags." However, the bill

[38] R.C. 3327.01.

[39] R.C. 3314.08(H)(4).

clarifies that districts and schools may make up the *equivalent* of three days using these methods.[40]

Other changes related to the minimum school year

(Repealed R.C. 3313.481 and 3313.482)

The bill makes other changes as a result of shifting the minimum school year requirement from days to hours. First, it eliminates the provisions of law that permit a school to operate on an alternative schedule upon the approval of the Department of Education.[41] Also, since calamity days are eliminated, the bill also eliminates the requirement that schools adopt contingency plans to make up calamity days beyond the five they are permitted now.[42]

Collective bargaining agreements

(Section 803.50)

The bill specifically provides that its restructuring of the minimum school year does not apply to any collective bargaining agreement executed prior to July 1, 2014. But it stipulates that any collective bargaining agreement or renewal executed after that date must comply with those changes.

Background on current minimum school year requirements

Current law regulates the length of the school year and school day for both public and nonpublic schools. Community schools ("charter" schools) are not subject to the same requirements as school districts and nonpublic schools, discussed below. Instead, under continuing law, community schools must provide learning opportunities for a minimum of 920 hours per year.[43] Traditional public schools and public STEM schools are, by statute, explicitly subject to a minimum school year and school day requirement.[44] Nonpublic schools, however, are not explicitly subject to these requirements. Rather, the State Board of Education has, by rule, made adherence to

[40] See Section 110.10 of the bill.

[41] R.C. 3313.481, repealed by the bill.

[42] R.C. 3313.482, repealed by the bill.

[43] R.C. 3314.03(A)(11)(a).

[44] See R.C. 3313.48, 3313.62, 3326.11, and current R.C. 3313.481.

minimum school year and school day requirements applicable to both chartered and nonchartered nonpublic schools.[45]

Unless a public or nonpublic school obtains approval to operate on an alternative schedule, as discussed below, a school must be open for instruction with students in attendance at least 182 school days in a school year.[46] By statute, a school day for students in grades 1 to 6 must include *at least* five hours, with two 15-minute recesses permitted, and a school day for students in grades 7 to 12 must be *at least* five hours, with no provisions for recesses.

The State Board of Education has rulemaking authority to further define what constitutes a school day. Those rules provide that a school day for public and nonpublic school students in grades 1 to 6 must be at least five hours, excluding a lunch period, and five and one-half hours, excluding a lunch period, for public school students in grades 7 to 12. Nonpublic school students in grades 7 to 12 need only have a school day of five hours, excluding a lunch period, which is the minimum prescribed in the statute.[47]

Nevertheless, a school day that is shortened by up to two hours because of hazardous weather conditions still counts as a school day towards satisfying the minimum 182-school-day requirement.[48] In complying with the 182-day requirement, a school also may count up to four days when classes are dismissed a half-day early for individual parent-teacher conferences or reporting periods, two days for teacher professional meetings, and up to five days for a public calamity, such as inclement weather.[49] Taking into account these permitted closings for parent-teacher conferences, reporting, professional development, and calamity days, a school must be open for instruction at least 173 days each year.

Current law also requires a public school to have a school week of five days.[50] This requirement does not appear to be extended to nonpublic schools by either statute or administrative rule.

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[45] See Ohio Administrative Code (O.A.C.) 3301-35-08 and 3301-35-12.

[46] R.C. 3313.48. A school year begins on July 1 and ends the following June 30 (R.C. 3313.62).

[47] O.A.C. 3301-35-06, 3301-35-08, and 3301-35-12.

[48] R.C. 3317.01(B).

[49] R.C. 3313.48 and 3317.01(B).

[50] R.C. 3313.62.

Currently Mandated Minimum School Year, School Week, and School Day

	School Year	School Week	School Day	
			Grades 1-6	Grades 7-12
School Districts and STEM Schools	182 days	5 days	5 hours	5½ hours
Chartered Nonpublic Schools	182 days	Not Specified	5 hours	5 hours
Nonchartered Nonpublic Schools	182 days	Not Specified	5 hours	5 hours

NOTES: The 182-day school year may include up to five "calamity" days, up to four days a school was closed a half-day early for parent-teacher conferences or reporting periods, and up to two days for teacher professional meetings. The five-hour school day may include two 15-minute recesses for grades 1 to 6. Community schools ("charter" schools) are subject to an alternative requirement that they provide learning opportunities for 920 hours per year.

Alternative schedules permitted by current law

As an alternative to operating on a traditional five-hour-a-day, 182-day calendar, current law permits a school district to operate a school on a different schedule in order to (1) provide a flexible school day for parent-teacher conferences and reporting days that require more than the four half-days otherwise permitted, (2) operate on a calendar of quarters, trimesters, or pentamesters, or (3) establish a staggered attendance schedule ("split sessions"). The approval of the Department of Education is required to implement any of these alternative schedules.[51]

If a school district obtains approval to operate an alternative schedule, the school must be open for instruction for at least 910 hours a year. Included within this 910-hour requirement, a school may count two 15-minute daily recess periods for students in grades 1 to 6; ten hours for individualized parent-teacher conferences and reporting periods; ten hours for teacher professional meetings; and the number of hours students are not required to attend because of public calamity days.

IV. Educational Choice Scholarship Program

Background

The Educational Choice Scholarship Program (Ed Choice) operates statewide in every school district except Cleveland to provide scholarships for students who are

[51] Current R.C. 3313.481, repealed by the bill.

assigned or would be assigned to district schools that have persistently low academic achievement. Under the program, students may use their scholarships to enroll in participating chartered nonpublic schools. Under current law, a student is eligible for a first-time Ed Choice scholarship if the student was attending, or otherwise would have been assigned to, a school building operated by the student's resident district that, on two of the three most recent report cards, either:

(1) Received a combination of any of the following ratings:

(a) Academic watch or emergency, under the former rating system;

(b) A "D" or "F" for *both* the performance index score *and* the overall value-added progress dimension or if the building serves only grades 10 through 12, the building received a grade of "D" or "F" for the performance index score and had a four-year adjusted cohort-graduation rate of less than 75%. (Applies only for report cards issued for the 2012-2013 and 2013-2014 school year.)

(c) A "D" or "F" for the overall grade *or* "F" for the overall value-added progress dimension. (Applies for report cards issued for the 2014-2015 school year and thereafter.); or[52]

(2) Was ranked in the lowest 10% of all public school buildings according to performance index score.

In the case of eligibility based on school performance ratings, the school cannot have been rated any of the following on the most recent report card:

(1) Excellent or effective, under the former rating system;

(2) Received an "A" or "B" for the performance index score *and* the value-added progress dimension or, if a building serves only grades 10 through 12, the building received a grade of "A" or "B" for the performance index score and had a four-year adjusted cohort graduation rate of 75% or higher. (Applies only for report cards issued for the 2012- 2013 and 2013-2014 school years.);

(3) An "A" or "B" for the overall grade *or* "A" for the value-added progress dimension or, if a building serves only grades 10 through 12, the building received a grade of "A" or "B" for the performance index score and had a four-year adjusted cohort graduation rate of 75% or higher. (Applies for report cards issued for the 2014-2015 school year and thereafter.)

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[52] H.B. 555 of the 129th General Assembly, effective March 22, 2013, created a new school district and school rating system using A through F letter grades and 15 separate performance measures.

In the case of students who qualify because their school was in the bottom 10% of performance index ratings, the school cannot have been rated excellent or effective on the most recent report card.

The amount of each annual Ed Choice scholarship is the lesser of (1) the tuition charged by the chartered nonpublic school in which the student is enrolled or (2) a "maximum" amount, which is:

(a) $4,250 for grades K through 8; and

(b) $5,000 for grades 9 through 12.

The scholarships are financed through a "deduct and transfer" method. Each student awarded an Ed Choice scholarship is counted in the enrollment of the student's resident school district for school funding purposes. The Department of Education then deducts the amount of each student's scholarship from the district's state aid account.

Beginning with the 2011-2012 school year, no more than 60,000 Ed Choice scholarships may be awarded for each school year. (Former law had set lower limits on the maximum number of scholarships.)

The bill adds two new categories of students who qualify for Ed Choice scholarships.

Qualification based on K-3 literacy performance

(R.C. 3310.02 and 3310.03)

Beginning with the 2016-2017 school year, the bill qualifies for the Ed Choice scholarship students in kindergarten through third grade who are enrolled in a district-operated school that has received a grade of "D" or "F" in "making progress in improving K-3 literacy" in two of the three most recent state report cards issued prior to the first day of July of the school year for which the scholarship is sought.[53] A student who receives a scholarship under the bill continues to be eligible for the scholarship so long as the student remains in a qualifying district, the student takes state achievement assessments that applied to the student's grade level, and cannot have had more than 20 unexcused absences, in the previous school year. These provisions regarding continuing eligibility are already required of all recipients of the Ed Choice scholarship under current law.

[53] This is one of the measures used on the new report card system enacted by H.B. 555 of the 129th General Assembly.

Scholarships based solely on a school's K-3 literacy performance are to be counted in the total 60,000 scholarship cap that applies to the rest of the Ed Choice program under current law. (See "**Priority for Ed Choice scholarships**," below.)

Income-based eligibility

(R.C. 3310.032; Sections 263.10 and 263.320; conforming changes in R.C. 3310.01, 3310.02, 3310.05, 3310.06, 3310.08, and 3317.03)

Beginning with the 2013-2014 school year, the bill expands the Ed Choice Scholarship Program to qualify certain students based entirely on their family incomes. Under the bill, students whose family incomes are at or below 200% of the federal poverty guidelines, regardless of the academic rating of the district school they otherwise would attend, may qualify for an Ed Choice scholarship. However, the bill phases in scholarships for students from low-income families by qualifying only kindergartners for the scholarship in the 2013-2014 school year, with the next grade higher than the preceding year added in each subsequent year. A student receiving a first-time scholarship under the new income-based criteria may continue to receive a scholarship in subsequent school years through grade 12, even if the student's family income rises above 200% of the federal poverty guidelines provided the student remains enrolled in a chartered nonpublic school. All students who are newly qualified under this bill must have taken all state achievement assessments that applied to the student's grade level, and cannot have had more than 20 unexcused absences, in the previous school year, as for other students who qualify under current law.

Scholarships awarded to students under this provision are to be funded directly through an appropriation made by the General Assembly, rather than through deductions from their resident school districts' state education aid as in the case of all other Ed Choice scholarships under current law. For fiscal years 2014 and 2015, the bill finances the new income-based scholarships from the Lottery Profits Education Fund. For fiscal year 2014, the amount appropriated is $8.5 million and, for fiscal year 2015, it is $17 million.

If applications for the new income-based scholarships exceed the number of scholarships that can be funded by the appropriation, the bill prioritizes the awarding of scholarships as follows:

First, to students who received scholarships in the previous school year;

Second, to students with family incomes at or below 100% of the federal poverty guidelines; and

Third, to students with family incomes between 100% and 200% of the federal poverty guidelines. If the number of applications for students assigned lower priority exceeds the number of scholarships remaining available, the Department must award the remaining scholarships by lot.

Scholarships based solely on income eligibility are *not* to be counted in the total 60,000 scholarship cap that applies to the rest of the Ed Choice program under current law (see below).

Priority for Ed Choice scholarships

(R.C. 3310.02)

Students eligible under the new K-3 literacy performance category are included in the overall priority list in the event that the number of applicants exceeds the overall cap. Thus, in years when applications exceed the total number of available scholarships, priority for awarding scholarships is as follows:

First, to eligible students who received them in the previous school year (current law);

Second, to students eligible because of the performance rating or grade of their district buildings *and* whose family incomes are at or below 200% of the federal poverty guidelines (current law);

Third, to all other students eligible because of the performance rating or grade of their district buildings (current law);

Fourth, to students in kindergarten through third grade who are eligible because of the K-3 literacy grade of their district buildings *and* whose family incomes are at or below 200% of the federal poverty guidelines (added by the bill);

Fifth, to all other students in kindergarten through third grade who are eligible because of the K-3 literacy grade of their district buildings (added by the bill);

Sixth, to students who are eligible because of the performance index score ranking of their district buildings *and* whose family incomes are at or below 200% of the federal poverty guidelines; and

Finally, to all other students who are eligible because of the performance index score ranking of their district buildings.

If the number of applicants in any of the categories listed above exceeds the amount of available scholarships, scholarships must be awarded on the basis of a lottery.

As noted above, students eligible under the bill's new income-based eligibility are not subject to the 60,000 scholarship cap.

Eligibility based on performance index score ranking

(R.C. 3310.03(B))

As noted under "**Background**" above, current law qualifies students for Ed Choice scholarships if their district schools have been ranked in the lowest 10% of school buildings based on performance index score for at least two out of three years and have not been rated "excellent" or "effective" in the most recent report card ratings. The bill specifies that such a qualifying student's building not be rated, in that most recent report card, as excellent or effective "or the equivalent of such ratings as determined by the Department of Education." This change is to accommodate the new report card and rating system based on letter grades. Also that new system does not provide for any overall score until the 2014-2015 school year. Thus, a determination of an "equivalent" rating may be necessary to administer that component of the program.

V. College Credit Plus Program

Overview – Replacement of PSEO with College Credit Plus

(R.C. 3365.01 (repeal and reenact), 3365.02, 3365.03, 3365.04, 3365.041, 3365.05, 3365.06, 3365.07 (repeal and reenact), and 3365.08; repeal R.C. 3365.021, 3365.09, 3365.10, 3365.11, 3365.12, and 3365.15; conforming changes in R.C. 3313.6013, 3313.6016, 3314.08, 3317.03, 3324.07, 3326.36, 3328.24, 3328.34, 3333.041, 3333.35, 3333.43, 3333.86, 3345.06, and 3345.42)

The bill changes the name of the Post-Secondary Enrollment Options Program to the College Credit Plus Program. Much like PSEO, the College Credit Plus Program allows high school students, enrolled in both public and private schools, to enroll in nonsectarian college courses to receive high school and college credit. However, the bill also makes several changes to the administration of the program, including how payments on behalf of a student are calculated.

Background on the current Post-Secondary Enrollment Options Program

The Post-Secondary Enrollment Options Program (PSEO) allows high school students to enroll in nonsectarian college courses on a full- or part-time basis and to receive high school and college credit. Students in public high schools (school districts,

community schools, and STEM schools) and nonpublic high schools (both chartered and nonchartered) are eligible to participate in the program. College courses under the program may be taken at any participating state institution of higher education, private nonprofit college or university, or private for-profit educational institution.

PSEO consists of two "options," which the student elects at the time of enrolling in the college course. Under Option A, the student is responsible for payment of all tuition and other costs charged by the higher education institution. Under this option, the student may further elect to receive only college credit for a completed course or to receive both college and high school credit. Under Option B, the student receives both college credit and high school credit for successfully completing a college course, and the state makes a payment to the institution of higher education on the student's behalf. The bill retains both of these options under its new College Credit Plus Program.

The state payment to an institution of higher education on behalf of a student under PSEO is made in the fiscal year after the student completes the college course. State payments for students enrolled in public high schools are deducted from the state aid accounts of the students' school districts, community schools, or STEM schools. State payments for students enrolled in nonpublic high schools are paid out of a separate state amount set aside for that purpose, since those schools do not receive operations funding from the state. The amount of the payment for each public or nonpublic secondary student is the lesser of the actual cost of tuition, textbooks, materials, and fees associated with the college course or the full-time equivalent percentage of time the student attends the course multiplied by the "tuition base," which currently is per pupil base-cost funding amount attributable to the student under the fiscal year 2009 state funding formula for public schools ($5,704). In recent years, however, due to the limited amount of funds and growing demand for PSEO courses by private school students, temporary law also authorized the Department of Education to apportion those funds according to rule of the State Board of Education. Under that rule, the Department allocates funding to private school students according to units of study (that is, one course at a time for each student) and by giving priority to students based on their grade levels. Thus, twelfth-grade students have the highest priority for funding.

College participation in College Credit Plus

(R.C. 3345.42)

The bill requires all state institutions of higher education (state universities, state community colleges, community colleges, university and regional branches, and technical colleges), except the Northeast Ohio Medical University, to participate in the

College Credit Plus Program. Both nonprofit and for-profit (proprietary) colleges may participate in the program, if the college so chooses.

Administration

(R.C. 3365.02)

The bill also requires institutions of higher education to notify both students of their acceptance into a program and the high schools in which the students are enrolled of that acceptance. Under the bill, each institution must notify a student and the student's parent of the student's admission into a course not later than 14 calendar days prior to the first day the student is to begin attending class. In addition, the institution must provide a roster of student names and course assignments to the public school or participating private school in which students are enrolled. This must be done not later than 21 calendar days after the student is required to begin attending class. In contrast, current law for the PSEO Program requires the student to notify the student's high school by March 30 of the student's intent to participate in the program during the following year, and failure to do so results in the student's inability to participate without signed consent from the district superintendent or equivalent.

Rules and policies adopted by the State Board of Education must also require public and participating private schools to provide counseling services to students in grades 8 through 11 and their parents before students participate in the program. (Current law already requires public schools, and allows private schools, to provide such counseling for the PSEO Program.)

Information packet

The bill requires the Chancellor of the Board of Regents to create a standard information packet on the College Credit Plus Program. The Chancellor must create the packet in consultation with the Superintendent of Public Instruction and make the information available to participating students and their parents. Public and participating nonpublic high schools are responsible for distributing a packet to each participating student and must keep a record of each date packets are sent to students' homes.

Qualification of students of college-preparatory boarding schools

(R.C. 3317.03, 3328.24, 3328.34, 3365.01, 3365.03, 3365.04, 3365.041, and 3365.05)

In addition to students enrolled in school districts, community schools, STEM schools, and nonpublic high schools as under the PSEO Program, the bill qualifies students that attend a college-preparatory boarding school for participation in the

College Credit Plus Program. Only one such school is currently planned for operation in Cincinnati beginning in 2014.

Course enrollment standards

(R.C. 3365.02(F) and 3365.06(B))

The bill specifically requires each institution of higher education that participates in the new program to develop and apply its own student admission standards for enrolling high school students in academic courses offered by the institution. However, it also requires that the adopted standards for course enrollment give priority to the institution's "current" students over high school students participating in College Credit Plus. Current law for PSEO requires institutions to give priority to its "other" students.

In addition, under PSEO, a student may not enroll in a college course if the student took a high school course in the same subject and did not attain at least a 3.0 out of 4.0 grade point average in that high school course. The new program eliminates that provision altogether.

Books and fees

(R.C. 3365.08, conforming changes in 3365.041)

The bill allows institutions of higher education to charge for textbooks, materials, and other fees directly related to a course, even if the student is enrolled under Option B of the program. This contrasts with current law for the PSEO Program, which instead requires institutions to furnish textbooks and materials to students at no charge. Under the bill, institutions of higher education also may enter into agreements with a student's high school to pay for any amount of special charges and to "outline" other terms for the use of books and materials.

Funding and payment

(R.C. 3365.07)

The bill creates a new structure for the calculation and payment of the College Credit Plus Program for students who participate under Option B of the program (see "**Background on the current Post-Secondary Enrollment Options Program**," above). The source of funding, however, remains the same. For students enrolled in a public school (school district, community school, STEM school, or college-preparatory boarding school) payments are deducted from state operating payments to the district or school. For students enrolled in a chartered or nonchartered nonpublic school, the payments come from an appropriation made by the General Assembly for that purpose.

The Department must make payments every January or July, or as soon as possible thereafter, for any student enrolled in the institution in the prior semester.

Statewide average in-state tuition rate

(R.C. 3365.07(A))

The bill directs the Chancellor of the Board of Regents to publish and provide to the Department of Education a calculation of the statewide average in-state tuition rate per credit hour for each of three categories of state institutions of higher education to be used for determining payments made to the institutions for students under the program.

Those categories are the following:

(1) State universities;

(2) Community colleges, state community colleges, and technical colleges; and

(3) State university branches and other regional campuses.

For a private college, which includes nonprofit private colleges, and proprietary schools, the Chancellor must determine which of the statewide average in-state tuition rates per credit hour determined for a state institution is most similar to that type of private institution.

Calculation of payments to state institutions of higher education

(R.C. 3365.07(B))

To state institutions of higher education, payment amounts are to be calculated as follows:

(1) For a participant enrolled in a college course delivered on the institution's campus, at another location operated by the institution, or online, 50% of the statewide average in-state tuition rate per credit hour for that type of state institution;

(2) For a participant enrolled in a college course delivered on the institution's campus, at another location operated by the institution, or online and taught by teachers employed by a high school, 25% of the statewide average in-state tuition rate per credit hour for that type of state institution;

(3) For a participant enrolled in a college course delivered at the participant's high school but taught by college faculty, 25% of the statewide average in-state tuition rate per credit hour for that type of state institution; and

(4) For a participant enrolled in a college course delivered at the participant's high school and taught by high school teachers accredited by the institution, nothing.

Inclusion in SSI

A state institution of higher education may include students who enroll under Option B, and who *complete* the course, in the count of students used to determine its state share of instruction (SSI) for state operating payments. A state institution's "state share of instruction" is the main subsidy that is paid by the state toward the instructional operating cost of the institution. Funds are appropriated by the General Assembly to the Chancellor of the Board of Regents who distributes the funds to the institutions.

Calculation of payments to private institutions of higher education

(R.C. 3365.07(C))

To private institutions of higher education, payment amounts are to be calculated as follows:

(1) For a participant enrolled in a college course delivered on the institution's campus, at another location operated by the institution, or online, 75% of the statewide average in-state tuition rate per credit hour for that type of private institution;

(2) For a participant enrolled in a college course delivered on the institution's campus, at another location operated by the institution, or online and taught by teachers employed by a high school, 50% of the statewide average in-state tuition rate per credit hour for that type of private institution;

(3) For a participant enrolled in a college course delivered at the participant's high school but taught by college faculty, 50% of the statewide average in-state tuition rate per credit hour for that type of private institution;

(4) For a participant enrolled in a college course delivered at the participant's high school and taught by high school teachers accredited by the institution, 25% of the statewide average in-state tuition rate per credit hour for that type of private institution.

Authority for alternative funding agreements eliminated

(Repealed R.C. 3365.12; conforming changes in 3314.08, 3326.36, 3365.04, 3365.041, and 3365.08)

The bill eliminates the option for an institution of higher education to receive reimbursement for College Credit Plus Program through an alternative funding

agreement with a high school. Under current law, high schools and institutions are allowed to use an alternative funding formula for PSEO payments to the institution, so long as (1) both the high school and the institution mutually agree on the alternative formula and (2) the alterative formula meets the rules adopted by the Superintendent of Public Instruction and the Chancellor of the Board of Regents regarding this option.

Reimbursement by a student for failing a college course eliminated

(Repealed R.C. 3365.11)

Current law requires the superintendent or equivalent of a public or private high school to bring an action for reimbursement from a student who receives a failing grade in a college course under the PSEO Program. The bill eliminates this provision for the College Credit Plus Program.

Replacement of "dual enrollment" with "advanced standing" programs

(R.C. 3313.6013; conforming changes in 3328.24, 3333.041, 3333.86, and 3345.06)

Background

Under current law, a "dual enrollment program" is a program in which a student, who is currently enrolled in a high school, may choose to participate in order to earn credit toward a college degree while also completing the high school curriculum requirements. All public high schools in the state, as well as chartered nonpublic high schools, are required to offer at least one dual enrollment program.

Several programs or options currently qualify as dual enrollment, including the PSEO Program, Advanced Placement (AP) courses, and any program that is similar to PSEO and AP and is agreed upon by both the high school and the institution of higher education. Under the AP Program, students complete advanced coursework in specified subject areas (i.e. American History, English) with the possibility of earning college credit toward a degree. Students earn college credit based upon attainment of a specified score, prescribed by each institution of higher education, on the AP examination in the respective subject area.

Advanced standing programs

The bill renames "dual enrollment program" as "advanced standing program" and makes a few changes in what qualifies toward the requirement. Both PSEO (renamed in the bill as College Credit Plus) and AP still qualify as advanced standing programs; however, the third option for students – a program similar to PSEO or Advanced Placement – is modified to include only the International Baccalaureate (IB) Program. The IB Program is an interdisciplinary education program, for which a

diploma is awarded, that is recognized at various institutions of higher education both nationally and internationally. The program includes examinations in specified traditional and nontraditional courses, community service requirements, and an extended essay.

The bill also adds college-preparatory boarding schools to the requirement to offer at least one advanced standing program.

Articulation agreements for technical coursework

(Section 803.60)

The bill explicitly states that any changes made to the PSEO and dual enrollment programs (renamed as College Credit Plus and advanced standing programs, respectively) under the bill do not require the alteration of (1) any existing or future articulation agreement for technical coursework offered through state-approved career-technical programs of study or (2) any corresponding payment structure between a state institution of higher education and a career-technical planning district. An articulation agreement is an agreement between two or more state institutions of higher education to facilitate the transfer of students and credits between such institutions.

In addition, the bill requires the Department of Education and the Board of Regents to study the implications, resulting from the bill's changes on these articulation agreements for technical coursework, specifically for technical coursework offered through state-approved career-technical programs. The Department and the Board must also make recommendations regarding the inclusion of career-technical programs in the College Credit Plus Program and advanced standing programs, as well as the implications of such inclusion. These recommendations must be submitted to the Governor's Office of 21st Century Education and the General Assembly not later than July 1, 2014.

VI. State Board Standards and Reporting

School district and school operating standards

(R.C. 3301.07(D) and (M))

Minimum operating standards

Continuing law requires the State Board of Education to formulate and prescribe minimum standards to be applied to all elementary and secondary schools. The bill revises the statutory specifications for those minimum standards. First, it states that the minimum standards are intended for the purpose of *providing children access to* a general education of high quality, rather than *requiring* that education as stated in current law. It

also specifies that the State Board must *provide for* the specified standards, rather than *provide adequately for* the specified standards.

The bill also makes all of the following changes regarding the content of the minimum operating standards:

(1) Removes language regarding the assignment of personnel "according to training and qualifications" and adds the requirement that any standards governing the assignment of staff must be based on ensuring each school has a sufficient number of teachers to ensure a student has an appropriate level of interactions to meet each student's personal learning goals;

(2) Removes the standard for efficient and effective instructional materials and equipment, including library facilities, and the requirement that this standard align with and promote skills expected under the statewide academic standards;

(3) Removes language regarding the proper administration and organization of each school and the preparation of a statement of policies and objectives for each school, but retains language regarding the organization of each school and preparation of all necessary records and reports;

(4) Specifies that the standards must provide for *the provision of safe* building, grounds, health and sanitary facilities and services;

(5) Adds standards for promotion and graduation based on the ability of students, at any grade level, to earn credits or advance upon demonstration of mastery of knowledge and skills through competency-based learning models and specifies that credits of grade level advancement must not require a minimum number of days or hours in a classroom.

Additionally, the bill removes descriptive language of permissive school standards regarding the effective and efficient organization, administration, and supervision of each school district and school district building.

Phonics standards

The bill also removes the required use of phonics as a technique for teaching reading in grades kindergarten through third and for in-service training.

Financial reporting requirements for schools

(R.C. 3301.07(B), 3314.042, 3317.01, 3326.112, and 3328.27)

The bill revises the statutory specifications for the State Board of Education financial reporting standards. Under the bill, those standards must specify that the information show at the district and school building level (1) revenue by source, (2) expenditures separated by classroom and nonclassroom purposes, in the aggregate and for certain subgroups of students for which particular state and federal funds are paid, and (3) information on total revenue and expenditures and per-pupil revenue and expenditures. Current law requires that financial information be provided at either the school district or the school building level, but not both, and also requires that expenditures be separated into a greater number of more specific categories for reporting purposes.[54] (See also "**Accountability for subgroups**" under "**I. School Financing**" above.)

In addition, the bill requires each governing authority of a community school, governing body of a STEM school, or board of trustees of a college-preparatory boarding school, or its respective designee, to report annually to the Department of Education financial information in accordance with State Board's standards in the same manner as currently required for school districts and their boards.

Finally, the bill specifies that the Department must post district and school financial information in a prominent location on its web site and notify each school when the reports are made available.

Performance management information

(R.C. 3302.26)

The bill requires the Department of Education to create a performance management section on its web site. This section must include all of the following:

(1) Information on academic and financial performance metrics for each school district to assist schools and districts in providing an effective and efficient delivery of educational services;

(2) A graph that illustrates the relationship between a district's academic performance, as measured by performance index score, and its "expenditure per equivalent pupils" as compared to similar districts. The bill defines a district's expenditure per equivalent pupils as the total operating expenditures of a school

[54] R.C. 3301.07(B)(2).

district divided by the measure of "equivalent pupils" (which is the total number of students in a school district adjusted for the relative differences in costs associated with the unique characteristics and needs of each pupil category).

(3) Statistics of academic and financial performance measures for each school district to allow for a comparison and benchmarking between districts.

The bill permits the Department to contract with an independent organization to develop and host the performance management section of its web site.

VII. Other Education Provisions

Administration of kindergarten diagnostic assessments

(R.C. 3301.0715)

The bill specifies that, beginning July 1, 2014, each kindergarten student must take the prescribed diagnostic assessments between the first day of school and the first day of November, "except that the language and reading skills portion of the assessment must be administered by the thirtieth day of September." Current law, maintained until July 1, 2014, specifies that each kindergarten student must take the diagnostic assessments not earlier than four weeks prior to the first day of school and not later than the first day of October.

Under continuing law, each school district, community school, and STEM school is required to administer certain diagnostic assessments at the appropriate grade level to specified students. For grades kindergarten through two, the prescribed diagnostic assessments are in reading, writing, and mathematics, and for grade three, the prescribed diagnostic assessments are in reading and writing. These assessments are used to determine which students need to receive additional services in order to attain grade level performance.[55]

Parent-triggered reforms for low-performing schools

(R.C. 3302.042)

The bill modifies the parent-triggered school reform mechanism, established in 2011 as the Columbus City School District Pilot Project, to make it applicable to any school of a city, exempted village, or local school district in the state. The provision allows the parents of students enrolled in a school to petition for school reforms if that

[55] R.C. 3301.079, not in the bill.

school has been ranked, for three or more consecutive years, in the lowest 5% of all public schools statewide by performance index score.

Additionally, the bill eliminates the requirement that the Department of Education annually report its recommendations to the General Assembly on the expansion of the Columbus City School District Pilot Project to other school districts in the state or to apply the project as a statewide program. However, the bill maintains the requirement for the Department to annually evaluate the parent-triggered reform mechanism and to annually report its recommendations on the continuation of this mechanism to the General Assembly.

Background

Under the current pilot project and the bill's expansion to all other districts, parents may file a petition requesting the district to do one of the following: (1) reopen the failing school as a community school, (2) replace at least 70% of the school's personnel who are related to the school's poor academic performance, or retain no more than 30% of the staff members, (3) contract with another school district or a nonprofit or for-profit entity with a record of effectiveness to operate the school, (4) turn operation of the school over to the Department of Education, or (5) any other major restructuring that makes fundamental reforms in the school's staffing or governance.

To compel the district to make the requested reform, the parents of at least 50% of the school's students must sign the petition. Alternatively, a petition may be submitted by the parents of at least 50% of the total number of students enrolled in the underperforming school and the feeder schools whose students typically matriculate into that school. If parents submit a petition to reform a school that is also subject to restructuring by the school district, and the district chooses a different restructuring reform than requested in the petition, it is not clear which reform would prevail.

Parent petitions must be filed with the school district treasurer. Within 30 days after receipt of a petition, the treasurer must verify that the signatures are valid and sufficient in number to require implementation of the requested reform. If the treasurer finds that there are not enough valid signatures, any person who signed the petition, within ten days, may appeal the treasurer's finding to the county auditor. The county auditor then has 30 days to conduct an independent verification of the signatures.

Governor's Effective and Efficient Schools Recognition Program

(R.C. 3302.22)

Law enacted in 2011 created the Governor's Effective and Efficient Schools Recognition Program. Under that program, the Governor annually recognizes the top

10% of all public schools in Ohio from among city, exempted village, local, or joint vocational school districts; community schools; and STEM schools. These top schools are determined by the Department of Education according to standards established by the Department, which must include (1) student performance, including, at a minimum, performance indicators, report cards, performance index scores, and statewide and national assessments, and (2) fiscal performance, including cost-effective measures taken by schools.

The bill revises this program in several ways. First, it requires the Department to consult with the Governor's Office of 21st Century Education in establishing standards for the program.

Next, while it continues to require the standards to include indicators for both student performance and fiscal performance, the bill now makes the application of these indicators contingent upon the availability of data. Also, the standards for student performance and fiscal performance are no longer required to include any specific factors for determining performance but may vary based upon type of public school. Moreover, the performance standards may be applied either at the school building or district level.

Finally, the bill adds college-preparatory boarding schools to the list of schools eligible for recognition.

Teacher and nonteaching school employee salary schedules

(R.C. 3317.12 and 3317.14; repealed R.C. 3317.13; conforming changes in R.C. 3311.78, 3313.42, 3317.19, 3317.141, 5126.24, and 5705.412)

The bill repeals a provision from current law that specifies the minimum salary schedules for teachers. The bill also eliminates provisions prescribing (1) the salary schedule filing deadlines and requirements for teachers and nonteaching school employees and (2) the conditions upon which the salary schedules for teachers and nonteaching school employees must be based. In eliminating those provisions, the bill generally requires each school district board of education annually to adopt salary schedules for teachers and nonteaching school employees.

The bill does not affect separate provisions of law affecting teacher salaries in a municipal school district (Cleveland) enacted in 2012.[56]

[56] R.C. 3311.78, as amended by Sub. H.B. 525 of the 129th General Assembly.

Background

State law requires the board of education of each school district and the governing board of each educational service center (ESC) to annually adopt a teacher salary schedule. If a district or ESC receives federal Race to the Top funds, it must adopt a merit-based salary schedule.[57] But, if not, the district or ESC must adopt either a merit-based schedule or one that contains provisions for increments based on training and years of service. In addition, each district and ESC must adopt a salary schedule for nonteaching employees based upon training, experience, and specified qualifications. While a board is permitted to establish its own service requirements and system for granting credit for service in schools not under the control of the board, the law also prescribes a *minimum* schedule for teacher salaries with which all school district and ESC boards must comply.[58] Under the statutory schedule, the base salary is $20,000 for a teacher with zero years of service and a bachelor's degree. All of the other salaries on the schedule are increments upward (or downward in some cases, if a teacher does not have a bachelor's degree) as a teacher gains experience and education.[59] It is this minimum schedule that the bill eliminates.

Assignment of business manager functions

(R.C. 3319.031; Section 733.20)

The bill authorizes a school district board of education that chooses not to employ a business manager to assign the statutorily prescribed powers and duties of a business manager to one or more other district employees or officers, and to give them any title that reflects the assignment of those duties. The bill also specifies that one of the district officers that may be given the powers and duties of a business manager is the district treasurer. Moreover, it states that the current prohibition against a business manager having possession of district moneys does not prevent the district board from assigning the business manager's powers and duties to the treasurer and does not prevent the treasurer who is assigned those powers and duties from exercising the powers and duties of a treasurer. If a board assigns the duties of a business manager to the district treasurer, the bill specifies that the district superintendent – not the treasurer – is responsible for making recommendations for the appointment or discharge of most "noneducational employees." The district treasurer may retain, appoint, or discharge responsibility over noneducational staff assigned to the district's fiscal affairs, as under current law.

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[57] R.C. 3317.141.

[58] R.C. 3317.12 and 3317.14.

[59] R.C. 3317.13, repealed by the bill.

The bill also contains an uncodified provision expressing the General Assembly's intent to supersede the effect of a recent appellate district court decision, to the extent it conflicts with the bill's provisions permitting a district board, in its "sole discretion," to assign the roles and functions of a business manager to one or more other employees or officers of the board, including the treasurer. In 2007, in *OAPSE/AFSCME Local 4 v. Berdine*,[60] the Eighth Appellate District Court of Appeals (Cuyahoga County), held that a school district board could not hire the same person as the treasurer and as the "director of support services," the latter of which had job duties very similar, but not identical, to the statutory duties of a district business manager. The court held that, by statute, a treasurer could not be "otherwise regularly employed" by the district board and the director of support services (functionally the equivalent of a business manager) could not have custody of the district's moneys. Thus, the same person could not be employed in both positions.

Background

Each school district board may (but is not required to) employ a district "business manager." If a board does employ a business manager, it may specify that the person either is responsible directly to the board or to the district superintendent. No one may be employed as a business manager without a business manager's license issued by the State Board of Education.[61] A business manager's statutory duties include (1) care and custody of all district property except moneys, (2) supervision of the construction, maintenance, operation, and repairs of buildings, (3) advertisement for bids for, purchase of, and custody of all district supplies and equipment, and (4) assistance in the preparation of the district's annual appropriation resolution. The business manager also may be given the authority to employ and terminate (with board confirmation) "noneducational employees," except those employees directly engaged in day-to-day fiscal operations and who are, instead, under the supervision of the district treasurer.[62]

On the other hand, a district board must employ a district treasurer, who the statute specifies is the chief fiscal officer of the school district. Accordingly, the treasurer has custody of the district funds and is responsible for its financial affairs. The treasurer reports to and is subject to the direction of only the district board. And, as noted above, current law specifies that the treasurer may not be "otherwise regularly employed by the board."[63]

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[60] 174 Ohio App.3d 46.

[61] R.C. 3313.03, not in the bill.

[62] R.C. 3313.04, not in the bill.

[63] R.C. 3313.22 and 3313.31, neither in the bill.

Speech-language pathology and school psychologist services

(R.C. 3317.15(F))

The bill eliminates a provision from current law that requires each school district to provide both speech-language pathology services at a ratio of one pathologist per 2,000 students and school psychological services at a ratio of one psychologist per 2,500 students. The bill also eliminates companion provisions permitting a school district to contract with an educational service center to obtain the required speech-language pathology and psychological services and permitting a school district to obtain a waiver from the ratio requirements from the Superintendent of Public Instruction.

In-service training for human trafficking prevention

(R.C. 3319.073)

The bill requires that human trafficking content be added to every public school's in-service training program in school safety and violence prevention, which most school employees are required to complete. Currently, school districts, community schools, and STEM schools are required to offer an in-service training program to all employees who work as a nurse, teacher, counselor, psychologist, or administrator at the district or school. The program must include training in school safety and violence prevention, which includes bullying, harassment, intimidation, dating violence, and youth suicide. School employees are required to complete four hours of training every five years.

Community school sponsor oversight

(R.C. 3314.015)

The bill permits the Department of Education to impose temporary limits on a community school (public charter school) sponsor, if it finds that the sponsor is not in compliance with applicable laws and administrative rules. More specifically, those limits may be placed on the "breadth and scope" of the sponsor's authority until the sponsor implements remedies to the satisfaction of the Department.

Under current law, if at any time the State Board of Education finds that a sponsor is no longer willing or able to comply with its duties, the State Board or its designee must conduct an administrative hearing on the matter. If the finding is confirmed, then the Department of Education may revoke the entity's approval to be a school sponsor and may assume sponsorship of the sponsor's schools until the earlier of the expiration of two school years or until the school secures a new sponsor.[64] The bill

[64] R.C. 3314.015(C).

extends to the State Board and Department the option to limit a sponsor's authority, pending satisfactory remedies, rather than outright revoke that authority as provided under current law.

Fees

- Requires application fees for state isolated wetlands permits to be credited to the Surface Water Protection Fund, which is used for the administration of surface water protection programs, rather than the Dredge and Fill Fund.

- Abolishes the Dredge and Fill Fund, which is used for the administration of the isolated wetlands permit program.

- Extends from June 30, 2014, to June 30, 2016, the expiration of a $1 per-ton fee on the transfer or disposal of solid wastes, and revises the distribution of the proceeds to allocate 30% to the Hazardous Waste Facility Management Fund and 70% to the Hazardous Waste Clean-Up Fund rather than 50% to each Fund as in current law.

- Extends to June 30, 2016, the expiration of the following fees on the transfer or disposal of solid wastes:

  -- $1 per ton the proceeds of which are credited to the Solid Waste Fund, which is used for the solid and infectious waste and construction and demolition debris management programs;

  -- $2.50 per ton the proceeds of which are credited to the Environmental Protection Fund, which is used for administering and enforcing environmental protection programs; and

  -- $.25 per ton the proceeds of which are credited to the Soil and Water Conservation District Assistance Fund.

- Extends for three years the sunset of the 50¢ per-tire fee on the sale of tires the proceeds of which are used to fund the scrap tire management program.

- Extends for three years the sunset of an additional 50¢ per-tire fee on the sale of tires the proceeds of which are credited to the Soil and Water Conservation District Assistance Fund.

- Extends all of the following for two years:

  --The sunset of the annual emissions fees for synthetic minor facilities;

  --The levying of higher fees, and the decrease of those fees at the end of the two years, for applications for plan approvals for wastewater treatment works under the Water Pollution Control Law;

--The sunset of the annual discharge fees for holders of national pollutant discharge elimination system permits issued under the Water Pollution Control Law;

--The sunset of license fees for public water system licenses issued under the Safe Drinking Water Law;

--A higher cap on the total fee due for plan approval for a public water supply system under the Safe Drinking Water Law and the decrease of that cap at the end of the two years;

--The levying of higher fees, and the decrease of those fees at the end of the two years, for state certification of laboratories and laboratory personnel for purposes of the Safe Drinking Water Law;

--The levying of higher fees, and the decrease of those fees at the end of the two years, for applications to take examinations for certification as operators of water supply systems or wastewater systems under the Safe Drinking Water Law or the Water Pollution Control Law, as applicable; and

--The levying of higher fees, and the decrease of those fees at the end of the two years, for applications for permits, variances, and plan approvals under the Water Pollution Control Law and the Safe Drinking Water Law.

Hazardous waste

- Adds that an action by the Director of Environmental Protection regarding pollution or threats to public health or safety caused by hazardous waste may include the issuance of an order to a violator, and states that the order may include an agreement by the person to pay the costs incurred by the Environmental Protection Agency (EPA) as a result of the violation.

- Specifies that if the Director performs abatement or prevention investigations or measures, the Director's itemized record of the cost of those investigations and measures must include costs incurred by the EPA for labor, materials, and any contract services required rather than just costs for labor, materials, and any contract services required.

- Clarifies that all of the provisions of the statute governing recovery of costs apply to locations where the Director has reason to believe hazardous waste was treated, stored, or disposed of as well as to hazardous and solid waste facilities as in continuing law and to investigations as well as to abatement or prevention measures as in continuing law.

- Adds to the purposes for which the existing Hazardous Waste Clean-up Fund is used administrative expenses of any hazardous waste closure or corrective action program.

Construction and demolition debris

- Allows a board of health to use money in its existing construction and demolition debris fund to abate accumulations of construction and demolition debris if it is the end of the board's fiscal year and the money is not needed for administration and enforcement for the following fiscal year.

- Authorizes a board to use such excess money to abate accumulations of construction and demolition debris only at a location for which a license has not been issued under the Construction and Demolition Debris Law if certain conditions are met, including that the property owner did not participate in or consent to the placement of the construction and demolition debris on the property.

Water pollution control

- Requires federal grant money for nonpoint source water pollution management received by the Director to be credited to the existing Water Quality Protection Fund rather than the Nonpoint Source Pollution Management Fund as in current law, and eliminates the Nonpoint Source Pollution Management Fund.

- Requires the grant money to be used to provide financial assistance, in part, to implement ground and surface water quality protection activities and water quality assessments rather than only ground water quality protection activities and assessments as in current law.

- Authorizes the Director, on behalf of the state, to apply for approval from the U.S. Environmental Protection Agency (USEPA) for the state to assume responsibility for administering the federal section 404 permitting program for the discharge of dredged or fill material into navigable waters.

- Requires the Director, upon approval by USEPA, to administer the program consistent with and in the manner required by the Federal Water Pollution Control Act.

- Authorizes the Director to adopt rules that are necessary to obtain approval to administer the program and to administer it after receiving approval, and specifies the topics to be addressed by the rules, including issuance of permits, notification of the receipt of a permit application, public hearings, authorization for another state

with waters that may be affected by the issuance of a permit to submit written recommendations, and enforcement.

Crediting of application fees for state isolated wetlands permits

(R.C. 1509.02 and 3745.113; R.C. 6111.029 (repealed))

The bill requires application fees for state isolated wetlands permits to be credited to the Surface Water Protection Fund, which is used for the administration of surface water protection programs, rather than the Dredge and Fill Fund as in current law. It then abolishes the Dredge and Fill Fund, which is used for the administration of the isolated wetlands permit program.

Extension of solid waste transfer and disposal fees

(R.C. 3734.57)

The bill extends, from June 30, 2014, to June 30, 2016, the expiration date of three fees levied on the transfer or disposal of solid wastes that are used to fund programs administered by the Environmental Protection Agency (EPA). The first fee is a $1 per-ton fee, of which currently one-half of the proceeds must be credited to the Hazardous Waste Facility Management Fund and one-half to the Hazardous Waste Clean-up Fund. The bill revises the distribution of the proceeds by allocating 30% to the Hazardous Waste Facility Management Fun and 70% to the Hazardous Waste Clean-Up Fund. Those funds are used for purposes of the hazardous waste management program. The second fee is another $1 per-ton fee that is credited to the Solid Waste Fund and used to fund the EPA's solid and infectious waste and construction and demolition debris management programs. The third fee is an additional $2.50 per-ton fee the proceeds of which must be credited to the Environmental Protection Fund, which is used to pay the EPA's costs associated with administering and enforcing environmental protection programs. The solid waste transfer and disposal fees are collected by the owners and operators of solid waste disposal and transfer facilities as trustees for the state.

The bill also extends from June 30, 2014, to June 30, 2016, the expiration date of a fourth 25¢ per-ton fee on the transfer or disposal of solid wastes the proceeds of which must be credited to the Soil and Water Conservation District Assistance Fund, which is used to assist soil and water conservation districts.

Sale of tire fees

(R.C. 3734.901)

The bill extends until June 30, 2016, the sunset of the 50¢ per-tire fee on the sale of tires the proceeds of which are used to fund the scrap tire management program. The fee is scheduled to expire on June 30, 2013.

The bill also extends until June 30, 2016, the sunset of an additional 50¢ per-tire fee on the sale of tires the proceeds of which are credited to the Soil and Water Conservation District Assistance Fund, which is used to provide money to soil and water conservation districts. Current law requires the additional fee to be collected and so credited until June 30, 2013.

Extension of various air and water fees

Synthetic minor facility emissions fees

(R.C. 3745.11(D))

Under current law, each person who owns or operates a synthetic minor facility must pay an annual fee based on the sum of the actual annual emissions from the facility of particulate matter, sulfur dioxide, nitrogen dioxide, organic compounds, and lead in accordance with a fee schedule. A synthetic minor facility is a facility for which one or more permits to install or permits to operate have been issued for the air contaminant sources at the facility that include terms and conditions that lower the facility's potential to emit air contaminants below the major source thresholds established in rules adopted under existing law. Current law requires the fee to be paid through June 30, 2014. The bill extends the fee through June 30, 2016.

Water pollution control fees and safe drinking water fees

(R.C. 3745.11(L), (M), and (N) and 6109.21)

Under current law, a person applying for a plan approval for a wastewater treatment works is required to pay a fee of $100 plus 0.65 of 1% of the estimated project cost, up to a maximum of $15,000, when submitting an application through June 30, 2014, and a fee of $100 plus 0.2 of 1% of the estimated project cost, up to a maximum of $5,000, on and after July 1, 2014. Under the bill, the first tier fee is extended through June 30, 2016, and the second tier applies to applications submitted on or after July 1, 2016.

Current law establishes two schedules for annual discharge fees to be paid by holders of national pollutant discharge elimination system (NPDES) permits with an

average daily discharge flow of 5,000 or more gallons per day. Under each of the schedules, one of which is for public dischargers and one of which is for industrial dischargers, the fees are based on the average daily discharge flow and increase as the flow increases. Under current law, the fees are due by January 30, 2012, and January 30, 2013. The bill extends payment of the fees and the fee schedules to January 30, 2014, and January 30, 2015.

In addition to the fee schedules described above, current law imposes a $7,500 surcharge to the annual discharge fee applicable to major industrial dischargers that is required to be paid by January 30, 2012, and January 30, 2013. The bill continues the surcharge and requires it to be paid annually by January 30, 2014, and January 30, 2015.

Under current law, one category of public discharger and eight categories of industrial dischargers that are NPDES permit holders are exempt from the annual discharge fees that are based on average daily discharge flow. Instead, they are required to pay an annual discharge fee of $180. Under current law, the fee is due annually not later than January 30, 2012, and January 30, 2013. The bill continues the fee and requires it to be paid annually by January 30, 2014, and January 30, 2015.

The Safe Drinking Water Law prohibits anyone from operating or maintaining a public water system without an annual license from the Director of Environmental Protection. Applications for initial licenses or license renewals must be accompanied by a fee, which is calculated using schedules for the three basic categories of public water systems established in current law. The fee for initial licenses and license renewals is required in statute through June 30, 2014, and has to be paid annually prior to January 31, 2014. The bill extends the initial license and license renewal fee through June 30, 2016, and requires the fee to be paid annually prior to January 31, 2016. The bill also relocates to the statute imposing that fee the provision authorizing a prorated fee for an initial license for a new system.

The Safe Drinking Water Law also requires anyone who intends to construct, install, or modify a public water supply system to obtain approval of the plans from the Director. Ongoing law establishes a fee for such plan approval of $150 plus 0.35 of 1% of the estimated project cost. Under current law, the fee cannot exceed $20,000 through June 30, 2014, and $15,000 on and after July 1, 2014. The bill specifies that the $20,000 limit applies to persons applying for plan approval through June 30, 2016, and the $15,000 limit applies to persons applying for plan approval on and after July 1, 2016.

Current law establishes two schedules of fees that the EPA charges for evaluating laboratories and laboratory personnel for compliance with accepted analytical techniques and procedures established under the Safe Drinking Water Law. A schedule with higher fees is applicable through June 30, 2014, and a schedule with lower fees is

applicable on and after July 1, 2014. The bill continues the higher fee schedule through June 30, 2016, and applies the lower fee schedule to evaluations conducted on or after July 1, 2016. The bill continues through June 30, 2016, a provision stating that an individual laboratory cannot be assessed a fee more than once in a three-year period unless the person requests the addition of analytical methods or analysts, in which case the person must pay $1,800 for each additional survey requested.

Fees for certification of water supply or wastewater systems operators

(R.C. 3745.11(O))

Current law requires a person applying to the Director to take an examination for certification as an operator of a water supply system or a wastewater system to pay a fee, at the time an application is submitted, in accordance with a statutory schedule. A higher schedule is established through November 30, 2014, and a lower schedule applies on and after December 1, 2014. The bill extends the higher fee schedule through November 30, 2016, and applies the lower fee schedule beginning December 1, 2016.

Application fees – water pollution control and safe drinking water

(R.C. 3745.11(S))

Current law requires any person applying for a permit, other than a NPDES permit, a variance, or plan approval under the Safe Drinking Water Law or the Water Pollution Control Law to pay a nonrefundable fee of $100 at the time the application is submitted through June 30, 2014, and a nonrefundable fee of $15 if the application is submitted on or after July 1, 2014. The bill extends the $100 fee through June 30, 2016, and applies the $15 fee on and after July 1, 2016.

Similarly, under existing law, a person applying for a NPDES permit through June 30, 2014, must pay a nonrefundable fee of $200 at the time of application. On and after July 1, 2014, the nonrefundable application fee is $15. The bill extends the $200 fee through June 30, 2016, and applies the $15 fee on and after July 1, 2016.

Recovery of costs – hazardous waste pollution

(R.C. 3734.20)

The bill adds that an action by the Director of Environmental Protection in response to a substantial threat to public health or safety caused by hazardous waste or in response to air pollution, water pollution, or soil contamination to which hazardous waste contributes or that it causes or threatens to cause may include the issuance of an order to a violator. Under the bill, the order may be issued to a violator of the Solid, Hazardous, and Infectious Wastes Law, the Air Pollution Control Law, the Water

Pollution Control Law, any rule adopted under those laws, or any term or condition of a permit, license, variance or order issued under any of those laws. The bill states that the order may include an agreement by the person to pay the costs incurred by the EPA as a result of a violation of those laws. Continuing law authorizes the Director to take appropriate action under the Solid, Hazardous, and Infectious Wastes Law, the Air Pollution Control Law, and the Water Pollution Control Law or to seek any other appropriate legal or equitable remedies to abate the pollution or contamination or to protect public health or safety.

The bill specifies that if the Director performs abatement or prevention investigations or measures, the Director's itemized record of the cost of those investigations and measures must include costs incurred by the EPA for labor, materials, and any contract services required. Current law does not specify that the costs are incurred by the EPA.

Finally, the bill clarifies that all of the provisions of the statute governing recovery of costs apply to locations where the Director has reason to believe hazardous waste was treated, stored, or disposed of as well as to hazardous and solid waste facilities as in continuing law and to investigations as well as to abatement or prevention measures as in continuing law.

Use of Hazardous Waste Clean-Up Fund

(R.C. 3734.28)

The bill adds to the purposes for which the existing Hazardous Waste Clean-up Fund is used administrative expenses of any hazardous waste closure or corrective action program. Currently, the Fund must be used for all of the following, including enforcement expenses:

(1) Specified activities under the hazardous waste provisions of the Solid, Hazardous, and Infectious Wastes Law, including investigations and cleanup of sites contaminated by polychlorinated biphenyls or other hazardous waste;

(2) Costs incurred by the EPA for emergency and remedial actions in response to unauthorized spills, releases, and discharges;

(3) Purposes specified in the Voluntary Action Program Law; and

(4) Payment of the state's long-term operation and maintenance costs or matching share for actions taken under the federal Superfund law.

Use of money by boards of health – construction and demolition debris

(R.C. 3714.07 and 3714.074)

The bill allows a board of health to use money in its construction and demolition debris fund, which under current law is used for administration and enforcement, to abate accumulations of construction and demolition debris. A board may do so only if it is the end of the board's fiscal year and the money is not needed for administration and enforcement for the following fiscal year. Furthermore, a board may use such excess money to abate accumulations only at a location for which a license has not been issued under the Construction and Demolition Debris Law if all of the following apply to the property on which the accumulations are located:

(1) The construction and demolition debris was placed on the property either after the owner of the property acquired title to it or before the owner of the property acquired title to it if the owner acquired title by bequest or devise;

(2) The property owner did not have knowledge that the construction and demolition debris was being placed on the property, or the owner posted on the property signs prohibiting dumping or took other action to prevent the placing of construction and demolition debris on the property;

(3) The property owner did not participate in or consent to the placement of the construction and demolition debris on the property;

(4) The property owner did not receive any financial benefit from the placement of the construction and demolition debris on the property or from having that debris on the property;

(5) Title to the property was not transferred to the owner of that property for the purpose of avoiding liability for violations of the Construction and Demolition Debris Law or rules adopted under it; and

(6) The person responsible for the placement of the construction and demolition debris on the property, in placing it there, was not acting as an agent for the property owner.

Federal grants for nonpoint source pollution management

(R.C. 6111.037)

The bill requires federal grant money for nonpoint source water pollution management received by the Director of Environmental Protection to be credited to the existing Water Quality Protection Fund rather than the Nonpoint Source Pollution

Management Fund as in current law. It also eliminates the Nonpoint Source Pollution Management Fund.

The bill requires the grant money to be used to provide financial assistance, in part, to implement ground and surface water quality protection activities that include in pertinent part water quality assessments rather than only ground water quality protection activities that include in pertinent part ground water assessments as in current law. Under law unchanged by the bill, the Director must periodically prepare and establish a priority system for identifying activities that are eligible for assistance from the grant money. The priority system must ensure that the financial assistance is first provided to assist in certain activities. One of the activities is to implement the water quality protection activities discussed above that the Director determines are part of a comprehensive nonpoint source pollution control program.

State administration of federal section 404 permitting program for discharge of dredged or fill material

(R.C. 6111.32)

The bill authorizes the Director of Environmental Protection, on behalf of the state, to apply to the U.S. Environmental Protection Agency (USEPA) for the state to assume responsibility for administering the section 404 permitting program for the discharge of dredged or fill material into navigable waters under the Federal Water Pollution Control Act. Currently, the program is federally administered in Ohio.

Under the bill, upon USEPA approval of the Director's application, the Director must administer the permitting program consistent with and in the manner required by the Federal Water Pollution Control Act. The bill authorizes the Director to adopt rules in accordance with the Administrative Procedure Act that are necessary to obtain approval from USEPA and to administer the program after receiving that approval. The bill requires the rules to govern or establish all of the following:

(1) The issuance of permits, including rules that require compliance with applicable federal law, require a permit to be issued for a fixed term not to exceed five years, and specify that a permit may be terminated or modified for cause, including at least a violation of any condition of the permit, obtaining a permit by misrepresentation or failure to fully disclose all relevant facts related to the permit, or a change in any condition that requires a temporary or permanent reduction or elimination of the permitted discharge;

(2) Requirements ensuring compliance with federal law, including requirements for the inspection of, monitoring of, and right to enter property that is subject to a permit and requirements governing the content and submission of reports;

(3) The provision of notice regarding the receipt of an application for a permit to the public, any other state with waters that may be affected by the issuance of the permit, and the USEPA Administrator;

(4) The opportunity for a public hearing regarding an application for a permit to be conducted prior to its issuance or denial;

(5) Requirements authorizing any other state with waters that may be affected by the issuance of a section 404 permit by the Director to submit written recommendations to the Director and the USEPA Administrator with respect to the permit application, including requirements that the Director notify the other state if any or all of the recommendations are not accepted and the reason and requirements that the notice be in writing and a copy provided to the Administrator;

(6) Requirements that the Director ensure that a permit is not issued if anchorage and any navigation of navigable waters would be substantially impaired based on the judgment of the Secretary of the U.S. Army after consultation with the Secretary of the federal department that is responsible for overseeing the U.S. Coast Guard at the time the application for the permit is submitted;

(7) Enforcement of a violation of the terms of a permit or of the permit program, including rules establishing requirements governing abatements of violations, civil and criminal penalties, and other means of enforcement; and

(8) Coordination with federal and state water-related planning and review processes.

The bill states that the above provisions cannot be construed as preempting, modifying, or amending federal law and are intended solely to authorize the Environmental Protection Agency to assume the role of the U.S. Corps of Army Engineers in the regulation of the navigable waters of Ohio. The bill also states that the provisions cannot be enforced as an expansion of federal laws, regulations, or regulatory authority and that any rule, policy, or permit adopted or issued by the Director under the provisions cannot conflict with existing federal law or exceed the limitations placed by Congress on the U.S. Army Corps of Engineers.

EXPOSITIONS COMMISSION

- Authorizes the Ohio Expositions Commission to accept gifts, devises, and bequests of money, lands, and other property and apply the money, lands, or other property according to the terms of the gift, devise, or bequest.
- Authorizes a political subdivision, insofar as authorized by law, to make gifts and devises to the Commission and requires the Commission to apply such a gift or devise according to the terms of the gift or devise.
- Establishes the Ohio Expositions Support Fund in the state treasury and requires all gifts and bequests of money accepted by the Commission to be deposited in the state treasury to the credit of the fund.

Gifts to Ohio Expositions Commission

(R.C. 991.03, 991.04, 991.041, and 991.06)

The bill authorizes the Ohio Expositions Commission to accept gifts, devises, and bequests of money, lands, and other property and apply the money, lands, or other property according to the terms of the gift, devise, or bequest.

The bill also authorizes a political subdivision, insofar as authorized by law, to make gifts and devises to the Commission, and requires the Commission to apply such a gift or devise according to the terms of the gift or devise.

The bill establishes the Ohio Expositions Support Fund in the state treasury and requires all gifts and bequests of money accepted by the Commission to be deposited into the state treasury to the credit of the fund. Investment earnings of the fund must be deposited into the fund. The bill authorizes the Commission to use the fund, consistent with the terms of the gift or bequest, to defray the cost of administration and of carrying out the purposes of the Commission.

OHIO FACILITIES CONSTRUCTION COMMISSION

Elimination of Ohio Cultural Facilities Commission; transfer of authority

- Eliminates the Ohio Cultural Facilities Commission (CFC).
- Transfers CFC's construction administration functions to the Ohio Facilities Construction Commission (FCC).
- Transfers the management of CFC's cultural facilities to the Department of Administrative Services (DAS).
- Revises the requirements for a cooperative agreement between FCC and a governmental agency or cultural organization to provide construction services for a state-funded cultural project.
- Revises the conditions under which state funds may be spent on a sports facility.
- Makes changes to the permitted content and use of cultural facility-related funds.
- Specifies procedures for the transfer of CFC's responsibilities, financial obligations, employees, equipment, assets, and records to FCC and the transfer of the management of CFC's cultural facilities to DAS.

Transfer of construction authority from Department of Natural Resources

- Transfers from the Department of Natural Resources (DNR) to FCC, with certain exceptions, the authority to administer the Department's capital facilities projects.
- Authorizes DNR to administer improvements under an agreement with the supervisors of a soil and water conservation district.
- Authorizes DNR to administer certain dam, waterway, wildlife, and roadway activities and projects, and requires FCC and the Department to review this provision in two years.
- Allows DNR, in the case of a public exigency, to let contracts for those dam, waterway, wildlife, and roadway activities and projects without competitive bidding or selection.
- Permits the Executive Director of FCC to allow DNR to administer any other project of which the estimated cost is not more than $1,500,000.

School Facilities Commission

- Requires that the Executive Director of FCC also serve as the Executive Director of the School Facilities Commission.

- Permits the School Facilities Commission to delegate contracting authority to FCC.

- Requires the School Facilities Commission to consider the extent to which its classroom facilities project design standards support the trends in educational delivery methods, including digital access and blended learning.

- Eliminates the requirement that, at the time the School Facilities Commission conditionally approves projects for which it intends to provide assistance for a fiscal year, it must identify and give priority to the next ten school districts in future fiscal years.

- Requires that school facilities project agreements contain stipulations ensuring compliance by the school district with the provision of continuing law requiring a district to offer to sell or lease unused real property.

- Conditions approval of a district board's request to incur indebtedness for energy conservation measures on the School Facilities Commission determining that the request for approval is complete and that the modifications are consistent with a specific state-assisted school facilities project.

- Provides specific conditions for a district in fiscal watch or fiscal emergency or that has an academic distress commission to receive approval to incur indebtedness for energy conservation measures.

- Requires that energy savings installment contracts contain a provision requiring that payment be stated as a percentage of savings and avoided costs attributable to one or more measures to be taken over a defined period of time and prescribes that payments will be made only to the extent that the projected savings and avoided costs actually occur.

Other provisions

- Requires a public authority that plans to contract for design-build services and that uses an in-house criteria architect or engineer to notify FCC, instead of DAS, before the architect or engineer performs the work.

- Transfers from DAS to the Executive Director of FCC the authority to contract for the design and implementation of energy and water conservation programs for state institutions and the authority to adopt and enforce rules regarding those contracts.

Elimination of Ohio Cultural Facilities Commission; transfer of authority

(R.C. 123.19, 123.201, 123.21, 123.27, 154.01, 154.23, 307.674, 3383.01 (123.28), and 3383.07 (123.281); Section 282.90; R.C 3383.02, 3383.03, 3383.04, 3383.05, 3383.06, 3383.08, and 3383.09 (repealed))

Effective July 1, 2013, the bill eliminates the Ohio Cultural Facilities Commission (CFC), transfers its construction administration functions to the Ohio Facilities Construction Commission (FCC), and transfers the management of its cultural facilities to the Department of Administrative Services (DAS).

Cooperative agreements to administer cultural projects

The bill requires FCC to administer the construction of state-funded cultural projects, unless FCC has entered into a cooperative agreement with a governmental agency or cultural organization in order for that agency or organization to administer the project. Under existing law, FCC may enter into an agreement with CFC or with a governmental agency or cultural organization to administer a project.

The bill adds the Ohio Historical Society to the definition of "governmental agency," and removes state agencies and state institutions of higher education from that definition. Under continuing law, a political subdivision, a combination of political subdivisions, the U.S. government, and entities established pursuant to an interstate compact are considered governmental agencies. The continuing definition of "cultural organization" includes a governmental agency or Ohio nonprofit corporation that provides cultural programs or activities and a regional arts and cultural district.

Under the bill, a cooperative agreement between FCC and a governmental agency or cultural organization must include provisions that do all of the following:

- Specify how the project will support culture;
- Specify that the funds must be used only for construction;
- Identify the facility to be constructed, renovated, remodeled, or improved;
- Specify that the project scope meets the intent and purpose of the project appropriation and that the project can be completed and ready for full occupancy without exceeding appropriated funds;
- Specify that the governmental agency or cultural organization must hold FCC harmless from all liability for the operation and maintenance costs of the facility; and

- Provide that amendments to the agreement require FCC's approval.

Continuing law requires such an agreement to specify the following:

- That the governmental agency or cultural organization has local contributions amounting to not less than 50% of the total state funding for the project;

- That the agreement and any actions taken under it are not subject to Chapters 123. (public works) or 153. (public improvements) of the Revised Code, except for the requirements regarding the use of domestic steel products; and

- That the agreement and those actions are subject to the wage and hour requirements for public works projects.

However, a cooperative agreement with a cultural organization regarding a state historical facility currently is not required to include 50% local contributions, and the agreement must specify that the agreement and any actions taken under it are not subject to the domestic steel and wage and hour requirements.

The bill also eliminates provisions of law that specified under what circumstances CFC, a cultural organization, or the Ohio Building Authority were responsible to provide general building services for an Ohio cultural facility.

Requirements for Ohio sports facilities

The bill makes several changes to the requirements for the construction of Ohio sports facilities. First, the bill eliminates provisions of law that required the governmental agency or nonprofit corporation that will own an Ohio sports facility that is financed in part by state bonds to administer the construction of the facility and to provide general building services for the facility.

The bill also eliminates the requirements that the agreement for such a facility and for the provision of general building services for the facility specify that the agreement and any actions taken under it are not subject to Chapters 123. (public works) or 153. (public improvements) of the Revised Code, except for the requirements regarding the use of domestic steel products, and that the agreement and those actions are subject to the wage and hour requirements for public works projects.

Finally, the bill eliminates a provision of law that prohibited state funds from being spent on an Ohio sports facility unless CFC had determined that a need for the facility existed in that region of the state.

Under continuing law, state funds may not be spent on an Ohio sports facility unless the owner of the facility has presented a satisfactory financial and development plan and has provided for a contribution of not less than 85% of the total construction cost, excluding any site acquisition cost, from sources other than the state.

Changes to funds

The bill transfers responsibility for three CFC funds to FCC: the Ohio Cultural Facilities Administration Fund, the Cultural and Sports Facilities Building Fund, and the Capital Donations Fund. Under the bill, the Director of Budget and Management must transfer any existing encumbrances against the current CFC Administration Fund to FCC's new Ohio Cultural Facilities Administration Fund.

Subject to applicable tax law limitation, the bill allows the Executive Director of FCC to ask the Director of Budget and Management to transfer to FCC's Ohio Cultural Facilities Administration Fund moneys credited to the Cultural and Sports Facilities Building Fund, instead of only interest earnings and bond premiums, to pay the cost of administering projects funded through the Cultural and Sports Facilities Building Fund.

The bill also creates the Theater Equipment Maintenance Fund to receive all theater-related revenues of DAS and to pay DAS's theater-related expenses. The fund's investment earnings are to be credited to it. Under the bill, the Director of Budget and Management must transfer from the former CFC Administration Fund to the new Theater Equipment Maintenance Fund any ticket receipts that were collected under a management contract for the Riffe Theatres.

Transfer provisions

The bill includes several provisions of law to facilitate the transfer of CFC's responsibilities, financial obligations, equipment, assets, records, and any employees to FCC and the transfer of the management of CFC's cultural facilities to DAS.

The bill allows FCC to designate the CFC employees, if any, to be transferred to FCC, along with any equipment assigned to those positions. Under the bill, any transferred employee retains the employee's respective classification, but FCC may reassign and reclassify the employee's position and classification if FCC determines this change to be in the best interest of office administration.

The bill specifies that FCC must complete any construction activities begun but not finished by CFC, and that CFC's rules, orders, and determinations related to CFC's construction functions continue in effect as rules, orders, and determinations of FCC. The bill also provides that any reference to CFC in any statute, rule, contract, grant, or

other document is deemed to refer to FCC, and that FCC replaces CFC as a party to any pending judicial or administrative action or proceeding.

Transfer of construction authority from the Department of Natural Resources

(R.C. 1501.011; Section 715.10)

With certain exceptions, the bill transfers from the Department of Natural Resources (DNR) to FCC the authority to administer DNR's construction projects. FCC currently administers construction and improvement projects on behalf of most state agencies.

Under the bill, DNR, like other state agencies, still may administer construction projects whose estimated cost is less than $200,000. Beginning on September 29, 2016, that amount will be adjusted periodically to reflect inflation. Additionally, the bill requires DNR to administer the following types of construction and improvement projects that FCC otherwise would administer:

(1) The construction of improvements under an agreement with the supervisors of a soil and water conservation district;

(2) Dam repairs administered by the Division of Engineering;

(3) Projects or improvements administered by the Division of Watercraft and funded through the Waterways Safety Fund;

(4) Projects or improvements administered by the Division of Wildlife; and

(5) Activities conducted by DNR in cooperation with the Department of Transportation to maintain DNR's roadway inventory.

For dam, waterway, wildlife, and roadway projects, the bill allows DNR to award a contract without competitive bidding or selection if the contract involves a public exigency. The bill also allows the Executive Director of FCC to authorize DNR to administer any other project or improvement whose estimated cost, including design fees, construction, equipment, and contingency amounts, is not more than $1,500,000.

Regarding the projects that DNR administers, the bill eliminates the current requirements under which DNR advertises for bids, awards contracts using competitive bidding and selection, alters existing contracts under certain circumstances, and uses a modified bidding process for contracts that involve a public exigency. Instead, the Public Improvements Law will govern DNR-administered projects. That Law

establishes the administrative, bidding, and other requirements for most public improvement projects.

Finally, two years after this portion of the bill takes effect, FCC and DNR must review the provisions that give DNR construction authority for dam, waterway, wildlife, and roadway projects.

School Facilities Commission

Background on School Facilities Commission programs

(R.C. Chapter 3318.)

The School Facilities Commission administers several programs that provide state assistance to school districts and community schools in constructing classroom facilities. The main program, the Classroom Facilities Assistance Program (CFAP), is designed to provide each city, exempted village, and local school district with partial funding to address all of the district's classroom facilities needs. It is a graduated, cost-sharing program where a district's portion of the total cost of the project and priority for funding are based on the district's relative wealth. Districts are ranked by wealth into percentiles. The poorest districts are served first and receive a greater amount of state assistance than wealthier districts will receive when it is their turn to be served based on their respective wealth percentile. Other smaller programs address the particular needs of certain types of districts and schools but most assistance continues to be based on relative wealth.

Executive director; contracting authority

(R.C. 3318.31)

H.B. 487 of the 129th General Assembly retained the School Facilities Commission as an independent agency within FCC, an agency created by that act. The bill removes the current provision for appointment of a separate executive director for both commissions and instead requires that the Executive Director of FCC also serve as the Executive Director of the School Facilities Commission. The bill also permits the School Facilities Commission to authorize FCC to make and enter into contracts and to execute all corresponding instruments on behalf of the School Facilities Commission. Under continuing law, the School Facilities Commission already shares employees and facilities with FCC.

Next ten list

(R.C. 3318.023 (repealed))

Under continuing law, the School Facilities Commission annually conditionally approves for assistance a select number of districts from the list of those with the lowest valuations and which have not already received CFAP assistance based on the districts' estimated project costs and the amount of funding available for the fiscal year. Under current law, the Commission, each fiscal year when it determines the districts it plans to serve during that year, must fix the priority of the next ten school districts according to their adjusted valuation per pupil. Such districts are generally given priority for funding in future fiscal years.

The bill eliminates the requirement to create the next list and to give those districts priority.

Project design standards

(R.C. 3318.031)

The bill replaces the current requirement that the School Facilities Commission consider the extent to which its design standards support and facilitate smaller classes and smaller schools and replaces it with a requirement to consider the extent to which the design standards support the trends in educational delivery methods, including digital access and blended learning. Under continuing law, not changed by the bill, the Commission must also consider the extent to which the design standards support the following:

- Provision of sufficient space for training new teachers and promotion of collaboration among teaching professionals;
- Provision of adequate space for teacher planning and collaboration;
- Provision of adequate space for parent involvement activities; and
- Provision of sufficient space for innovative partnerships between schools and health and social service agencies.

Disposal of school district property

(R.C. 3318.08)

The bill requires that the agreement between a school district and the School Facilities Commission for the construction of a state-assisted classroom facilities project

contain stipulations ensuring that the Commission will not release project funds or approve demolition of a facility unless and until the district complies, and remains in compliance, with the provision of continuing law requiring districts to offer unused property for sale or lease to community schools and college-preparatory schools.[65] Continuing law already requires the agreement to contain a similar stipulation regarding the required right of first refusal for community schools and college preparatory boarding schools located within the district when it decides voluntarily to sell a parcel of real property.[66]

Energy conservation measures

(R.C. 133.06 and 3313.372)

Background

A school district, subject to approval by the School Facilities Commission, may issue bonds to purchase energy conservation improvements without voter approval in an amount up to ⅑ of 1% of the district's tax valuation. In applying for approval, a district must submit to the Commission a report that includes estimates of all costs of design, engineering, installation, maintenance, repairs, debt service, and amounts by which energy consumption and resultant operational and maintenance costs may be reduced. The report must also include estimates of both (1) forgone residual value of materials or equipment replaced by the new energy conservation measures, and (2) a baseline analysis of actual energy consumption data for the preceding five years. Districts also may enter into a series of installment contracts for energy conservation improvements with the approval of the Commission.

Requests for approval

Under the bill, the Commission may approve a district board's request for approval to incur indebtedness only after the Commission determines (1) that the request for approval is complete, and (2) that the installations, modifications, or remodeling are consistent with any project to construct or acquire classroom facilities, or to reconstruct or make additions to existing classroom facilities under a state-assisted school facilities project. Continuing law also requires that prior to approval, the Commission must determine that the district board's findings are reasonable.

The bill also permits the Commission, in consultation with the Auditor of State, to deny a request if the district has been declared to be in a state of "fiscal watch" and

[65] See R.C. 3313.411, not in the bill.

[66] See R.C. 3314.41, not in the bill.

the Commission finds that the expenditure of funds is not in the best interest of that district. Moreover, under the bill, a district that has been declared to be under "fiscal emergency" must submit evidence that the installations, modifications, or remodeling have been approved by the district's financial planning and supervision commission. Likewise, a district for which the Superintendent of Public Instruction is required to establish an academic distress commission must receive prior approval of their request by their academic distress commission.[67]

Debt service

Under current law, debt service on energy conservation bonds is paid with estimated savings on energy costs. The act requires that the terms of any installment contract for energy savings measures include a provision requiring that all payments, except payments for repairs and obligations upon premature contract termination, be stated as a percentage of savings and avoided costs attributable to one or more measures to be taken over a defined period of time. The act also requires that debt service on energy conservation contracts be paid only to the extent that the projected savings and avoided costs outlined in the contract *actually* occur.

Notification of use of criteria architect or engineer

(R.C. 153.692)

The bill requires a public authority that plans to contract for design-build services and that uses an in-house criteria architect or engineer to notify FCC, instead of DAS, before the architect or engineer performs the work.

[67] The Superintendent of Public Instruction must establish an academic distress commission for each school district that meets any of the following conditions for three or more consecutive years: (1) the district has been declared to be in academic emergency and has failed to make "adequate yearly progress" under the federal No Child Left Behind Act, (2) the district has received a grade of "F" for the performance index score *and* a grade of "D" or "F" for the overall value-added progress dimension, (3) the district has received an overall grade of "F" *or* a grade of "F" for the overall value-added progress dimension, or (4) at least 50% of the schools operated by the district have received an overall grade of "D" or "F." The commission ceases to exist when the district for two of the three prior school years either (a) is rated in need of continuous improvement or better, or (b) receives a grade of "C" or better for *both* the performance index score and overall value-added progress dimension. (See R.C. 3302.10, not in the bill.) The ratings referred to in (1) and (a) are as used under the former rating system recently replaced by H.B. 555 of the 129th General Assembly. The ratings referred to in (2), (3), (4), and (b) are as under the new rating system created by that act effective for the 2012-2013 school year and thereafter.

Energy and water conservation programs

(R.C. 156.02, 156.03, 156.04, and 156.05)

The bill transfers from DAS to the Executive Director of FCC the authority to contract for the design and implementation of energy and water conservation programs for state institutions and to adopt and enforce rules regarding those contracts.

DEPARTMENT OF HEALTH

General and city health districts

- Authorizes the Department of Health (ODH) to require general or city health districts to enter into shared services agreements.

- Authorizes ODH to reassign substantive authority for mandatory programs from a general or city health district to another general or city health district under certain circumstances.

- Authorizes the ODH Director to require general or city health districts to be accredited as a condition precedent to receiving funding from the ODH.

- Eliminates a requirement that two or more city health districts be contiguous to form a single city health district.

- Eliminates the requirements (1) that two or more general health districts be contiguous to form a combined general health district and (2) that not more than five contiguous general health districts may combine to form a general health district.

- Requires the health commissioner of a general health district to develop a comprehensive community health assessment for the county.

- Requires the district advisory council of a general health district, and the mayor of a city health district, to appoint to the board of health one member who is an executive officer or medical director of a hospital or the district's largest medical facility.

- Requires sanitarians of a city or general health district who perform inspections of food service operations or retail food establishments to obtain and maintain certification from the U.S. Food and Drug Administration.

- Authorizes a multi-county, combined general health district to have each board of county commissioners place on the ballot a property tax levy for the district's expenses, under an existing tax levy law that applies to a general health district.

- Eliminates a requirement that specific rules adopted by the ODH Director cannot take effect unless approved by concurrent resolution of the General Assembly.

- Requires the ODH Director to adopt rules to assure annual completion of eight continuing education units by each member of a board of health.

- Eliminates the Public Health Standards Task Force that assists and advises the Director in the adoption of standards for boards of health.

Patient Centered Medical Home Program

- Establishes in ODH the Patient Centered Medical Home Program (which is separate from the existing Patient Centered Medical Home Education Program).

- Requires ODH to establish a patient centered medical home certificate and specifies the requirements and goals to be achieved through voluntary certification.

- Permits ODH to establish an application and annual renewal fee for certification.

- Requires each certified patient centered medical home to report health care quality and performance information to the ODH.

- Requires ODH to submit a report to the Governor and General Assembly three and five years after ODH adopts rules to certify patient centered medical homes.

Nursing facilities' plans of correction

- Requires a nursing facility's plan of correction regarding a deficiency to include additional information, including a detailed description of an ongoing monitoring and improvement process to be used at the facility.

- Requires ODH to consult with the Ohio Departments of Medicaid and Aging and the Office of the State Long-Term Care Ombudsperson Program in certain circumstances when determining whether a nursing facility's plan of correction or modification of an existing plan meets ODH's requirements for approval.

Newborn screenings

- Requires that hospitals and freestanding birthing centers screen newborns for critical congenital heart defects, unless a parent objects on religious grounds.

- Authorizes the ODH Director to adopt rules establishing standards and procedures for the required critical congenital heart defects screenings.

Distribution of state household sewage treatment system permit fees

- Reallocates the distribution of money collected from state household sewage treatment system permit fees by:

  -- Decreasing the percentage of money allocated to fund installation and evaluation of sewage treatment system new technology pilot projects; and

-- Increasing the percentage of money allocated for use by the ODH Director to administer and enforce the Household and Small Flow On-Site Sewage Treatment Systems Law and rules adopted under it.

Requirements governing private water systems contractors

- Revises the existing rules adopted by the ODH Director with which private water systems contractors must comply as follows:

  -- Adds that the rules must require those contractors to comply with competency testing and continuing education requirements; and

  -- Specifies that the rules must allow those contractors to provide other equivalent forms of proof of financial responsibility rather than only surety bonds as under current law.

Ohio Cancer Incidence Surveillance System

- Authorizes ODH to designate, by contract, a state university as an agent to implement the Ohio Cancer Incidence Surveillance System.

- Repeals provisions expressly governing the confidentiality of cancer information provided to or acquired by an Ohio cancer registry or ODH, but continues general provisions governing the confidentiality of protected health information.

Other provisions

- Eliminates the January 1 deadline for the ODH Director to determine the changes in charges that may be imposed for copies of medical records.

- Eliminates a requirement that trauma centers report to the ODH Director information on preparedness and capacity to respond to disasters, mass casualties, and bioterrorism.

- Abolishes the Council on Stroke Prevention and Education.

- Specifies that the Excluded Parties List System is available at the federal web site known as the System for Award Management.

General or city health districts

Expansion of Department of Health's authority over health districts

(R.C. 3701.13)

The bill authorizes the Department of Health (ODH) to require general or city health districts to enter into shared services agreements under existing law[68] that permits a political subdivision to enter into an agreement with another political subdivision whereby a contracting political subdivision agrees to exercise any power, perform any function, or render any service for another recipient political subdivision that the recipient political subdivision is otherwise legally authorized to exercise, perform, or render.

The bill authorizes ODH to reassign substantive authority for mandatory programs from a general or city health district to another general or city health district when an emergency exists, or when the board of health of the general or city health district has neglected or refused to act with sufficient promptness or efficiency or has not been lawfully established.

Accreditation of general or city health districts

(R.C. 3701.13)

As a condition precedent to receiving funding from ODH, the bill authorizes the ODH Director to require general or city health districts to be accredited by an accreditation body approved by the ODH Director. Accreditation must be obtained not later than July 1, 2018.

Formation of combined general or city health districts

(R.C. 3709.01, 3709.051, and 3709.10)

The bill eliminates the requirement that city health districts be contiguous to form a single city health district. Under existing law, two or more contiguous city health districts may be united to form a single city health district by a majority affirmative vote of the legislative authority of each city affected by the union, or by petition of at least 3% of the qualified electors residing within each of the two or more contiguous city health districts.

The bill also eliminates the requirement that general health districts be contiguous to form a single general health district, and eliminates the limitation that not

[68] R.C. 9.482, not in the bill.

more than five general health districts may combine to form a single general health district. Existing law authorizes two or more contiguous general health districts, not to exceed five, to unite in the formation of a single general health district if approved by an affirmative majority vote of the district advisory councils. The bill's revisions result in authorization for an unlimited number of noncontiguous general health districts to form a single general health district.

Community health assessment for general health districts

(R.C. 3709.43)

The bill requires the health commissioner of a general health district to develop a comprehensive community health assessment for the county. The assessment must be developed not later than January 1, 2014, and then not later than January 1 of each even-numbered year thereafter. The health commissioners of two or more counties may jointly develop a comprehensive community health assessment for the counties.

The assessment must be developed in collaboration with all of the following entities located in the county:

- Every city health district;
- A representative sample of private health care providers, including private doctors and dentists;
- Every hospital, including public, nonprofit, and proprietary hospitals;
- A representative sample of unaffiliated medical facilities or medical service providers;
- A representative sample of mental or behavioral health providers; and
- At least two members of the general public.

The community health assessment must comply with the national community health assessment standards of the National Association of County and City Health Officials, which generally concentrate on the health status of a county's population. The assessment must include all of the following:

(1) A description of the community, as defined in the national community health assessment standards, and a description of the existing community health resources;

(2) A description of the process used to conduct the assessment, with a listing of all of the individuals with whom the health commissioner collaborated to develop the assessment;

(3) The health needs identified through the assessment process, with an evaluation of access to affordable health care and an evaluation of the necessary physical facilities for furnishing adequate services to all of the people of the county; and

(4) A description of how the current assessment compares to the previous assessment, except for the first year the assessment is developed.

The health commissioner must electronically submit a copy of the comprehensive community health assessment to ODH not later than the first day of March of the year in which the assessment is due.

The bill requires every city health district in the county to participate in the development of the comprehensive community health assessment.

Board of health members

(R.C. 3709.03 and 3709.05)

The district advisory council of a general health district appoints four members to the district's board of health. Likewise, the mayor of a city health district, with the confirmation of the legislative authority of the city, appoints four members to the city's board of health.[69] The bill requires that the district advisory council of a general health district and the mayor of a city health district appoint to the board of health as one of those four members an individual who is an executive officer or medical director of a hospital or the district's largest medical facility.

Certification of sanitarians

(R.C. 3709.15(B))

The board of health of a city or general health district may appoint as sanitarians as many persons for sanitary duty as the public health and sanitary conditions of the district require. The bill requires sanitarians who perform inspections of food service operations or retail food establishments to obtain certification from the U.S. Food and Drug Administration not later than July 1, 2017, and thereafter to maintain that certification for as long as the Administration continues to certify sanitarians.

[69] This law applies only to cities that have not established a different administration of public health under their charters, and to cities that are not part of a combined city health district.

Tax levies for combined general health districts

(R.C. 3709.29)

A board of health of a general health district may certify to the board of county commissioners any insufficiency in the estimated amount of money needed to meet the expenses of a general health district program, and upon receiving the certification, the board of county commissioners must place a tax levy issue on the ballot to provide the board of health with sufficient funds to carry out the health program.[70] The bill authorizes a combined general health district located in more than one county to have each board of county commissioners use this same property tax levy procedure to place on the ballot the question of levying a tax for the combined general health district's expenses. (Under the bill, the combined general health districts are not required to be contiguous, and there may an unlimited number of general health districts that unite to form a combined general health district. Each county that is part of the combined general health district would have to place the question of levying the tax on the ballot.)

Director of Health's rules for boards of health

No General Assembly approval of rules

(R.C. 3701.342)

Currently, certain minimum standards for boards of health that are adopted by rule of the ODH Director,[71] including rules that establish a formula for distribution of state health district subsidy funds to boards of health, cannot take effect unless they are approved by concurrent resolution of the General Assembly. The bill eliminates this General Assembly approval requirement.

Continuing education for board of health members

(R.C. 3701.342)

The bill adds to the minimum standards for boards of health that the ODH Director is required to adopt by rule the adoption or rules that assure annual

[70] The Attorney General has advised that boards of county commissioners, when receiving a board of health's certification of insufficiency under this law, have mandatory duties to pass a resolution stating that it is necessary to levy a tax in excess of the ten-mill limitation and to file the resolution with the board of elections for placement on the ballot, so long as the certification has been properly adopted by the board of health and is otherwise lawful. O.A.G. No. 2001-013 (2001).

[71] R.C. 3701.342.

completion of eight continuing education units by each member of a board of health. The bill does not specify the subject matter of those continuing education units.

Elimination of Public Health Standards Task Force

(R.C. 3701.342; R.C. 3701.343 (repealed))

The bill eliminates the nine-member Public Health Standards Task Force that assists and advises the ODH Director in formulating and evaluating public health services standards for boards of health. Currently, the ODH Director adopts the standards by rule, after consulting with the Task Force.

Patient Centered Medical Home Program

(R.C. 3701.921, 3701.922, 3701.94, 3701.941, 3701.942, 3701.943, and 3701.944)

The bill establishes the Patient Centered Medical Home (PCMH) Program in ODH. The PCMH Program is established separately from the existing PCMH Education Program, and the ODH Director's authority to establish pilot projects that evaluate and implement the PCMH model of care under that program is eliminated. A PCMH model of care is an advanced model of primary care in which care teams attend to the multifaceted needs of patients, providing whole person comprehensive coordinated patient centered care.

Voluntary PCMH certification program

As part of the PCMH Program, ODH is required to establish a voluntary PCMH certification program.

Goals of PCMH Program

Through certification of PCMHs, ODH is to seek to do all of the following:

(1) Expand, enhance, and encourage the use of primary care providers, including primary care physicians, advanced practice registered nurses, and physician assistants, as personal clinicians;

(2) Develop a focus on delivering high-quality, efficient, and effective health care services;

(3) Encourage patient centered care and the provision of care that is appropriate for a patient's race, ethnicity, and language;

(4) Encourage the education and active participation of patients and patients' families or legal guardians, as appropriate, in decision making and care plan development;

(5) Provide patients with consistent, ongoing contact with a personal clinician or team of clinical professionals to ensure continuous and appropriate care;

(6) Ensure that PCMHs develop and maintain appropriate comprehensive care plans for patients with complex or chronic conditions, including an assessment of health risks and chronic conditions;

(7) Ensure that PCMHs plan for transition of care from youth to adult to senior;

(8) Enable and encourage use of a range of qualified health care professionals, including dedicated care coordinators, in a manner that enables those professionals to practice to the fullest extent of their professional licenses.

Certification requirements

A primary care practice that seeks PCMH certification must submit an application and pay any application fee ODH establishes. ODH may also require an annual renewal fee. If ODH establishes a fee, the fee must be in an amount sufficient to cover the cost of any on-site evaluations.

Each primary care practice with PCMH certification must do all of the following:

(1) Meet any standards developed by national independent accrediting and medical home organizations, as determined by ODH;

(2) Develop a systematic follow-up procedure for patients, including the use of health information technology and patient registries;[72]

(3) Implement and maintain health information technology that meets the requirements of federal law;[73]

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[72] According to the National Center for Biotechnology Information, U.S. National Library of Medicine, "patient registry" refers to an organized system that uses observational study methods to collect uniform data to evaluate specified outcomes for a population defined by a particular disease, condition, or exposure, and that serves one or more predetermined scientific, clinical, or policy purposes (www.ncbi.nlm.nih.gov/books/NBK49448/).

[73] 42 U.S.C. 300jj.

(4) Report to ODH health care quality and performance information, including any data necessary for monitoring compliance with certification standards and for evaluating the impact of PCMHs on health care quality, cost, and outcomes;

(5) Meet any process, outcome, and quality standards ODH specifies;

(6) Meet any other requirements ODH establishes.

Data collection

ODH is authorized to contract with a private entity to evaluate the effectiveness of certified PCMHs. ODH may provide to the entity any health care quality and performance information data that ODH has. ODH may also contract with national independent accrediting and medical home organizations to provide on-site evaluation of primary care practices and verification of data collected by ODH.

Report

The bill requires ODH to submit a report to the Governor and General Assembly evaluating the PCMH Program no later than three and five years after first establishing the standards and procedures for certifying a primary care practice as a PCMH, the types of medical practices that constitute primary care practices eligible for certification, and the health care quality and performance information that a certified PCMH must report to ODH.

Each of the reports must include all of the following:

(1) The number of patients receiving primary care services from certified PCMHs and the number and characteristics of those patients with complex or chronic conditions. To the extent available, information regarding the income, race, ethnicity, and language of the patients is to be included in the report;

(2) The number and geographic distribution of certified PCMHs;

(3) Performance of and quality of care measures implemented by certified PCMHs;

(4) Preventative care measures implemented by certified PCMHs;

(5) Payment arrangements of certified PCMHs;

(6) Costs related to implementation of the PCMH Program and payment of care coordination fees;

(7) The estimated effect of certified PCMHs on health disparities;

(8) The estimated savings from establishing the PCMH Program, as those savings apply to the fee for service, managed care, and state-based purchasing sectors.

Nursing facilities' plans of correction

(R.C. 5165.69)

Nursing facilities are required to undergo surveys to determine whether they continue to meet the requirements for certification to participate in the Medicaid program. Continuing law requires a nursing facility that receives a statement of deficiencies following a survey to submit to ODH a plan of correction for each finding cited in the statement. The bill requires a nursing facility's plan of correction to include additional information.

Under current law, a plan of correction must describe the actions the nursing facility will take to correct each finding and specify the date by which each finding will be corrected. In the case of a finding that existed during the period between two surveys and that the nursing facility substantially corrected before the second survey, a plan of correction must describe the actions that the facility took to correct the finding and the date on which it was corrected.

Under the bill, the part of a plan of correction that describes the actions the nursing facility will take to correct each finding must be detailed and include actions the facility will take to protect residents situated similarly to the residents affected by the causes of the findings. A plan of correction also must include both of the following:

(1) A detailed description of an ongoing monitoring and improvement process to be used at the nursing facility that is focused on preventing any recurrence of the causes of the findings;

(2) If the plan concerns a finding assigned a severity level indicating that a resident was harmed or that immediate jeopardy exists, (a) detailed analyses of the facts and circumstances of the finding, including identification of its root cause, (b) a detailed explanation of how the actions the nursing facility will take to correct the findings relate to the root cause of the finding, and (c) a detailed explanation of the relationship between the ongoing monitoring and improvement process and the root cause of the finding.

Current law requires ODH to approve a nursing facility's plan of correction, and any modification of an existing plan, that conforms to the requirements for approval established in federal regulations, guidelines, and procedures issued by the U.S. Secretary of Health and Human Services under federal Medicare and Medicaid Law.

The bill adds an extra condition for ODH approval: a plan of correction must include all the information that continuing law and the bill require.

The bill requires ODH to consult with the Ohio Departments of Medicaid and Aging and the Office of the State Long-Term Care Ombudsperson Program when determining whether a plan of correction concerning a finding assigned a severity level indicating that a resident was harmed or immediate jeopardy exists, or modification of such a plan, conforms to the requirements for approval.

Newborn screenings for critical congenital heart defects

(R.C. 3701.5010 and 3701.507)

The bill requires that each hospital and freestanding birthing center screen each newborn born in the hospital or center for critical congenital heart defects. Current law requires that all newborns be screened, through a blood sample, for 35 genetic, endocrine, and metabolic disorders. ODH is charged with administering the Newborn Screening Program with the assistance of the Newborn Screening Advisory Council.[74] Ohio law also requires that each hospital and each freestanding birthing center conduct a hearing screening on each newborn born in the hospital or center before discharge, unless the newborn is transferred to another hospital.[75] The Infant Hearing Screening Subcommittee of the Medically Handicapped Children's Medical Advisory Council consults with and makes recommendations to the ODH Director regarding newborn hearing screenings.

Under the bill, each hospital and freestanding birthing center must use a physiologic test to screen each newborn born in the hospital or center for critical congenital heart defects. The hospital or center must conduct the screening after the newborn reaches 24 hours of age but before discharge, unless the newborn is transferred to another hospital. In the case of a transfer, that hospital must perform the screening when determined to be medically appropriate. A hospital or center is prohibited from conducting the screening if the newborn's parent objects on religious grounds.

The bill requires that each hospital or center notify the following of the screening results: the newborn's parent, guardian, or custodian; the attending physician; and ODH. ODH is required to establish a statewide tracking system to ensure that universal critical congenital heart defects screening is implemented. The bill requires the ODH

[74] R.C. 3701.501, not in the bill.

[75] R.C. 3701.503 through 3701.506, 3701.508, and 3701.509, not in the bill.

Director to adopt rules establishing standards and procedures for the mandated screenings. The rules must address the following topics:

(1) Identifying the critical congenital heart defects to be included in the screening;

(2) Specifying screening equipment and methods;

(3) Designating the persons responsible for performing screenings and rescreenings;

(4) Providing notice to the newborn's parent, guardian, or custodian of the required screening and the possibility that rescreenings may be necessary;

(5) Communicating results to the newborn's parent, guardian, or custodian and attending physician;

(6) Causing rescreenings to be performed when initial screenings have abnormal results; and

(7) Referring newborns who receive abnormal results to providers of follow-up services.

Distribution of state household sewage treatment system permit fees

(R.C. 3718.06)

The bill reallocates the distribution of money collected from state household sewage treatment system installation and alteration permit fees as follows:

(1) Decreases the percentage allocated to fund installation and evaluation of sewage treatment new technology pilot projects from not less than 25% as provided in current law to not less than 10%; and

(2) Increases from not more than 75% to not more than 90% the percentage used by the ODH Director to administer and enforce the Household and Small Flow On-site Sewage Treatment Systems Law and rules adopted under it.

Requirements governing private water systems contractors

(R.C. 3701.344)

The bill revises the rules adopted by the ODH Director with which private water systems contractors must comply in order to do business in Ohio as follows:

(1) Adds that the rules must require those contractors to comply with competency testing and continuing education requirements; and

(2) Specifies that the rules must allow those contractors to provide other equivalent forms of proof of financial responsibility rather than only surety bonds as under current law.

Currently, a private water systems contractor, as a condition of doing business in Ohio, must annually register with, and comply with surety bonding requirements of, ODH. No such contractor is permitted to register if the contractor fails to comply with all applicable rules adopted by the ODH Director and the board of health of the city or general health district. The annual registration fee is $65, but it may be increased by the ODH Director by rule.

A private water system is any water system for the provision of water for human consumption if the system has fewer than 15 service connections and does not regularly serve an average of at least 25 individuals daily at least 60 days out of the year. A private water system includes any well, spring, cistern, pond, or hauled water and any equipment for the collection, transportation, filtration, disinfection, treatment, or storage of such water extending from and including the source of the water to the point of discharge from any pressure tank or other storage vessel; to the point of discharge from the water pump where no pressure tank or other storage vessel is present; or, in the case of multiple service connections serving more than one dwelling, to the point of discharge from each service connection. A private water system does not include the water service line extending from the point of discharge to a structure.

Ohio Cancer Incidence Surveillance System

(R.C. 3701.261, 3701.262, 3701.264, and 3701.99; R.C. 3701.263 (repealed))

The bill authorizes ODH to designate, by contract, a state university as an agent to implement the Ohio Cancer Incidence Surveillance System (OCISS). "State university" means the following: University of Akron, Bowling Green State University, Central State University, University of Cincinnati, Cleveland State University, Kent State University, Miami University, Ohio University, Ohio State University, Shawnee State University, University of Toledo, Wright State University, and Youngstown State University.

The OCISS is a population-based cancer registry established by the ODH Director that collects and analyzes cancer incidence data in Ohio. Each physician, dentist, hospital, or person providing diagnostic or treatment services to patients with cancer must report each case of cancer to ODH. ODH is required to record in the registry all reports of cancer it receives.

In implementing the OCISS, current law requires the ODH Director to:

-- Monitor the incidence of various types of malignant diseases in Ohio;

-- Make appropriate epidemiologic studies to determine any causal relations of such diseases with occupational, nutritional, environmental, or infectious conditions;

-- Alleviate or eliminate any of the conditions listed above;

-- Advise, consult, cooperate with, and assist federal, state, and local agencies, universities, private organizations, corporations, and associations; and

-- Accept and administer grants from the federal government or other sources.

Confidentiality of cancer reports

Current law includes confidentiality provisions that apply only to information on cancer provided to or obtained by a cancer registry and ODH. It specifies that this information is confidential and is to be used only for statistical, scientific, and medical research for the purpose of reducing the morbidity or mortality of malignant disease. The bill repeals this provision. However, both federal law and Ohio law unchanged by the bill include general provisions governing the confidentiality of protected health information.[76]

In general, protected health information reported to or obtained by ODH is confidential and cannot be released without the written consent of the individual who is the subject of the information, unless one of the following applies:

(1) The release of the information is necessary to provide treatment to the individual or to ensure the accuracy of the information and the information is released pursuant to a written agreement that requires the recipient of the information to comply with confidentiality requirements.

(2) The information is released pursuant to a search warrant or subpoena issued by or at the request of a grand jury or prosecutor in connection with a criminal investigation or prosecution.

(3) The ODH Director determines the release of the information is necessary to avert or mitigate a clear threat to an individual or to the public health to the extent necessary to control, prevent, or mitigate disease.

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[76] *See* the Health Insurance Portability and Accountability Act of 1996, 104 Pub. L. No. 191, 110 Stat. 2021, 42 U.S.C. 1320d *et seq*; 45 C.F.R. 16.304; and R.C. 3701.17, not in the bill.

Information that does not identify an individual is not protected health information and may be released in summary, statistical, or aggregate form.

Charges for copies of medical records

(R.C. 3701.741 and 3701.742)

The bill eliminates a requirement that adjustment to changes that may be imposed for copies of medical records be made not later than January 1 of each year. Current law specifies the amounts that may be charged for medical records, but provides for an annual adjustment based on the Consumer Price Index (CPI). Under the bill, amounts specified in statute plus any previous adjustments must be increased or decreased by the average percentage of increase or decrease in the CPI for the immediately preceding calendar year over the calendar year immediately preceding that year.

The bill eliminates a requirement that the ODH Director provide a list of the adjusted amounts on request but maintains a requirement that the list be available on ODH's Internet site.

Trauma center preparedness report

(R.C. 149.43; R.C. 3701.072 (repealed))

Under current law, the ODH Director must adopt rules requiring a trauma center to report to the ODH Director information on the center's preparedness and capacity to respond to disasters, mass casualties, and bioterrorism. The ODH Director is required to review the information and, after the review, may evaluate the center's preparedness and capacity. The bill eliminates the requirement that the ODH Director adopt those rules and the accompanying authority to evaluate the center's preparedness and capacity.

Council on Stroke Prevention and Education

(R.C. 3701.90, 3701.901, 3701.902, 3701.903, 3701.904, 3701.905, 3701.906, and 3701.907 (repealed))

The bill abolishes the Council on Stroke Prevention and Education, a council that was established within ODH in 2001 to do the following:

- Develop and implement a comprehensive statewide public education program on stroke prevention, targeted to high-risk populations and to geographic areas where there is a high incidence of stroke;

- Develop or compile for primary care physicians recommendations that address risk factors for stroke, appropriate screening for risk factors, early signs of stroke, and treatment strategies;

- Develop or compile for physicians and emergency health care providers recommendations on the initial treatment of stroke;

- Develop or compile for physicians and other health care providers recommendations on the long-term treatment of stroke;

- Develop or compile for physicians, long-term care providers, and rehabilitation providers recommendations on rehabilitation of stroke patients; and

- Take other actions consistent with the purpose of the council.

The Council was required to meet at least once annually, at the call of the chair, to review and make amendments as necessary to the recommendations developed or compiled by the Council.

System for Award Management web site

(R.C. 3701.881)

Continuing law requires an individual to undergo a database review as part of a criminal records check if the individual is under final consideration for employment with (or is referred by an employment service to) a home health agency in a full-time, part-time, or temporary position that involves providing direct care to an individual. The ODH Director is permitted to adopt rules also requiring individuals already employed by (or referred to) home health agencies in such positions to undergo the database reviews. A home health agency is a person or government entity (other than a nursing home, residential care facility, hospice care program, or pediatric respite care program) that has the primary function of providing certain services, such as skilled nursing care and physical therapy, to a patient at a place of residence used as the patient's home.

Continuing law specifies various databases that are to be checked as part of a database review. The ODH Director is permitted to specify additional databases in rules. The Excluded Parties List System is one of the databases specified in statute. It is maintained by the U.S. General Services Administration. The bill specifies that the Excluded Parties List System is available at the federal web site known as the System for Award Management.

- Extends the position of the Deputy Inspector General for funds received through the American Recovery and Reinvestment Act of 2009, which currently expires on September 30, 2013, through June 30, 2014.

Deputy Inspector General

(R.C. 121.53 (not in the bill) and Section 105.05 of Am. Sub. H.B. 2 of the 128th General Assembly; Sections 620.10 and 620.11)

The bill extends the position of the Deputy Inspector General for funds received through the American Recovery and Reinvestment Act of 2009 (ARRA) through June 30, 2014. The position currently is scheduled to be eliminated on September 30, 2013.

The Deputy Inspector General for funds received through the ARRA is responsible for monitoring state agencies' distribution of the federal economic stimulus funds the agencies received under the ARRA and for investigating any wrongful acts or omissions committed with respect to those funds. The Deputy Inspector General for funds received through the ARRA also conducts random reviews of the processing of contracts funded with money received under the ARRA.

- Limits agent appointment and agent appointment renewal fees charged by the Department of Insurance to not more than $20 and terminates the $5 agent appointment termination fee.

Agent appointment renewal fee

(R.C. 3905.40 and 3905.862)

Continuing law prescribes fees for services and certifications provided by the Department of Insurance (INS). The bill limits agent appointment and agent appointment renewal fees that INS may charge to not more than $20, as opposed to the current fee of $20. It also abolishes the agent appointment termination fee of $5 and makes conforming changes.

DEPARTMENT OF JOB AND FAMILY SERVICES

Child care

- Changes the periodic criminal records check required for certain child care providers from every four to every five years.

- Permits the Ohio Department of Job and Family Services (ODJFS) Director to issue a child care license or provisional license to an applicant whose type B family day-care home certificate was revoked, if the revocation occurred more than five years before applying for the license.

- Requires a county department of job and family services (CDJFS), as part of the certification process for type B homes, to request from the public children services agency (PCSA) (rather than ODJFS) information concerning abuse or neglect reports.

- Permits ODJFS to issue a child care license to a youth development center that applies for and meets the requirements for the license.

- Requires ODJFS to establish the Ohio Electronic Child Care System to track attendance and calculate payments for publicly funded child care and requires all publicly funded child care providers to participate in the system.

Child welfare

- Requires a private child placing agency or private noncustodial agency seeking renewal of a certificate of fitness issued by ODJFS to provide ODJFS evidence of an independent financial statement audit performed by a licensed public accounting firm following applicable American Institute of Certified Public Accountants auditing standards for the most recent fiscal year (initial renewal) or the two most recent previous fiscal years (subsequent renewal).

- Removes the requirement that a private child placing agency or private noncustodial agency, as a condition of renewal of a certificate of fitness, provide ODJFS with evidence of an independent audit of its first year of certification (initial renewal) or the two most recent fiscal years it is possible to have such an audit (subsequent renewal) unless an audit by the State Auditor during that year sets forth that no money has been illegally expended, concerted, misappropriated, or is unaccounted for or sets forth findings that are inconsequential as defined by government auditing standards.

- Removes the requirement that for a private child placing agency or private noncustodial agency to be eligible for renewal the independent audit demonstrate

that the agency operated in a fiscally accountable manner in accordance with state laws and rules and any agreement between the agency and a public children services agency.

- Removes the requirement that all audits be conducted in accordance with generally accepted government auditing standards and instead requires that the independent audits demonstrate that the agency operated in a fiscally accountable manner as determined by ODJFS.

- Allows ODJFS to adopt rules in accordance with R.C. 111.15 as necessary to implement the above-described dot points.

Child Support

- Revises the frequency of publication by the Office of Child Support in ODJFS of a set of posters of delinquent child support obligors who cannot be located from not less than twice annually to annually and makes it discretionary for the Office to publish the poster.

- Relieves an employer of the obligation to make a new hire report to the ODJFS when an employee is rehired after a period of separation from employment of less than 60 days.

Child care

Regulation of child care: background

(R.C. 3301.51 to 3301.59 (not in the bill); R.C. Chapter 5104.)

The Ohio Department of Job and Family Services (ODJFS) and county departments of job and family services (CDJFSs) are responsible for the regulation of child care providers, other than preschool programs and school child programs, which are regulated by the Ohio Department of Education (ODE). Child care consists of administering to the needs of infants, toddlers, preschool-age children, and school-age children outside of school hours for any part of the 24-hour day in a place or residence other than a child's own home.

Child care can be provided in a facility, the home of the provider, or the child's home. Not all child care providers are subject to regulation, but a provider must be licensed or certified to be eligible to provide publicly funded child care. The distinctions among the types of providers are described in the table below.

Child Care Providers		
Type	**Description/Number of children served**	**Regulatory system**
Child day-care center	Any place in which child care is provided as follows: --For 13 or more children at one time; or --For 7-12 children at one time if the place is not the permanent residence of the licensee or administrator (which is, instead, a type A home).	A child day-care center must be licensed by ODJFS, regardless of whether it provides publicly funded child care.
Family day-care home	**Type A home** – a permanent residence of an administrator in which child care is provided as follows: --For 7-12 children at one time; or --For 4-12 children at one time if 4 or more are under age 2. **Type B home** – a permanent residence of the provider in which child care is provided as follows: --For 1-6 children at one time; and --No more than 3 children at one time under age 2.	A type A home must be licensed by ODJFS, regardless of whether it provides publicly funded child care. To be eligible to provide publicly funded child care, a type B home must be certified by a CDJFS or, beginning January 1, 2014, licensed by ODJFS.
In-home aide	A person who provides child care in a child's home but does not reside with the child.	To be eligible to provide publicly funded child care, an in-home aide must be certified by a CDJFS.

Child care licensing

Criminal records checks for child care providers

(R.C. 5104.012 and 5104.013; Sections 110.20, 110.21, and 110.22)

ODJFS is required by current law to request a criminal records check of the following persons: (1) the owner, licensee, or administrator of a child day-care center, (2) the owner, licensee, or administrator of a type A family day-care home and any person 18 years of age or older who lives in a type A home, and (3) beginning January 1, 2014, the administrator of a licensed type B family day-care home and any person age 18 or older who lives in the home. In addition, a CDJFS is required to request a criminal records check of the following persons: (1) until January 1, 2014, an authorized provider of a certified type B family day-care home and any person age 18 or older who resides in the home, and (2) beginning January 1, 2014, an in-home aide. An administrator of a

child day-care center or type A home must request a criminal records check of any applicant who has applied for employment as a person responsible for the care, custody, or control of a child.

Current law specifies that the criminal records checks for all of the specified persons must be requested at the time of the initial application for licensure, certification, or employment and every four years thereafter. The bill requires instead that the criminal records checks be requested on initial application and every ***five*** years thereafter.

Restriction on licensure for applicants with a prior revocation

(R.C. 5104.03)

Current law prohibits the ODJFS Director from issuing a license or provisional license for a child day-care center or type A home if the Director determines, based on documentation from the CDJFS, that the applicant previously had been certified as a type B family day-care home, that the CDJFS revoked that certification, that the revocation was based on the applicant's refusal or inability to comply with criteria for certification, and that the refusal or inability resulted in a risk to the health or safety of children.

The bill maintains this restriction, but only if the revocation occurred less than five years before applying for the license.

Requests for information from the Statewide Automated Child Welfare Information System (SACWIS)

(R.C. 5104.11)

As part of the requirements for certification of type B homes, current law requires that a CDJFS request from the public children services agency (PCSA) (until SACWIS is finalized statewide) or ODJFS (once SACWIS is finalized statewide) information concerning any abuse or neglect report of which the applicant for a type B home certification, any other adult residing in the applicant's home, or a person designated by the applicant to be an emergency or substitute caregiver is the subject. The bill provides that the CDJFS request this information from only the PCSA.

Authority to revoke a type B home certificate

(R.C. 5104.11 and 5104.12)

Under current law, a CDJFS director may revoke a type B home or in-home aide certificate after determining that the revocation is necessary. The bill provides instead

that a CDJFS director may revoke such a certificate (1) if the director determines, pursuant to rules adopted under the Administrative Procedure Act, that revocation is necessary or (2) if the authorized provider or in-home aide does not participate in the Ohio Electronic Child Care System (Ohio ECC) or violates certain prohibitions regarding Ohio ECC.

Licensure of youth development programs

(R.C. 5104.02 and 5104.021)

Under current law, youth development programs operated outside of school hours by a community-based center are exempt from child care licensure laws if all of the following apply:

(1) The children enrolled in the program are under age 19 and enrolled in or eligible to be enrolled in a grade of kindergarten or above;

(2) The program provides informal child care and at least two of the following supervised activities: educational, recreational, culturally enriching, social, and personal development activities;

(3) The program is eligible for participation in the child and adult care food program as an outside-school-hours care center pursuant to standards established by ODE;

(4) The community-based center is operating the program under the charitable exemption from federal income taxation.

The ODJFS Director currently is prohibited from issuing a child day-care center or type A home license to these youth development programs. The bill permits the ODJFS Director to issue a child day-care center or type A home license to a youth development program that is exempt from the child care licensure law if the program applies for and meets all of the requirements for the license. It clarifies that "informal child care" refers to child care that does not require parental signature, permission, or notice for the child receiving the care to enter or leave the program. The bill removes the restriction that the program must provide at least two of the activities described in (2) above.

Publicly funded child care

Ohio Electronic Child Care System

(R.C. 5104.32 (primary), 5104.11, and 5104.12; Sections 110.20, 110.21, and 110.22)

During fiscal years 2012 and 2013, Am. Sub. H.B. 153 of the 129th General Assembly (the main operating appropriations act) required that, if ODJFS implements a program that uses a swipe card system and point-of-service device to track attendance and submit invoices for payment for publicly funded child care, (1) misuse of the system by a provider participating in the program is a reason for which the provider's license or certification may be subject to revocation and (2) misuse of the system by a caretaker parent participating in the program is a reason for which the parent may lose eligibility for publicly funded child care.

The bill requires ODJFS to establish Ohio ECC to track attendance and calculate payments for publicly funded child care. It requires that all child care providers seeking to provide publicly funded child care participate in Ohio ECC. A provider participating in Ohio ECC may not use or possess an electronic child care card issued to a caretaker parent, falsify attendance records, knowingly seek payment for publicly funded child care that was not provided, or knowingly accept reimbursement for publicly funded child care that was not provided.

Child welfare

Audit prior to renewal of certificate

(R.C. 5103.0323; R.C. 5103.03 (not in the bill))

Current law requires ODJFS every two years to pass upon the fitness of every institution and association that receives, or desires to receive and care for children, or places children in private homes. These institutions and associations include a private child placing agency or a private noncustodial agency. When ODJFS is satisfied as to the care given such children and that the requirements of the statutes and rules covering the management of such institutions and associations are being complied with, ODJFS must issue a certificate to that effect to the institution or association. Under existing law, a private child placing agency or private noncustodial agency that seeks renewal of that certificate, as a condition of renewal, must provide ODJFS evidence of an independent audit of its first year of certification (initial renewal) or the two most recent years (subsequent renewal) it is possible to have such an audit unless the State Auditor has audited the agency during that year or years and the audit sets forth that no money has been illegally expended, converted, misappropriated, or is unaccounted for or sets forth findings that are inconsequential, as defined by government auditing

standards. The bill repeals this requirement and instead requires such an agency, as a condition of renewal, to provide ODJFS evidence of an independent financial statement audit performed by a licensed public accounting firm following applicable American Institute of Certified Public Accountants auditing standards for the most recent fiscal year for the first recertification or for the two most recent previous years it is possible to have such an audit for any subsequent recertifications.

The bill removes the requirement that, for an agency to be eligible for renewal, the independent audit demonstrate that the agency operated in a fiscally accountable manner in accordance with state laws and rules and any agreement between the agency and a public children services agency and that all audits must be conducted in accordance with generally accepted government auditing standards. The bill instead requires that the independent audits demonstrate that the agency operated in a fiscally accountable manner as determined by ODJFS and provides that the ODJFS Director may adopt in accordance with R.C. 111.15 rules as necessary to implement the above-described provisions.

The bill removes the term "government auditing standards," defined as the government auditing standards published by the comptroller general of the U.S. General Accounting Office and replaces it with "American Institute of Certified Public Accountants auditing standards," defined as the auditing standards published by the American Institute of Certified Public Accountants.

Child support

Poster of delinquent child support obligors

(R.C. 3123.958)

The bill authorizes, instead of requires as under current law, the Office of Child Support in ODJFS to publish throughout the state a set of posters of delinquent child support obligors who cannot be located. The set of posters may be published annually instead of not less than twice annually as under current law.

Conditions for filing a new hire report

(R.C. 3121.89 and 3121.891; conforming changes to R.C. 3121.892 and 3121.893)

The bill requires every employer to make a new hire report to ODJFS regarding a "newly hired employee" who resides, works, or will be assigned to work in Ohio and to whom the employer anticipates paying compensation. The bill defines a newly hired employee as either of the following: (1) an employee who has not previously been employed by the employer, or (2) an employee who was previously employed by an

employer but has been separated from that prior employment for at least 60 consecutive days. Current law requires every employer to make a new hire report to ODJFS regarding the hiring, rehiring, or return to work as an employee, of a person who resides, works, or will be assigned to work in Ohio to whom the employer anticipates paying compensation, but does *not* make an exception for an employee who was previously employed by an employer and has been separated from that employment for less than 60 consecutive days. Continuing law requires every employer to make a new hire report to ODJFS with regard to contractors.

- Includes the percentage dispersed to the State Lottery Commission for the purpose of providing funding support to appropriate state agencies for programs that provide for gambling addiction and other related addiction services in the total for which the maximum cannot exceed 45% of the total video lottery terminal income.

- Amends the requirement that the Commission adopt a rule related to a portion of lottery sales agent's commission being dispersed to the Commission for gambling addiction and other related addiction services from "beginning July 1, 2013," to "by July 1, 2013."

- Requires one person appointed as a member of the Commission to have experience or training in the areas of problem gambling or other addictions and in assistance to recovering gambling or other addicts.

- Removes the option that a lottery sales agent mail directly to the Commission net proceeds due to the Commission.

- Removes the requirement that a lottery sales agent file with the Director of the Commission or the Director's designee reports of their receipts and transactions in the sale of lottery tickets in the form required by the Director.

Video lottery terminal income

(R.C. 3769.087)

The bill

The bill includes the percentage dispersed to the State Lottery Commission for the purpose of providing funding support to appropriate state agencies for programs that provide for gambling addiction and other related addiction services in the total for which the maximum cannot exceed 45% of the total video lottery terminal income.[77] Therefore, under the bill, the aggregate of 100% of video lottery terminal income minus the lottery sales agent's commission plus the percentage of the lottery sale agent's commission determined or agreed to be used for the benefit of breeding and racing in Ohio *plus* the percentage dispersed to the Commission for the purpose of providing

[77] "Video lottery terminal income" means credits played, minus approved video lottery terminal promotional gaming credits, minus video lottery prize awards (R.C. 3770.21(A)(3)).

funding support to appropriate state agencies for programs that provide for gambling addiction and other related addiction services must not exceed 45% of the video lottery terminal income.

The bill also amends the requirement that the Commission adopt a rule related to a portion of lottery sales agent's commission being dispersed to the Commission for gambling addiction and other related addiction services from "beginning July 1, 2013," to "by July 1, 2013."

Background

Under continuing law, a person with a horse racing permit may become licensed to be a video lottery sales agent in order to conduct video lottery terminal gaming on behalf of the state.[78] The State Lottery Commission determines by rule a commission that a video lottery sales agent must receive.[79] Additionally, unless otherwise agreed to by the video lottery sales agent and the applicable horsemen's association, the State Racing Commission can direct by rule that a percentage of the lottery sales agent's commission be paid to the State Racing Commission for the benefit of breeding and racing in Ohio. That percentage must not be less than 9% or more than 11% of the video lottery terminal income. Currently, the aggregate of 100% of video lottery terminal income minus the lottery sales agent's commission plus the percentage of the lottery sale agent's commission determined or agreed to be used for the benefit of breeding and racing in Ohio must not exceed 45% of the video lottery terminal income.

Ongoing law requires the State Lottery Commission to adopt a rule to require the lottery sales agent to disperse to the Commission ½ of 1% of a lottery sales agent's commission to provide funding support to appropriate state agencies for programs that provide for gambling addiction and other related addiction services. The rule also can require the lottery sales agent to disperse to the Commission an additional amount up to ½ of 1% of the lottery sales agent's commission for that purpose.

Commission membership

(R.C. 3770.01)

The bill requires one person appointed as a member of the State Lottery Commission to have experience or training in the areas of problem gambling or other addictions and in assistance to recovering gambling or other addicts. Unlike the other

[78] *See* R.C. 3770.21 and O.A.C. 3769-1-05.

[79] *See* R.C. 3770.03 and O.A.C. 3770:2-3-08.

members of the commission, this member is not required to have prior experience or education in business administration, management, sales, marketing, or advertising.

Under current law, this member must represent an organization that deals with problem gambling and assists recovering gambling addicts.

Lottery sales agents requirements

(R.C. 3770.02)

The bill requires, under rules adopted by the State Lottery Commission, the Director of the Commission to require lottery sales agents to deposit to the credit of the State Lottery Fund, in banking institutions designated by the Treasurer of State, net proceeds due the Commission as determined by the Director. Currently, lottery sales agents may either mail the net proceeds directly to the Commission or deposit them in designated banking institutions. Therefore, the bill removes the option of mailing net proceeds directly to the Commission.

Additionally, the bill removes the requirement that lottery sales agents must file with the Director or the Director's designee reports of their receipts and transactions in the sale of lottery tickets in the form required by the Director.

DEPARTMENT OF MEDICAID

Creation of the Ohio Department of Medicaid

- Creates the Ohio Department of Medicaid (ODM).
- Makes the Medicaid Director (ODM Director) the executive head of ODM.
- Gives ODM and the ODM Director many of the same types of responsibilities and authorities as the Ohio Department of Job and Family Services (ODJFS) and the ODJFS Director have regarding administrative and program matters.
- Transfers responsibility for the state-level administration of medical assistance programs (Medicaid, Children's Health Insurance Program (CHIP), and Refugee Medical Assistance (RMA)) to ODM from ODJFS's Office of Medical Assistance.
- Makes CHIP and the RMA program subject to general requirements applicable to Medicaid, including requirements regarding third party liability, ODM's automatic right of recovery, automatic assignment of the right to medical support, the right of subrogation to ODM for any Workers' Compensation benefits payable to a person subject to a support order, and the rights of applicants, recipients, and former recipients to administrative appeals.
- Provides that the creation of ODM and reassignment of the functions and duties of ODJFS's Office of Medical Assistance regarding medical assistance programs are not appropriate subjects for public employees' collective bargaining.
- Authorizes the ODM Director, during the period beginning July 1, 2013, and ending June 30, 2015, to establish, change, and abolish positions for ODM, and to assign, reassign, classify, reclassify, transfer, reduce, promote, or demote all ODM employees who are not subject to state law governing public employees' collective bargaining.
- Authorizes the ODJFS Director, during the period beginning July 1, 2013, and ending June 30, 2015, and as part of the transfer of medical assistance programs to ODM, to establish, change, and abolish positions for ODJFS, and to assign, reassign, classify, reclassify, transfer, reduce, promote, or demote all ODJFS employees who are not subject to state law governing public employees' collective bargaining.
- Relocates and reorganizes provisions of the Revised Code governing medical assistance programs as part of the creation of ODM and the transfer of programs to ODM.

Mandatory and optional eligibility groups

- Requires Medicaid to cover all mandatory eligibility groups.

- Permits Medicaid to cover optional eligibility groups.

Medicaid expansion

- Regarding the eligibility group authorized by the Patient Protection and Affordable Care Act that is popularly known as the Medicaid expansion and consists of individuals who are under age 65, not pregnant, not entitled to (or enrolled for) benefits under Medicare Part A, not enrolled for benefits under Medicare Part B, not otherwise eligible for Medicaid, and have incomes not exceeding 138% of the federal poverty line, expressly permits Medicaid to cover the group or one or more subgroups if the amount of the enhanced federal match available for the group or subgroup is at least the amount specified in federal law as of March 30, 2010.

- Requires Medicaid to cease to cover the Medicaid expansion group, and any subgroup, if the amount of the federal match available for the group or subgroup is reduced below the amount specified in federal law as of March 30, 2010.

- Permits the ODM Director, if federal law or the U.S. Department of Health and Human Services requires the state to reduce or eliminate any tax, to (1) terminate Medicaid's coverage of the Medicaid expansion group and any subgroup or (2) alter the eligibility requirements for the Medicaid expansion group or subgroup in a manner that causes fewer individuals to meet the eligibility requirements.

- Requires ODM, if Medicaid covers the expansion group or a subgroup, to establish cost-sharing requirements for members of the group or subgroup who are at least 18 years old and have countable income exceeding 100% of the federal poverty line.

209(b) option

- Expressly permits Medicaid's eligibility requirements for aged, blind, and disabled individuals to continue to be more restrictive than the eligibility requirements for the Supplemental Security Income (SSI) program as authorized by the federal law known as the 209(b) option.

Alterations to and elimination of eligibility groups

- Permits the ODM Director to alter the eligibility requirements for, and terminate Medicaid's coverage of, one or more optional eligibility groups or subgroups beginning January 1, 2014.

- Repeals the law that requires Medicaid to cover the optional eligibility group consisting of uninsured women in need of treatment for breast or cervical cancer.

- Repeals the law that requires Medicaid to cover the optional eligibility group consisting of individuals under age 21 who have aged out of the foster care system.

- Repeals the law that requires Medicaid to cover the optional eligibility category consisting of pregnant women who are presumptively eligible for Medicaid.

- Repeals the law that requires Medicaid to cover the optional eligibility category consisting of children who are presumptively eligible for Medicaid.

- Repeals the law that requires Medicaid to cover children in the custody of certified public or private nonprofit agencies or institutions or whose adoptions are subsidized.

- Repeals the law that requires Medicaid to cover residential parents with family incomes not exceeding 90% of the federal poverty line.

- Repeals the law that requires Medicaid to cover pregnant women with family incomes at or below 200% of the federal poverty line.

- Repeals the law that requires Medicaid to include the Medicaid Buy-In for Workers with Disabilities program.

- Repeals the law that requires Medicaid to cover SSI recipients whose money payments are discontinued as a result of an increase in Social Security Old Age, Survivors, and Disability Insurance benefits.

- Repeals the law that expressly permits Medicaid to cover, for up to 12 months, individuals who lose eligibility for Ohio Works First due to increased income from employment.

- Repeals the law that expressly permits the Medicaid program to cover various other groups of individuals, including families with children that meet eligibility requirements for the former Aid to Dependent Children program and individuals under age 19 with family incomes not exceeding 150% of the federal poverty line.

- Repeals the law that requires the values of certain tuition payment contracts, scholarships, and payments made by the Ohio Tuition Trust Authority to be excluded from Medicaid eligibility determinations.

- Provides that, notwithstanding the repeals discussed above, no individual eligible for Medicaid pursuant to those laws is to lose Medicaid eligibility before January 1, 2014, due to the repeals.

Maintenance of effort requirement

- Repeals the law that requires Medicaid to comply with the federal maintenance of effort requirement regarding Medicaid eligibility.

Reduction in complexity

- Repeals the law that requires a reduction in the complexity of the eligibility determination processes for Medicaid caused by the different income and resource standards for numerous Medicaid eligibility categories.

Copies of trust instruments

- Requires a Medicaid applicant or recipient who is a beneficiary of a trust to submit a complete copy of the trust instrument to the relevant county department of job and family services (CDJFS) and ODM and specifies that the copies are confidential and not public records.

Third-party payers

- Requires a medical assistance recipient and the recipient's attorney, if any, to cooperate with each of the recipient's medical providers by disclosing third-party payer information to the providers, specifies liability for failure to make those disclosures, and clarifies who must be notified about recovery actions.

- On or after January 1, 2014, authorizes ODM to assign to a provider its right of recovery against a third party for a claim for medical assistance if ODM notifies the provider that ODM intends to recoup ODM's prior payment for the claim.

- Requires a third party, if ODM makes such an assignment, to do both of the following: (1) treat the provider as ODM, and (2) pay the provider the greater of (a) the amount ODM intends to recoup from the provider for the claim, or (b) the amount that is to be paid under an agreement between the third party and the provider.

Provider agreements

- Requires all Medicaid provider agreements to be time-limited.

- Eliminates the phase-in period for subjecting Medicaid provider agreements to time limits.

- Provides that Medicaid provider agreements expire after a maximum of five (rather than seven) years.

- Requires that rules regarding time-limited Medicaid provider agreements be consistent with federal regulations governing provider screening and enrollment and include a process for revalidating providers' continued enrollment as providers rather than a process for re-enrolling providers.

- Requires ODM to refuse to revalidate a Medicaid provider agreement if the provider fails to file a complete application for revalidation within the time and in the manner required by the revalidation process or to provide required supporting documentation not later than 30 days after the date the provider timely applies for revalidation.

- Provides that, if a provider continues operating under the terms of an expired Medicaid provider agreement while waiting for ODM to decide whether to revalidate the provider's provider agreement and ODM ultimately decides against revalidation, Medicaid payments are not to be made for services provided during the period beginning on the date the provider agreement expires and ending on the effective date of a subsequent provider agreement, if any, ODM enters into with the provider.

- Provides that ODM is not required to issue an adjudication order in accordance with the Administrative Procedure Act when it (1) denies an application for a Medicaid provider agreement because the application is not complete or (2) unless the provider is a nursing facility or intermediate care facility for individuals with intellectual disabilities (ICF/IID), refuses to revalidate a provider agreement because the provider fails to file a complete application for revalidation within the required time and in the required manner or fails to provide required supporting documentation within the required time.

- Clarifies that the requirement to pay an application fee for a Medicaid provider agreement applies to former providers that seek re-enrollment as providers as well as providers seeking initial provider agreements or revalidation.

- Provides that application fees are nonrefundable when collected in accordance with a federal regulation governing such fees.

Criminal records checks

- Permits an individual to be any of the following despite having been found eligible for intervention in lieu of conviction for certain disqualifying offenses: (1) a Medicaid provider, (2) an owner, officer, or board member of a Medicaid provider, and (3) with certain exceptions, an employee of a Medicaid provider.

- Permits the following individuals to receive the results of a criminal records check: (1) an individual deciding whether to receive services from the subject of the criminal records check when the subject is an independent provider of home and community-based services covered by an ODM-administered Medicaid waiver program, (2) an individual receiving or deciding whether to receive services from the subject of the criminal records check when the subject is an employee of an agency providing home and community-based services covered by an ODM-administered Medicaid waiver program, and (3) an individual receiving or deciding whether to receive services from the subject of the criminal records check when the subject is a provider, or employee of a provider, of home and community-based services covered by the Medicaid state plan.

Dispensing fee

- Sets the Medicaid dispensing fee for noncompounded drugs at $1.80 for the period beginning July 1, 2013, and ending on the effective date of a rule changing the amount of the fee.

- Effective July 1, 2014, provides that the survey used under current law to set the Medicaid drug dispensing fee applies to only Medicaid-participating terminal distributors of dangerous drugs (rather than all retail pharmacy operations).

- Requires each terminal distributor that is a Medicaid provider to participate in the survey and provides that survey responses are confidential and not a public record.

- Requires the ODM Director, when establishing the Medicaid dispensing fee, to consider the extent to which each terminal distributor participates in Medicaid as a provider.

- Provides for the Medicaid dispensing fee established in December of each even-numbered year to take effect the following July, rather than the following January.

Miscellaneous payment rates

- Requires that the ODM Director, not earlier than January 1, 2014, reduce Medicaid payment rates for certain outpatient radiological services when repeated during the

same treatment session, establish varying payment rates for physician services based on the location of the services, and align Medicaid payment methodologies with Medicare payment methodologies.

- Requires the ODM Director to rescind a rule regarding Medicaid payments to physician groups acting as outpatient hospital clinics.

- Establishes Medicaid payment amounts for noninstitutional services provided (from January 1, 2014 to July 1, 2015) to a dual eligible individual enrolled in Medicare Part B.

- Provides that specified persons are not eligible for Medicaid payments for providing certain nursing, home health aide, or private duty nursing services to the Medicaid recipient unless conditions specified by the ODM Director are met.

Mental health services

- During fiscal years 2014 and 2015, permits Medicaid to cover inpatient psychiatric hospital services provided by psychiatric residential treatment facilities to Medicaid recipients under age 21 who are in the custody of the Ohio Department of Youth Services (ODYS) and have been identified as meeting a clinical criterion of serious emotional disturbance.

- Provides, for fiscal years 2014 and 2015, that a Medicaid recipient under age 21 automatically satisfies all requirements for any prior authorization process for community mental health services provided under a Medicaid component administered by the Ohio Department of Mental Health and Addiction Services (ODMHAS) if the child meets certain requirements related to being an abused, neglected, dependent, unruly, or delinquent child.

Home health

- Authorizes ODM to review Medicaid-covered home health nursing services, home health aide services, and private duty nursing services to improve efficiency and individual care in long-term care services.

Wheelchair services

- Beginning with fiscal year 2015, (1) excludes custom wheelchair costs from the costs for bundled services included in the direct care costs that are part of nursing facilities' Medicaid-allowable costs and (2) reduces to $1.56 (from $1.88) the amount added, because of bundled services, to Medicaid rates paid for direct care costs.

- Requires the ODM Director, for fiscal year 2015, to implement strategies for purchasing wheelchairs for Medicaid recipients residing in nursing facilities.

Nursing facility services

- For the purpose of determining the Medicaid payment rates for nursing facilities located in Mahoning and Stark counties for services provided during the period beginning October 1, 2013, and ending on the first day of the first rebasing of the rates, provides for the nursing facilities to be treated as if they were in the peer group that includes such urban counties as Cuyahoga, Franklin, and Montgomery counties.

- Provides for nursing facilities located in Mahoning and Stark counties to be placed in the peer groups that include such urban counties as Cuyahoga, Franklin, and Montgomery counties when ODM first rebases nursing facilities' Medicaid payment rates.

- Revises the accountability measures that are used in determining nursing facilities' quality incentive payments under the Medicaid program for fiscal year 2015 and thereafter.

- Specifies a lower maximum quality incentive payment ($13.16 rather than $16.44 per Medicaid day) starting in fiscal year 2015 for nursing facilities that fail to meet at least one of the accountability measures regarding pain, pressure ulcers, physical restraints, urinary tract infections, and vaccinations.

- Establishes the following additional requirement for a nursing facility to qualify for a critical access incentive payment under Medicaid for a fiscal year: the nursing facility must have been awarded at least five points for meeting accountability measures and at least one of the points must have been for meeting specific accountability measures.

- Specifies the Medicaid cost report to be used to determine the occupancy rate used in setting a nursing facility's Medicaid rate for a reserved bed.

- Permits the ODM Director to establish as a Medicaid waiver program an alternative purchasing model for nursing facility services provided to Medicaid recipients with specialized health care needs during the period beginning July 1, 2013, and ending July 1, 2015.

- Requires ODM to terminate a nursing facility's Medicaid participation if the nursing facility is placed on the federal Special Facility Focus (SFF) list and fails to make improvements or graduate from the SFF program within certain periods of time.

- Permits ODM to conduct post-payment reviews of nursing facilities' Medicaid claims to determine whether overpayments have been made and requires nursing facilities to refund overpayments discovered by the reviews.

- Increases the monthly personal needs allowance for Medicaid recipients residing in nursing facilities.

Home and community-based services

- For fiscal years 2014 and 2015 authorizes the ODM Director to contract with a person or government entity to collect patient liabilities for home and community-based services available under a Medicaid waiver component.

- Permits the ODM Director to create, as part of the Integrated Care Delivery System (ICDS), a Medicaid waiver program providing home and community-based services.

- Provides for eligible ICDS participants to be enrolled in the ICDS Medicaid waiver program instead of in any of the following: (1) the Medicaid-funded component of the PASSPORT program, (2) the Choices program, (3) the Medicaid-funded component of the Assisted Living program, (4) the Ohio Home Care program, and (5) the Ohio Transitions II Aging Carve-Out program.

- Requires the ODM Director to have the following additional Medicaid waiver programs cover home care attendant services: the Medicaid-funded component of the PASSPORT program and the ICDS Medicaid waiver program.

- During fiscal years 2014 and 2015, permits Medicaid to cover state plan home and community-based services for Medicaid recipients of any age who have behavioral health issues and countable incomes not exceeding 150% of the federal poverty line.

- Addresses administration issues regarding termination of waiver programs.

Medicaid managed care

- Beginning January 1, 2014, prohibits the hospital inpatient capital payment portion of the payment made to Medicaid managed care organizations from exceeding any maximum rate that the ODM Director may establish in rules, and prohibits the organizations from compensating hospitals for inpatient capital costs in an amount that exceeds that rate.

- Provides that an agreement entered into between a Medicaid managed care participant, a participant's parent, or a participant's legal guardian that violates Ohio law regarding payment for emergency services is void and unenforceable.

- Beginning January 1, 2014, modifies provisions governing Medicaid payments for graduate medical education (GME) costs by (1) requiring the ODM Director to adopt rules that govern the allocation of payments for GME costs, and (2) eliminating provisions specifying how payments for GME costs are made under the Medicaid managed care system.

- Establishes 2% (an increase from 1%) as the maximum total amount of all Medicaid managed care premiums that may be withheld for the purpose of making performance payments to Medicaid managed care organizations through the Medicaid Managed Care Performance Fund.

- Modifies the uses of the Medicaid Managed Care Performance Payment Fund by (1) permitting, rather than requiring, amounts in the fund to be used to make performance payments and (2) permitting amounts to be used to meet provider agreement obligations or to pay for Medicaid services provided by a Medicaid managed care organization.

- For fiscal years 2014 and 2015, permits ODM to provide performance payments to Medicaid managed care organizations that provide care to participants of the Dual Eligible Integrated Care Demonstration Project, and requires ODM to withhold a percentage of the premium payments made to the organizations for the purpose of providing the performance payments.

- Permits, rather than requires, ODM to recognize pediatric accountable care organizations that provide care coordination and other services under the Medicaid care management system to individuals under age 21 who are blind or disabled.

- Extends the period during which certain aged, blind, or disabled individuals receiving services through the Bureau for Children with Medical Handicaps (BCMH) are excluded from being permitted or required to participate in the Medicaid care management system.

Sources of Medicaid revenues

- Replaces the specific dollar amounts used for the franchise permit fee on nursing homes and hospital long-term care units with a formula for determining the amount of the franchise permit fee rate.

- Continues, for two additional years, both of the following: (1) the Hospital Care Assurance Program (HCAP) and (2) the assessments imposed on hospitals for purposes of obtaining funds for the Medicaid program.

- Requires ODM to continue the existing Hospital Inpatient and Outpatient Supplemental Upper Payment Limit Program to provide supplemental Medicaid payments to hospitals for providing Medicaid-covered inpatient and outpatient services.

- Requires ODM to continue the Medicaid Managed Care Hospital Incentive Payment Program under which Medicaid managed care organizations are provided funds to increase payments to hospitals under contract with the organizations.

Recipient confidentiality

- Reinstates the penalty (misdemeanor of the first degree) for violating confidentiality provisions regarding recipients of Medicaid, CHIP, or RMA.

Electronic health record and e-prescribing applications

- Replaces a provision authorizing establishment of an e-prescribing system for Medicaid with a provision authorizing the ODM Director to acquire or specify technologies to give information regarding Medicaid recipient eligibility, claims history, and drug coverage to Medicaid providers through electronic health record and e-prescribing applications, requires that the technologies meet certain requirements, and makes conforming changes.

State agency collaboration

- Extends provisions that authorize the Office of Health Transformation (OHT) Executive Director to facilitate state agency collaboration for health transformation purposes, and authorize the exchange of personally identifiable information between state agencies regarding a health transformation initiative.

Core competencies for direct care workers

- Beginning October 1, 2015, prohibits the ODM Director from making a Medicaid payment to a direct care worker for a direct care service or entering into a Medicaid provider agreement with the worker unless the worker meets core competencies described in an operating protocol developed by the OHT Executive Director or designee, in consultation with the ODM Director and the directors of the Departments of Aging (ODA), Developmental Disabilities (ODODD), Mental Health and Addiction Services (ODMHAS), and the Ohio Department of Health (ODH).

- Not later than October 1, 2014, requires the ODH Director to establish a direct care worker certification program and authorizes the Director to adopt rules as necessary to implement the program.

Medicaid data

- Authorizes the ODM Director to enter into contracts with one or more persons to receive and process, on the Director's behalf, certain requests for Medicaid data by persons who intend to use the data for commercial or academic purposes and specifies certain terms for these contracts, including how fees received by ODM pursuant to the contracts will be used.

Long-term services

- Continues the Joint Legislative Committee for Unified Long-Term Services and Supports.

- Requires ODM, ODA, and ODODD to have, by June 30, 2015 (extended from June 30, 2013), non-institutionally based long-term services used by (1) at least 50% of Medicaid recipients who are age 60 or older and need long-term services and (2) at least 60% of Medicaid recipients who are under age 60 and have cognitive or physical disabilities for which long-term services are needed.

- Permits ODM to apply to participate in the federal Balancing Incentive Payments Program and requires that any funds Ohio receives be deposited into the Balancing Incentive Payments Program Fund.

Quality initiatives

- Permits ODM to implement a quality incentive program to reduce certain hospital and nursing facility admissions and emergency department utilizations by Medicaid recipients receiving certain home and community-based waiver services, home health services, or private duty nursing services.

- Permits the ODM Director to implement a children's hospitals quality outcomes program to encourage the development of certain programs and methods aimed at improving patient care and outcomes.

- Authorizes the ODM Director to develop and implement, during fiscal years 2014 and 2015, initiatives designed to improve birth outcomes for Medicaid recipients.

Veterans services

- Authorizes ODM to collaborate with the Ohio Department of Veterans Services (ODVS) regarding the coordination of veterans' services.

- Authorizes ODM and ODVS to implement, during fiscal years 2014 and 2015, certain initiatives that they determine during the collaboration will maximize the efficiency of the services and ensure that veterans' needs are met.

Funds

- Requires that federal payments made to Ohio for the Money Follows the Person demonstration project be deposited into the Money Follows the Person Enhanced Reimbursement Fund.

- Abolishes the Health Care Compliance Fund and provides for the money that otherwise would be credited to that fund to be credited to the Managed Care Performance Payment Fund and the Health Care Services Administration Fund.

- Abolishes the Prescription Drug Rebates Fund and provides for the money that would otherwise be credited to that fund to be credited to the Health Care/Medicaid Support and Recoveries Fund.

Department of Medicaid created

(R.C. 121.02 (primary), 9.231, 9.239, 9.24, 101.39, 101.391, 103.144, 109.572, 109.85, 117.10, 119.01, 121.03, 122.15, 124.30, 127.16, 169.02, 173.20, 173.21, 173.39, 173.391, 173.394, 173.42, 173.425, 173.43, 173.431, 173.432, 173.433 (repealed), 173.434, 173.45, 173.47, 173.50, 173.501, 173.51, 173.52, 173.521, 173.522, 173.523, 173.53, 173.54, 173.541, 173.542, 173.543, 173.544, 173.545, 173.55, 191.04, 191.06, 317.08, 317.36, 329.04, 329.051, 329.06, 329.14, 340.03, 340.16, 340.192, 955.201, 1337.11, 1347.08, 1739.061, 1751.01, 1751.11, 1751.12, 1751.31, 1923.14, 2113.041, 2113.06, 2117.061, 2117.25, 2133.01, 2307.65, 2317.02, 2505.02, 2744.05, 2903.33, 2913.40, 2921.01, 3101.051, 3107.083, 3111.72, 3119.29, 3121.441, 3121.898, 3125.36, 3313.714, 3313.715, 3317.02, 3323.021, 3599.45, 3701.023, 3701.024, 3701.027, 3701.132, 3701.243, 3701.507, 3701.74, 3701.741, 3701.78, 3701.881, 3702.521, 3702.62, 3702.74, 3702.91, 3712.07, 3721.011, 3721.022, 3721.024, 3721.026, 3721.042, 3721.071, 3721.08, 3721.10, 3721.12, 3721.13, 3721.15, 3721.16, 3721.17, 3721.19, 3769.08, 3742.31, 3742.32, 3793.04, 3795.01, 3901.3814, 3923.281, 3923.443, 3923.50, 3923.601, 3923.83, 3924.42, 3963.04, 4121.50, 4141.162, 4715.36, 4719.01, 4723.18, 4729.80, 4731.151, 4731.71, 4755.481, 4761.01, 5101.01, 5101.11, 5101.141, 5101.16, 5101.162, 5101.18, 5101.181, 5101.183, 5101.184, 5101.26, 5101.272, 5101.273, 5101.30, 5101.35, 5101.36, 5101.47, 5101.49, 5101.503 (repealed), 5101.514 (repealed), 5101.515 (repealed), 5101.518 (repealed), 5101.523 (repealed), 5101.525 (repealed), 5101.526 (repealed), 5101.528 (repealed), 5101.529 (repealed), 5103.02, 5107.10, 5107.14, 5107.16, 5107.20, 5107.26, 5111.012 (repealed), 5111.014 (repealed), 5111.015 (repealed), 5111.0110 (repealed),

5111.0111 (repealed), 5111.0113 (repealed), 5111.0115 (repealed), 5111.0120 (repealed), 5111.0121 (repealed), 5111.0122 (repealed), 5111.0123 (repealed), 5111.0124 (repealed), 5111.0125 (repealed), 5111.176 (repealed), 5111.211 (repealed), 5111.236 (repealed), 5111.65 (repealed), 5111.70 (repealed), 5111.701 (repealed), 5111.702 (repealed), 5111.703 (repealed), 5111.704 (repealed), 5111.705 (repealed), 5111.706 (repealed), 5111.707 (repealed), 5111.708 (repealed), 5111.709 (repealed), 5111.7011 (repealed), 5111.8710 (repealed), 5111.8811 (repealed), 5119.061, 5119.351, 5119.61, 5119.69, 5120.65, 5120.652, 5120.654, 5123.01, 5123.021, 5123.0412, 5123.0417, 5123.171, 5123.19, 5123.192, 5123.197, 5123.198, 5123.38, 5126.01, 5126.054, 5126.055, 5309.082, 5731.39, 5739.01, 5747.122, and 5751.081; Chapters 5124., 5160., 5161., 5162., 5163., 5164., 5165., 5166., 5167., and 5168.; Sections 209.50, 259.260, 259.270, 323.10.10, 323.10.20, 323.10.30, 323.10.40, 323.10.50, 323.10.60, 323.10.70, 323.480, 610.20, and 610.21)

Single state agency

Federal law requires a state participating in the Medicaid program to provide for the establishment or designation of a single state agency to administer or to supervise the administration of the Medicaid state plan.[80] Current state law establishes the Office of Medical Assistance as a unit within the Ohio Department of Job and Family Services (ODJFS) and requires the Office to act as the single state agency to supervise the administration of the Medicaid program. Effective July 1, 2013, the bill abolishes the Office and creates the Ohio Department of Medicaid (ODM).[81] ODM replaces the Office as the single state agency to supervise the administration of the Medicaid program.

In addition to being responsible for Medicaid, the bill provides for ODM to also oversee the administration of the Children's Health Insurance Program (CHIP) and the Refugee Medical Assistance (RMA) program. The bill collectively identifies the programs that ODM is to administer as medical assistance programs. "Medical assistance program" is defined as including any program, in addition to Medicaid, CHIP, and RMA, that provides medical assistance and that state statutes authorize ODM to administer. However, the bill does not expressly authorize ODM to administer other programs. So, the term "medical assistance program" means only Medicaid, CHIP, and RMA in its current application.

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[80] 42 U.S.C. 1396a(a)(5).

[81] ODM is created twice in the bill. It is created in a Revised Code (codified) section, R.C. 121.02, which is subject to the referendum and goes into effect on the 91st day after the bill is signed by the Governor and filed with the Secretary of State. It is also created in an uncodified section that includes an earmark and is stated to be exempt from the referendum. The uncodified section provides for ODM to be created on July 1, 2013. The bill provides that when ODM's creation under the codified section comes into effect, it is a continuation of ODM as created in the uncodified section.

ODM Director

The bill provides for the ODM Director to be the executive head of the ODM. All duties conferred on ODM by law or order of the Director are under the Director's control and are to be performed in accordance with rules the Director adopts. The ODM Director is to be appointed by the Governor, with the advice and consent of the Senate, and is to hold office during the Governor's term unless removed earlier at the pleasure of the Governor.

Staff

The bill requires the ODM Director to appoint one assistant director for ODM. The assistant director is to exercise powers, and perform duties, as ordered by the ODM Director. The assistant director is to act as the ODM Director in the Director's absence or disability and when the position of ODM Director is vacant.

The ODM Director is permitted by the bill to appoint employees as are necessary for ODM's efficient operation. The Director may prescribe the title and duties of the employees.

Continuing law permits the Director of the Ohio Department of Administrative Services (ODAS) to fill without competition a position in the classified service that requires peculiar and exceptional qualifications of a scientific, managerial, professional, or educational character. To do this, there must be satisfactory evidence that for specified reasons competition in a special case is impracticable and that the position can best be filled by a person of high and recognized attainments in the qualifications.[82] The bill provides for the ODM Director to provide the ODAS Director certification of a determination that a position with ODM can best be filled without competition because it requires peculiar and exceptional qualifications of a scientific, managerial, professional, or educational character. The ODAS Director is to suspend the competition requirement on receipt of the ODM Director's certification. The bill also requires the ODM Director to provide the ODAS Director certification of a determination that a position with ODM can best be filled without regard to a residency requirement established by an ODAS rule.

Continuing law authorizes a public office to participate with the Superintendent of the Bureau of Criminal Identification and Investigation (BCII) in a fingerprint database program under which the Superintendent notifies the public office if an employee of the public office whose name is in the fingerprint database has been

[82] R.C. 124.30.

arrested for, convicted of, or pleaded guilty to any offense.[83] The bill requires ODM to collaborate with the Superintendent to develop procedures and formats necessary to produce the notices in a format that is acceptable for use by ODM.

The bill permits the ODM Director to require any of the employees of ODM who may be charged with custody or control of any public money or property or who is required to give bond, to give a bond, properly conditioned, in a sum to be fixed by the Director which, when approved by the Director, is to be filed in the Office of the Secretary of State. The costs of the bonds, when approved by the Director, must be paid from funds available for ODM. The bonds may, in the Director's discretion, be individual, schedule, or blanket bonds.

Administrative issues related to the creation of ODM

The bill includes the following provisions addressing administrative issues regarding the creation of ODM and the transfer of the responsibilities regarding medical assistance programs to the new department.

(1) Employees of the Office of Medical Assistance are transferred to ODM.

(2) The vehicles and equipment assigned to the Office's employees are transferred to ODM.

(3) The assets, liabilities, other equipment not provided for, and records, irrespective of form or medium, of the Office of Medical Assistance are transferred to ODM.

(4) ODM is named as the successor to, assumes the obligations of, and otherwise constitutes the continuation of, the Office.

(5) Business commenced but not completed on July 1, 2013, by the Medical Assistance Director, Office, ODJFS Director, or ODJFS regarding a medical assistance program is to be completed by the ODM Director or ODM in the same manner, and with the same effect, as if completed by the Medical Assistance Director, Office, ODJFS Director, or ODJFS.

(6) No validation, cure, right, privilege, remedy, obligation, or liability is lost or impaired by reason of the transfer but is to be administered by the ODM Director or ODM.

[83] R.C. 109.5721.

(7) The rules, orders, and determinations pertaining to the Office and ODJFS regarding medical assistance programs continue in effect as rules, orders, and determinations of ODM until modified or rescinded by ODM.

(8) No judicial or administrative action or proceeding pending on July 1, 2013, is affected by the transfer of functions from the Medical Assistance Director, Office, ODJFS Director, or ODJFS to the ODM Director or ODM and is to be prosecuted or defended in the name of the ODM Director or ODM.

(9) On application to a court or other tribunal, the ODM Director or ODM must be substituted as a party in such actions and proceedings.

Creation of ODM not subject to collective bargaining

The bill provides that the creation of ODM and reassignment of the functions and duties of the Office of Medical Assistance regarding medical assistance programs are not appropriate subjects for collective bargaining under the state's law governing public employee collective bargaining.

Temporary authority regarding employees

During the period beginning July 1, 2013, and ending June 30, 2015, the ODM Director has the authority under the bill to establish, change, and abolish positions for ODM, and to assign, reassign, classify, reclassify, transfer, reduce, promote, or demote all employees of ODM who are not subject to the state's public employees collective bargaining law. This authority includes assigning or reassigning an exempt employee to a bargaining unit classification if the ODM Director or ODJFS Director determines that the bargaining unit classification is the proper classification for that employee.[84] The actions of the ODM Director or ODJFS Director must comply with the requirements of a federal regulation establishing standards for a merit system of personnel administration. If an employee in the E-1 pay range is to be assigned, reassigned, classified, reclassified, transferred, reduced, or demoted to a position in a lower classification, the ODM Director or ODJFS Director, or in the case of a transfer outside ODM or ODJFS, the ODAS Director, must assign the employee to the appropriate classification and place the employee in Step X. The employee is not to receive any increase in compensation until the maximum rate of pay for that classification exceeds the employee's compensation. Actions the ODM Director, ODJFS Director, and ODAS

[84] An exempt employee is a permanent full-time or permanent part-time employee paid directly by warrant of the OBM Director whose position is included in the job classification plan established by the ODAS Director but who is not considered a public employee for purposes of the state's collective bargaining law. (R.C. 124.152.)

Director take under this provision of the bill are not subject to appeal to the State Personnel Board of Review.

Staff training regarding transfers

The bill permits the ODM Director and ODJFS Director to jointly or separately enter into one or more contracts with public or private entities for staff training and development to facilitate the transfer of the staff and duties regarding medical assistance programs to the ODM. The state's law governing competitive selection for purchases does not apply to contracts entered into under this provision of the bill.

New and amended grant agreements with counties

The ODJFS Director and boards of county commissioners are permitted by the bill to enter into negotiations to amend an existing grant agreement or to enter into a new grant agreement regarding the transfer of medical assistance programs to ODM. Any such amended or new grant agreement must be drafted in the name of ODJFS. The amended or new grant agreement may be executed before July 1, 2013, if the amendment or agreement does not become effective sooner than that date.

Renumbering administrative rules

On and after July 1, 2013, if necessary to ensure the integrity of the numbering of the Administrative Code, the Legislative Service Commission Director is required to renumber the rules of the Office of Medical Assistance within ODJFS to reflect its transfer to ODM.

ODM given various authorities similar to ODJFS

The bill gives ODM and the ODM Director many of the same types of responsibilities and authorities as ODJFS and the ODJFS Director regarding administrative and program matters. These responsibilities and authorities are discussed below.

Rule making procedures

There are two general statutory processes under which a state agency may adopt a rule: R.C. Chapter 119. and R.C. section 111.15.

Chapter 119. is known as the Administrative Procedure Act and Section 111.15 as the abbreviated rule-making procedure. The major difference between them is that Chapter 119. requires that an agency provide public notice and conduct a hearing on a proposed rule before its adoption; section 111.15 does not.

The bill gives the ODM Director the same direction regarding which rule making procedure to follow as continuing law gives the ODJFS Director.[85] It provides that, when authorized by statute to adopt a rule, the Director must adopt the rule in accordance with Chapter 119. if (1) the statute requires that it be adopted in accordance with Chapter 119. or (2) except as provided below, the statute does not specify the procedure for the rule's adoption.

The Director is to adopt a rule in accordance with R.C. 111.15 (without the requirement that the rule be filed with the Joint Committee on Agency Rule Review (JCARR)) if (1) the statute authorizing the rule requires that the rule be adopted in accordance with R.C. 111.15 and, by the terms of that section, the requirement that it be filed with JCARR does not apply or (2) the statute does not specify the procedure for the rule's adoption and the rule concerns the day-to-day staff procedures and operations of ODM or financial and operational matters between ODM and a person or government entity receiving a grant from ODM. The Director is to adopt a rule in accordance with R.C. 111.15, including the requirement that it be filed it with JCARR, if the statute requires that the rule be adopted in accordance with that section and the rule is not exempt from the JCARR requirement.

Except as otherwise required by a statute, the adoption of a rule in accordance with Chapter 119. does not make ODM subject to the notice, hearing, or other requirements of the Administrative Procedure Act.

Funding issues

The bill permits the ODM Director to expend funds appropriated or available to ODM from persons and government entities. For this purpose, the Director may enter into contracts or agreements with persons and government entities and make grants to persons and government entities. To the extent permitted by federal law, the Director may advance funds to a grantee when necessary for the grantee to perform duties under the grant as specified by the Director. ODJFS has the same type authority under continuing law regarding funds appropriated or available to ODJFS.[86]

The bill creates the State Health Care Grants Fund in the state treasury. Money ODM receives from private foundations in support of pilot projects that promote exemplary programs that enhance programs ODM administers are to be credited to the fund. ODM is permitted to expend the money on such projects, may use the money, to the extent allowable, to match federal financial participation in support of such projects,

[85] R.C. 5101.09.

[86] R.C. 5101.10.

and must comply with requirements the foundations have stipulated in their agreements with ODM as to the purposes for which the money may be expended. The State Health Care Grants Fund is similar to ODJFS's existing Foundation Grant Fund.[87]

Continuing law permits ODJFS, at the request of any public entity having authority to implement an ODJFS-administered program or any private entity under contract with a public entity to implement such a program, to seek federal financial participation for costs the entity incurs.[88] The bill gives ODM this authority regarding the medical assistance programs it administers.

The bill authorizes ODM to enter into contracts with private entities to maximize federal revenue without the expenditure of state money. In selecting private entities with which to contract, ODM must engage in a request for proposals process. Subject to the Controlling Board's approval, ODM may also directly enter into contracts with public entities providing revenue maximization services. ODJFS has this authority under continuing law.[89]

Investigations and audits

Continuing law permits ODJFS to appoint and commission any competent person to serve as a special agent, investigator, or representative to perform a designated duty for and on behalf of ODJFS. ODJFS must give specific credentials to each person so designated, and each credential must state the person's name, the agency with which the person is connected, the purpose of the appointment, the date the appointment expires (if appropriate), and information ODJFS considers proper.[90] The bill gives this authority to ODM.

ODM is permitted to conduct any audits or investigations that are necessary in the performance of its duties. For this purpose, ODM is given the same power as a judge of a county court to administer oaths and to enforce the attendance and testimony of witnesses and the production of books or papers. ODM is required to keep a record of its audits and investigations stating the time, place, charges, or subject; witnesses summoned and examined; and its conclusions. Witnesses are to be paid the fees and

[87] R.C. 5101.111.

[88] R.C. 5101.11.

[89] R.C. 5101.12.

[90] R.C. 5101.38.

mileage provided for by the Administrative Procedure Act (R.C. Chapter 119.). ODJFS has this authority under continuing law.[91]

As under continuing law regarding ODJFS, a court of common pleas, on ODM's application, may compel the attendance of witnesses, the production of books or papers, and the giving of testimony before ODM, by a judgment for contempt or otherwise, in the same manner as in cases before those courts.[92]

An audit report and any working paper, other document, and record that ODM prepares for an audit that is the subject of the audit's report is not a public record until ODM formally releases the report. This is the case with ODJFS under continuing law.[93]

The bill gives the State Auditor authority to take actions on ODM's behalf as the Auditor may do under continuing law for ODJFS.[94] Specifically, the Auditor, on the ODM Director's request, may conduct an audit of any recipient of a medical assistance program. If the Auditor decides to conduct an audit, the Auditor must enter into an interagency agreement with ODM that specifies that the Auditor agrees to comply with state law that restricts the release of information about medical assistance program recipients.

The State Auditor and Attorney General, or their designees, are permitted by the bill to examine any records, whether in computer or printed format, in the possession of the ODM Director or any county director of job and family services regarding medical assistance programs. The Auditor and Attorney General have this authority under continuing law applicable to ODJFS.[95] The Auditor and Attorney General must (1) provide safeguards that restrict access to the records to purposes directly connected with an audit or investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of the programs and (2) comply, and ensure that their designees comply, with state law restricting the disclosure of information regarding medical assistance recipients. Any person who fails to comply with the restrictions is disqualified from acting as an agent or employee or in any other capacity under appointment or employment of any state board, commission, or agency.

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[91] R.C. 5101.37(A).

[92] R.C. 5101.37(C).

[93] R.C. 5101.37(D).

[94] R.C. 5101.181(E).

[95] R.C. 5101.181(G).

The bill makes the State Auditor responsible for the costs the Auditor incurs in carrying out the duties discussed above. The Auditor is responsible for such costs under continuing law regarding ODJFS.[96]

Assignment of rights and third party liability issues

The bill provides for provisions of law regarding assignment of rights and third party liability to apply to all medical assistance programs ODM administers. Under current law, certain provisions expressly apply only to Medicaid and others expressly apply to Medicaid and CHIP. For example, current law provides that application for Medicaid gives a right of subrogation to ODJFS for any Workers' Compensation benefits payable to a person who is subject to a support order on behalf of the Medicaid recipient, to the extent of any Medicaid payments made on the recipient's behalf.[97] The bill provides instead that enrollment in any medical assistance program ODM administers gives that right of subrogation to ODM.

Certain of the current laws governing assignment of rights and third party liability apply to the Ohio Works First program, which is one of the state's Temporary Assistance for Needy Families programs. The laws regarding assignment of rights and third party liability concern the state's ability to recoup expenses its incurs for medical assistance, but the Ohio Works First program provides cash assistance not medical assistance. The bill, therefore, removes the Ohio Works First program from the application of these laws.

Confidentiality of medical assistance information

As part of the transfer of the responsibilities regarding medical assistance programs from the Office of Medical Assistance within ODJFS to ODM, the bill assigns to ODM the types of duties ODJFS has under current law regarding the restrictions on the release of information about medical assistance recipients. The bill also requires ODM to enter into any necessary agreements with the U.S. Department of Health and Human Services and neighboring states to join and participate as an active member in the Public Assistance Reporting Information System. ODM is permitted to disclose information regarding a medical assistance recipient to the extent necessary to participate as an active member in the system. ODJFS continues to be required to enter into such agreements regarding the programs ODJFS administers.[98]

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[96] R.C. 5101.181(H).

[97] R.C. 5101.36.

[98] R.C. 5101.273.

Income and eligibility verification system

Continuing law requires the ODJFS Director to establish an income and eligibility verification system (IEVS) that complies with federal law. Several programs use IEVS as part of their eligibility determination procedures, including the Unemployment Compensation program, Temporary Assistance for Needy Families programs, and the Supplemental Nutrition Assistance Program (also known as the Food Stamps program). Because the Medicaid program is another program that uses IEVS, the bill requires the ODJFS Director to consult with the ODM Director regarding the implementation of IEVS. The bill requires the ODJFS Director also to consult with the ODAS Director regarding IEVS's implementation.

Eligibility determinations

Current law permits the Office of Medical Assistance to accept applications, determine eligibility, redetermine eligibility, and perform related administrative activities for Medicaid and CHIP. The Office also may enter into agreements with one or more other state agencies, local government entities, or political subdivisions to accept applications, determine eligibility, redetermine eligibility, and perform related administrative activities on behalf of the Office with respect to Medicaid and CHIP.[99]

The bill gives ODM the Office's authority to accept applications, determine eligibility, redetermine eligibility, and perform related administrative activities for Medicaid and CHIP. ODM is also given this authority for the other medical assistance program, RMA. The bill permits ODM to enter into agreements with one or more agencies of the federal government, the state, other states, and local governments of this or other states to accept applications, determine eligibility, redetermine eligibility, and perform related administrative activities on behalf of ODM with respect to medical assistance programs.

The bill maintains provisions of law regarding eligibility determinations for Medicaid and CHIP currently applicable to the Office and makes them applicable to ODM and all three medical assistance programs. Specifically, if federal law requires a face-to-face interview to complete an eligibility determination for a medical assistance program, ODM is prohibited from conducting the face-to-face interview. And, if ODM elects to accept applications, determine eligibility, redetermine eligibility, and perform related administrative activities for a medical assistance program, (1) an individual may apply for the program to ODM or an agency authorized by an agreement with ODM to accept the individual's application and (2) ODM is subject to federal statutes and regulations and state statutes and rules that require, permit, or prohibit an action

[99] R.C. 5101.47.

regarding accepting applications, determining or redetermining eligibility, and performing related administrative activities for the program.

Current law is inconsistent regarding the role of county departments of job and family services in making Medicaid and CHIP eligibility determinations. As discussed above, the Office is authorized by current law to make Medicaid and CHIP eligibility determinations and to enter into agreements with one or more local government entities to make the eligibility determinations. Current law requires county departments to make Medicaid eligibility determinations if the Office elects to enter into agreements with county departments to have county departments make Medicaid eligibility determinations. However, current law also requires county departments to make Medicaid eligibility determinations for Supplemental Security Income (SSI) recipients and, if assigned by the Medical Assistance Director, make eligibility determinations for Part II or III of CHIP. The bill eliminates the provisions that expressly provide for county departments to make eligibility determinations and leaves the issue of county departments' roles up to ODM pursuant to its authority to enter into agreements with one or more agencies of local governments to make eligibility determinations for medical assistance programs.

Appeals

Current law permits an individual who is an applicant for, or recipient or former recipient of, Medicaid and disagrees with a decision regarding Medicaid to receive a state hearing by ODJFS. The individual may make an administrative appeal of the state hearing decision to the ODJFS Director and, if the individual disagrees with the administrative appeal decision, to a court of common pleas.[100]

The bill provides that an individual who is an applicant for, or recipient or former recipient of, any of the three medical assistance programs may appeal a decision regarding the individual's eligibility for the program or services available to the recipient under the program. ODM is required to do one or more of the following regarding such appeals:

(1) Administer an appeals process similar to the ODJFS appeals process established under current law;

(2) Contract with ODJFS to provide for ODJFS to hear the appeals in accordance with current law;

[100] R.C. 5101.35.

(3) Delegate authority to hear appeals to an exchange or exchange appeals entity.[101]

If an individual files an appeal regarding a medical assistance program, ODM is permitted to (1) take corrective action regarding the matter being appealed before a hearing decision regarding the matter is issued and (2) if a hearing decision, administrative appeal decision, or court ruling is against the individual, take action in favor of the individual despite the contrary decision or ruling, unless, in the case of a court's ruling, the ruling prohibits ODM from taking the action.

Relocation and reorganization of Revised Code sections

The bill relocates and reorganizes many provisions of the Revised Code governing medical assistance programs as part of the creation of ODM and the transfer of the programs to ODM. See below for tables regarding the relocations and reorganizations.

As part of the reorganization, the bill enacts the following ten new Revised Code chapters:

(1) Chapter 5124. (the Ohio Department of Developmental Disabilities' (ODODD's) administration of Medicaid's coverage of intermediate care facility for individuals with intellectual disabilities (ICF/IID) services);

(2) Chapter 5160. (General administrative provisions, provisions applicable to all medical assistance programs, and ODM's administration of RMA);

(3) Chapter 5161. (ODM's administration of CHIP);

(4) Chapter 5162. (ODM's administration of Medicaid and Medicaid funds);

(5) Chapter 5163. (Medicaid eligibility);

(6) Chapter 5164. (Medicaid state plan services, other than ICF/IID and nursing facility services, and general Medicaid provider issues);

(7) Chapter 5165. (Medicaid's coverage of nursing facility services);

(8) Chapter 5166. (Federal Medicaid waiver programs);

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[101] An exchange is a governmental agency or nonprofit entity that meets applicable standards of federal regulations adopted under the Patient Protection and Affordable Care Act and makes qualified health plans available to qualified individuals and qualified employers. An exchange may be a state exchange, regional exchange, subsidiary exchange, or federally facilitated exchange. (45 C.F.R. 155.20.)

(9) Chapter 5167. (Medicaid managed care);

(10) Chapter 5168. (Hospital Care Assurance Program and other health-care provider assessments and fees).

The bill provides that the ODM Director is not required to amend any rule for the sole purpose of updating the citation in the Ohio Administrative Code to the rule's authorizing statute to reflect that the bill renumbers the authorizing statute or relocates it to another Revised Code section. Such citations are to be updated as the Director amends the rules for other purposes.[102]

Streamlining of statutes

Many current statutes governing Medicaid include provisions that are repeated many times in other statutes. The bill streamlines many of these provisions by enacting general statutes that deal with particular issues, such as the need to obtain federal approval before implementing changes to the Medicaid program. This negates the need to have such issues repeated in numerous statutes. The following are examples of the bill's streamlined statutes.

Compliance with federal requirements

Whereas current law repeatedly requires or permits the Office of Medical Assistance to seek federal approval to implement the numerous components of the Medicaid program included in state statutes, the bill includes general statutes that apply to all other statutes that require or permit Medicaid to include various components.

Under the bill, the Medicaid program must be implemented in accordance with (1) the Medicaid state plan approved by the U.S. Secretary of Health and Human Services, including amendments to the plan approved by the U.S. Secretary, (2) federal Medicaid waivers granted by the U.S. Secretary, including amendments to waivers approved by the U.S. Secretary, (3) other types of federal approval, including demonstration grants, that establish requirements for components of the Medicaid program, (4) except as otherwise authorized by a federal Medicaid waiver granted by the U.S. Secretary, all applicable federal statutes, regulations, and policy guidances, and (5) all applicable state statutes.

Notwithstanding any other state statute, no component, or aspect of a component, of the Medicaid program is to be implemented without (1) receipt of federal

[102] Similar authority is given to the Ohio Department of Aging (ODA) and ODODD Directors regarding updating citations to authorizing statutes in their rules.

approval if the component, or aspect of the component, requires federal approval, (2) sufficient federal financial participation for the component or aspect of the component, and (3) sufficient nonfederal funds for the component or aspect of the component that qualify as funds needed to obtain the federal financial participation. A component, or aspect of a component, of the Medicaid program that requires federal approval may begin to be implemented before receipt of federal approval, however, if federal law authorizes implementation to begin before receipt of federal approval. Implementation must cease if the federal approval is ultimately denied.

The ODM Director is required to seek federal approval for all components, and aspects of components, of the Medicaid program for which federal approval is needed, except that the Director is permitted rather than required to seek federal approval for components, and aspects of components, that state statutes permit rather than require be implemented. Federal approval must be sought in the following as appropriate:

(1) The Medicaid state plan;

(2) Amendments to the Medicaid state plan;

(3) Federal Medicaid waivers;

(4) Amendments to federal Medicaid waivers;

(5) Other types of federal approval, including demonstration grants.

ODM's authorizing rules for other state agencies

Continuing state law authorizes ODM to contract with one or more other state agencies or political subdivisions to have the state agency or political subdivision administer one or more components of the Medicaid program, or one or more aspects of a component, under ODM's supervision. A federal regulation, however, prohibits a state's Medicaid agency from delegating, to other than its own officials, authority to issue policies, rules, and regulations on program matters. To address this federal regulation, current law includes numerous provisions that require or permit the state Medicaid agency to adopt rules that authorize other state agencies that are administering a component, or aspect of a component, of the Medicaid program to adopt rules regarding the component or aspect of a component the other state agency administers.

The bill eliminates the authorizing provisions and enacts a general statute addressing the issue. The general statute requires the ODM Director to adopt rules as necessary to authorize the directors of other state agencies to adopt rules regarding

Medicaid components, or aspects of Medicaid components, the other state agencies administer pursuant to contracts with ODM.

MEDICAL ASSISTANCE PROGRAMS RELOCATION TABLES

Following are two tables that explain how Revised Code sections pertaining to medical assistance programs are reorganized under the bill. Table I shows how the bill renumbers existing Revised Code sections concerning medical assistance programs.

Table II concerns the following:

(1) The bill copies, sometimes with modifications, parts of current law regarding administrative matters regarding ODJFS and enacts them in new Revised Code sections that are applicable to ODM. Several Revised Code sections concern programs that ODJFS will continue to administer and programs ODM will administer. The bill amends these sections to remove the parts regarding the programs ODM will administer and re-enacts the removed parts, sometimes with modifications, in new Revised Code chapters applicable to ODM.

(2) The bill relocates provisions of current law governing Medicaid coverage of ICF/IID services to a new Revised Code chapter next to the existing Revised Code chapter regarding ODODD. The relocation is part of ODODD's assumption of responsibilities regarding Medicaid coverage of ICF/IID services.

(3) Other provisions of law regarding Medicaid are relocated to new Revised Code sections in an effort to improve the law's organization.

Table II shows where these provisions are located in current law and where they are located in the bill. As used in Table II, "ICFs/IID" refers to provisions regarding intermediate care facilities for individuals with intellectual disabilities and "NFs" refers to provisions regarding nursing facilities.

TABLE I

R.C. section number under current law	R.C. section number under the bill
173.40	173.52
173.401	173.521
173.402	173.524
173.403	173.53
173.404	173.55
3721.50	5168.40

R.C. section number under current law	R.C. section number under the bill
3721.51	5168.42
3721.511	5168.43
3721.512	5168.44
3721.513	5168.45
3721.52	5168.46
3721.53	5168.47
3721.531	5168.48
3721.532	5168.49
3721.533	5168.50
3721.54	5168.51
3721.541	5168.52
3721.55	5168.53
3721.56	5168.54
3721.57	5168.55
3721.58	5168.56
5101.271	5160.45
5101.31	5164.756
5101.50	5161.05
5101.501	5161.06
5101.502	5161.02
5101.51	5161.10
5101.511	5161.11
5101.5110	5161.35
5101.512	5161.12
5101.513	5161.30
5101.516	5161.22
5101.517	5161.24
5101.519	5161.27
5101.52	5161.15
5101.521	5161.16
5101.522	5161.17
5101.524	5161.20
5101.527	5161.25

R.C. section number under current law	R.C. section number under the bill
5101.571	5160.35
5101.572	5160.39
5101.573	5160.40
5101.574	5160.41
5101.575	5160.42
5101.58	5160.37
5101.59	5160.38
5101.591	5160.43
5111.01	5162.03
5111.011	5163.02
5111.013	5163.40
5111.016	5164.26
5111.018	5164.07
5111.0112	5162.20
5111.0114	5164.754
5111.0116	5163.30
5111.0117	5163.31
5111.0118	5163.32
5111.0119	5163.45
5111.02	5164.02
5111.021	5164.70
5111.022	5164.56
5111.023	5164.15
5111.024	5164.08
5111.025	5164.76
5111.027	5164.20
5111.028	5164.32
5111.029	5164.06
5111.0210	5164.92
5111.0211	5165.48
5111.0212	5164.80
5111.0213	5164.77
5111.0214	5164.82

R.C. section number under current law	R.C. section number under the bill
5111.0215	5164.93
5111.03	5164.35
5111.031	5164.37
5111.032	5164.34
5111.033	5164.342
5111.034	5164.341
5111.035	5164.36
5111.04	5164.05
5111.042	5164.25
5111.05	5164.45
5111.051	5164.48
5111.052	5164.46
5111.053	5164.301
5111.054	5164.47
5111.06	5164.38
5111.061	5164.57
5111.062	5164.39
5111.063	5164.31
5111.07	5164.752
5111.071	5164.753
5111.08	5164.759
5111.081	5164.755
5111.082	5164.751
5111.083	5164.757
5111.084	5164.7510
5111.085	5164.758
5111.086	5164.75
5111.09	5162.13
5111.091	5162.131
5111.092	5162.132
5111.10	5162.10
5111.101	5162.15
5111.102	5162.04

R.C. section number under current law	R.C. section number under the bill
5111.11	5162.21
5111.111	5162.211
5111.112	5162.212
5111.113	5162.22
5111.114	5163.33
5111.12	5162.23
5111.121	5162.24
5111.13	5164.85
5111.14	5164.88
5111.141	5164.89
5111.15	5163.20
5111.151	5163.21
5111.16	5167.03
5111.161	5167.031
5111.162	5167.20
5111.163	5167.201
5111.17	5167.10
5111.171	5167.31
5111.172	5167.12
5111.173	5167.40
5111.174	5167.41
5111.175	5167.26
5111.177	5167.11
5111.178	5167.25
5111.179	5167.13
5111.1710	5167.14
5111.1711	5167.30
5111.18	5164.86
5111.181	5163.22
5111.19	5164.74
5111.191	5164.741
5111.20	5165.01
5111.201	5165.011

R.C. section number under current law	R.C. section number under the bill
5111.202	5165.03
5111.203	5165.031
5111.204	5165.04
5111.21	5165.06
5111.212	5165.35
5111.22	5165.07
5111.221	5165.37
5111.222	5165.15
5111.223	5165.071
5111.224	5124.15
5111.225	5165.155
5111.226	5124.02
5111.23	5124.19
5111.231	5165.19
5111.232	5165.192
5111.233	5124.194
5111.235	5124.23
5111.24	5165.16
5111.241	5124.21
5111.242	5165.21
5111.244	5165.25
5111.245	5165.26
5111.246	5165.23
5111.25	5165.17
5111.251	5124.17
5111.254	5165.151
5111.255	5124.151
5111.257	5165.28
5111.258	5165.153
5111.259	5165.156
5111.26	5165.10
5111.261	5165.107
5111.262	5165.47

R.C. section number under current law	R.C. section number under the bill
5111.263	5124.29
5111.264	5165.30
5111.265	5165.29
5111.266	5165.101
5111.27	5165.108
5111.271	5165.1010
5111.28	5165.40
5111.29	5165.38
5111.291	5124.155
5111.30	5165.073
5111.31	5165.08
5111.32	5165.081
5111.33	5124.34
5111.331	5165.34
5111.35	5165.60
5111.36	5165.61
5111.37	5165.62
5111.38	5165.63
5111.39	5165.64
5111.40	5165.65
5111.41	5165.66
5111.411	5165.67
5111.42	5165.68
5111.43	5165.69
5111.44	5165.70
5111.45	5165.71
5111.46	5165.72
5111.47	5165.73
5111.48	5165.74
5111.49	5165.75
5111.50	5165.76
5111.51	5165.77
5111.511	5165.78

R.C. section number under current law	R.C. section number under the bill
5111.52	5165.79
5111.53	5165.80
5111.54	5165.81
5111.55	5165.82
5111.56	5165.83
5111.57	5165.84
5111.58	5165.85
5111.59	5165.86
5111.60	5165.87
5111.61	5165.88
5111.62	5162.66
5111.63	5165.89
5111.66	5165.50
5111.661	5165.501
5111.67	5165.51
5111.671	5165.511
5111.672	5165.512
5111.673	5165.513
5111.674	5165.514
5111.675	5165.515
5111.676	5165.516
5111.677	5165.517
5111.68	5165.52
5111.681	5165.521
5111.682	5165.522
5111.683	5165.523
5111.684	5165.524
5111.685	5165.525
5111.686	5165.526
5111.687	5165.527
5111.688	5165.528
5111.689	5165.53
5111.71	5162.36

R.C. section number under current law	R.C. section number under the bill
5111.711	5162.361
5111.712	5162.362
5111.713	5162.363
5111.714	5162.64
5111.715	5162.364
5111.83	5162.30
5111.84	5166.03
5111.85	5166.02
5111.851	5166.04
5111.852	5166.05
5111.853	5166.06
5111.854	5166.07
5111.855	5166.08
5111.856	5166.10
5111.86	5166.11
5111.861	5166.12
5111.862	5166.121
5111.863	5166.13
5111.864	5166.14
5111.865	5166.141
5111.87	5166.20
5111.871	5166.21
5111.872	5166.22
5111.873	5166.23
5111.874	5124.60
5111.875	5124.61
5111.876	5124.62
5111.877	5124.63
5111.878	5124.64
5111.879	5124.65
5111.88	5166.30
5111.881	5166.301
5111.882	5166.302

R.C. section number under current law	R.C. section number under the bill
5111.883	5166.303
5111.884	5166.304
5111.885	5166.305
5111.886	5166.306
5111.887	5166.307
5111.888	5166.308
5111.889	5166.309
5111.8810	5166.3010
5111.89	173.54
5111.891	173.541
5111.892	173.544
5111.893	173.547
5111.894	173.542
5111.90	5162.32
5111.91	5162.35
5111.911	5162.37
5111.912	5162.371
5111.914	5164.58
5111.915	5162.11
5111.92	5162.40
5111.93	5162.41
5111.94	5162.54
5111.941	5162.52
5111.943	5162.50
5111.944	5162.58
5111.945	5162.56
5111.96	5164.90
5111.97	5166.35
5111.98	5162.031
5111.981	5164.91
5111.982	5167.21
5111.99	5165.99
5112.01	5168.01

R.C. section number under current law	R.C. section number under the bill
5112.03	5168.02
5112.04	5168.05
5112.05	5168.03
5112.06	5168.06
5112.07	5168.07
5112.08	5168.09
5112.09	5168.08
5112.10	5168.04
5112.11	5168.10
5112.17	5168.14
5112.18	5168.11
5112.19	5168.12
5112.21	5168.13
5112.30	5168.60
5112.31	5168.61
5112.32	5168.62
5112.33	5168.63
5112.331	5168.64
5112.34	5168.65
5112.341	5168.66
5112.35	5168.67
5112.37	5168.68
5112.371	5168.69
5112.38	5168.70
5112.39	5168.71
5112.40	5168.20
5112.41	5168.21
5112.42	5168.22
5112.43	5168.23
5112.44	5168.24
5112.45	5168.25
5112.46	5168.26
5112.47	5168.27

R.C. section number under current law	R.C. section number under the bill
5112.48	5168.28
5112.99	5168.99
5112.991	5168.991

TABLE II

Where the provision is found in current law	Where the provision is found in the bill
173.40(A)	173.51
173.40(D)	173.522
173.401(A)	173.51
173.403(A)	173.51
5101.01	5160.011
5101.02	5160.03
5101.03	5160.04
5101.05	5160.05
5101.051	5160.051
5101.08	5160.06
5101.09	5160.021
5101.10	5160.10
5101.11	5160.12
5101.111	5160.11
5101.12	5160.13
5101.141(H)	5160.52
5101.181(A)(2)	5160.01(C)
5101.181(E)	5160.21
5101.181(G)	5160.22
5101.181(H)	5160.23
5101.26(C)	5160.45(A)
5101.26(E)	5160.01(D)
5101.26(F)	5160.01(E)
5101.272	5160.46
5101.273	5160.47
5101.30(A)	5160.48
5101.30(B)	5160.481

Where the provision is found in current law	Where the provision is found in the bill
5101.32	5160.052
5101.36	5160.36
5101.37	5160.20
5101.38	5160.16
5101.47	5160.30
5101.49	5160.50
5111.01 (third and fourth sentences of the fourth paragraph of (B))	5162.022
5111.01(C)(2)	5163.05
5111.01(C)(3)	5163.03(A)
5111.01(D)	5163.03(B)
5111.013(C)	5162.31
5111.016(A)	5164.01(A) and (C)
5111.0117(A)(5)	5163.01
5111.021(B)	5164.71
5111.021(C)	5164.59
5111.021(D)	5164.55
5111.021(E)	5164.72
5111.021(F)	5164.73
5111.03(D)	5164.33
5111.03(E)	5164.60
5111.03 (first paragraph of (G))	5164.61
5111.16(E)	5167.032
5111.162(A)	5167.01(C) and (E)
5111.163(A)	5167.01(C), (E), and (H)
5111.172 (first paragraph of (C))	5167.01(A)
5111.1711(C)	5162.60
5111.20 (ICFs/IID)	5124.01
5111.21 (ICFs/IID)	5124.06
5111.21(C) (NFs)	5165.082
5111.212 (ICFs/IID)	5124.35
5111.22 (other than the last sentence of (A), the last sentence of the second-to-last paragraph, and the last paragraph) (ICFs/IID)	5124.07

Where the provision is found in current law	Where the provision is found in the bill
5111.22 (last sentence of (A)) (ICFs/IID)	5124.33
5111.22 (last sentence of (A)) (NFs)	5165.33
5111.22 (last sentence of the second-to-last paragraph and the last paragraph) (ICFs/IID)	5124.072
5111.22 (last sentence of the second-to-last paragraph and the last paragraph) (NFs)	5165.072
5111.211 (ICFs/IID)	5124.37
5111.222(A) (NFs)	5165.01(Y)
5111.222(C) (NFs)	5165.152
5111.223 (ICFs/IID)	5124.071
5111.225 (part of (A)) (NFs)	5160.01(A)
5111.232 (first paragraph of (C)) (ICFs/IID)	5124.191
5111.232 ((B), second paragraph of (C), (D), and (E)) (ICFs/IID)	5124.192
5111.232 (first paragraph of (C) and (E)(1) and (2)) (NFs)	5165.191
5111.251(G) (ICFs/IID)	5124.28
5111.258(A) (ICFs/IID)	5124.153
5111.258(B) (ICFs/IID)	5124.154
5111.258(B) (NFs)	5165.154
5111.26(A)(1)(a), (b), and (c) (other than the second and sixth sentences of (A)(1)(a)) (ICFs/IID)	5124.10
5111.26 (second sentence of (A)(1)(a)) (ICFs/IID)	5124.103
5111.26 (second sentence of (A)(1)(a)) (NFs)	5165.103
5111.26 (sixth sentence of (A)(1)(a)) (ICFs/IID)	5124.104
5111.26 (sixth sentence of (A)(1)(a)) (NFs)	5165.104
5111.26(A)(2) (ICFs/IID)	5124.106
5111.26(A)(2) (NFs)	5165.106
5111.26(B) (ICFs/IID)	5124.102
5111.26(B) (NFs)	5165.102
5111.26(C) (ICFs/IID)	5124.105
5111.26(C) (NFs)	5165.105
5111.264 (ICFs/IID)	5124.30

Where the provision is found in current law	Where the provision is found in the bill
5111.27(A) (ICFs/IID)	5124.108
5111.27(B) and (D) (ICFs/IID)	5124.109
5111.27(B) and (D) (NFs)	5165.109
5111.27(C) and (D) (ICFs/IID)	5124.193
5111.27(C) and (D) (NFs)	5165.193
5111.27(E) (ICFs/IID)	5124.32
5111.27(E) (NFs)	5165.32
5111.27(F) (ICFs/IID)	5124.31
5111.28(A) (ICFs/IID)	5124.40
5111.28(B) (ICFs/IID)	5124.41
5111.28(B) (NFs)	5165.41
5111.28(C) (ICFs/IID)	5124.42
5111.28(C) (NFs)	5165.42
5111.28(D) (ICFs/IID)	5124.44
5111.28(D) (NFs)	5165.44
5111.28(E) (ICFs/IID)	5124.45
5111.28(E) (NFs)	5165.45
5111.28(F) (ICFs/IID)	5124.43
5111.28(F) (NFs)	5165.43
5111.29(A) (ICFs/IID)	5124.38
5111.29(B) (ICFs/IID)	5124.46
5111.29(B) (NFs)	5165.46
5111.31 (ICFs/IID)	5124.08
5111.32 (other than part of the second sentence of the first paragraph) (ICFs/IID)	5124.081
5111.32 (part of the second sentence of the first paragraph) (ICFs/IID)	5124.01(WW)
5111.32 (part of the second sentence of the first paragraph) (NFs)	5165.01(PP) and (RR)
5111.65(A) (ICFs/IID)	5124.01(A)
5111.65(A) (NFs)	5165.01(A)
5111.65(B) (ICFs/IID)	5124.01(E)
5111.65(B) (NFs)	5165.01(G)
5111.65(C) (ICFs/IID)	5124.01(N)

Where the provision is found in current law	Where the provision is found in the bill
5111.65(C) (NFs)	5165.01(N)
5111.65(D) (ICFs/IID)	5124.01(O)
5111.65(D) (NFs)	5165.01(O)
5111.65(E) (ICFs/IID)	5124.01(P)
5111.65(E) (NFs)	5165.01(P)
5111.65(F) (ICFs/IID)	5124.01(Q)
5111.65(G) (NFs)	5165.01(Q)
5111.65(H) (ICFs/IID)	5124.01(R)
5111.65(H) (NFs)	5165.01(R)
5111.65(I) (ICFs/IID)	5124.01(S)
5111.65(I) (NFs)	5165.01(S)
5111.65(J) (ICFs/IID)	5124.01(U)
5111.65(J) (NFs)	5165.01(T)
5111.65(L) (ICFs/IID)	5124.01(CC)
5111.65(L) (NFs)	5165.01(X)
5111.65(M) (ICFs/IID)	5124.01(ZZ)
5111.65(N) (NFs)	5165.01(VV)
5111.66 (ICFs/IID)	5124.50
5111.67 (ICFs/IID)	5124.51
5111.671 (ICFs/IID)	5124.511
5111.672 (ICFs/IID)	5124.512
5111.673 (ICFs/IID)	5124.513
5111.674 (ICFs/IID)	5124.514
5111.675 (ICFs/IID)	5124.515
5111.676 (ICFs/IID)	5124.516
5111.677 (ICFs/IID)	5124.517
5111.68 (ICFs/IID)	5124.52
5111.681 (ICFs/IID)	5124.521
5111.682 (ICFs/IID)	5124.522
5111.683 (ICFs/IID)	5124.523
5111.684 (ICFs/IID)	5124.524
5111.685 (ICFs/IID)	5124.525
5111.686 (ICFs/IID)	5124.526

Where the provision is found in current law	Where the provision is found in the bill
5111.687 (ICFs/IID)	5124.527
5111.688 (ICFs/IID)	5124.528
5111.689 (ICFs/IID)	5124.53
5111.71(A)	5162.01(B)(12)
5111.85(A)	5166.01
5111.851(A)	5166.01
5111.874(A) (ICFs/IID)	5124.01(X), (Y), (BB), and (VV)
5111.89(A)	173.51
5111.89(D)	173.543
5111.90(A)(1)	5162.01(B)(10)
5111.90(A)(2)	5162.01(B)(13)
5111.91 (third paragraph)	5162.62
5111.94(A)	5162.01(B)(14)
5111.944 (definition of "dual eligible individual")	5160.01(A)
5111.944 (definition of "Medicare program")	5162.01(A)(2)
5111.981 (definition of "dual eligible individual")	5160.01(A)
5111.981 (definition of "Medicare program")	5162.01(A)(2)

Medicaid eligibility

(R.C. 5111.01 (primary), 5101.18, 5111.014 (repealed), 5111.015 (repealed), 5111.0110 (repealed), 5111.0111 (repealed), 5111.0113 (repealed), 5111.0115 (repealed), 5111.0120 (repealed), 5111.0121 (repealed), 5111.0122 (repealed), 5111.0123 (repealed), 5111.0124 (repealed), 5111.0125 (repealed), 5111.70 to 5111.7011 (all repealed), 5162.201, 5163.01, 5163.03, 5163.04, 5163.041, 5163.05, 5163.06, and 5163.061; Sections 323.460 and 323.470)

Federal law establishes mandatory and optional eligibility groups for the Medicaid program. A state's Medicaid program must cover all of the mandatory eligibility groups and may cover one or more of the optional eligibility groups. The bill revises state law governing the eligibility groups covered by Medicaid.

Elimination of categorical groups

Current state law includes provisions providing for Medicaid to cover various groups. However the provisions do not clearly match federal law's provisions regarding Medicaid eligibility.

Eligibility groups covered by current law

The Medicaid program is permitted by current state law to cover, as long as federal funds are provided, all of the following:

(1) Families with children that meet the income, resource, and family composition requirements in effect July 16, 1996, for the former Aid to Dependent Children program or any changes made to those requirements in accordance with federal law that permits states to make such changes;

(2) Aged, blind, and disabled persons who receive aid under SSI or are eligible for but not receiving SSI, provided that the income from all other sources for individuals with independent living arrangements do not exceed an amount adjusted annually;

(3) Aged, blind, and disabled persons who would be eligible for SSI if not for having countable income above the SSI eligibility limit and have incurred medical expenses that equal or exceed the amount by which their income exceeds the SSI eligibility limit;

(4) Aged, blind, and disabled individuals who do not receive SSI but received Aid for the Aged, Aid to the Blind, or Aid for the Permanently and Totally Disabled before January 1, 1974, and continue to meet all the same eligibility requirements;

(5) Aged, blind, and disabled individuals who ceased to receive SSI as a result of a general increase in Old-Age, Survivors, and Disability Insurance benefits;

(6) Persons required by federal law to be covered by Medicaid as a condition of state participation in Medicaid;

(7) Persons under age 21 who meet the income requirements for the Ohio Works First program but do not meet other eligibility requirements for the program specified in rules.

Current law also permits Medicaid to cover all of the following:

(1) If sufficient funds are appropriated, persons in groups designated by federal law as groups to which a state, at its option, may cover;

(2) Individuals under age 19 with family incomes not exceeding 150% of the federal poverty line;

(3) If federal funds are provided, former participants of the Ohio Works First program who (a) are ineligible for Ohio Works First solely as a result of increased

income due to employment, (b) are not covered by, and do not have access to, medical insurance coverage through an employer with benefits comparable to those provided under Medicaid, and (c) meet any other requirement established in rules.

In addition to having authority to cover the groups discussed above, current state law requires the Medicaid program to cover all of the following:

(1) Pregnant women with family incomes not exceeding 200% of the federal poverty line;

(2) Women under age 65 who (a) are not otherwise eligible for Medicaid, (b) have been screened for breast and cervical cancer under the U.S. Centers for Disease Control and Prevention Breast and Cervical Cancer Early Detection program, (c) need treatment for breast or cervical cancer, and (d) are not otherwise covered under creditable coverage;

(3) Any individuals under age 21 who (a) was in foster care under the responsibility of the state on the individual's 18th birthday and (b) received foster care maintenance payments or independent living services under a Title IV-E program before the individual's 18th birthday;[103]

(4) Children who are in the temporary or permanent custody of a certified public or private nonprofit agency or institution or in state-subsidized adoptions;

(5) Parents of children under age 19 who (a) reside with their children, (b) have family income not exceeding 90% of the federal poverty line, and (c) are not otherwise eligible for Medicaid;

(6) Pregnant women determined presumptively eligible for Medicaid;

(7) Children determined presumptively eligible for Medicaid;

(8) Individuals who qualify for Medicaid under the Medicaid Buy-In for Workers with Disabilities program, which is available to individuals who (a) are at least age 16 and under age 65, (b) either are considered disabled under the SSI program or are employed individuals with medically improved disabilities, (c) have countable resources not exceeding an amount annually adjusted for inflation, and (d) have countable incomes not exceeding 250% of the federal poverty line.

[103] Title IV-E is the part of the Social Security Act that makes federal funds available to states for foster care and adoption assistance programs.

Elimination and alteration of optional eligibility groups

The bill eliminates all of the provisions of law discussed above regarding eligibility groups that Medicaid may or must cover. However, it provides that no individual eligible for Medicaid pursuant to any of those provisions is to lose Medicaid eligibility before January 1, 2014, because of the provisions' elimination. An individual eligible for Medicaid pursuant to any of those provisions may lose Medicaid eligibility before January 1, 2014, if the individual would cease to be Medicaid eligible before that date for reasons unrelated to the provisions' elimination, including due to the acquisition of income or assets exceeding eligibility limits and failure to comply with eligibility requirements.

Removal of these provisions from statute does not necessarily mean that the Medicaid program will cease to cover any or all of the groups covered by the provisions. The bill establishes a general provision that requires the Medicaid program to cover all mandatory eligibility groups and permits the Medicaid program to cover optional eligibility groups. However, the bill authorizes the ODM Director, beginning January 1, 2014, to alter the eligibility requirements for, and terminate the Medicaid program's coverage of, one or more optional eligibility groups or subgroups, including the following:

(1) Children placed with adoptive parents;

(2) Low income women and children;

(3) Employed individuals with disabilities;

(4) Employed individuals with medically improved disabilities;

(5) Independent foster care adolescents;

(6) Women in need of treatment for breast or cervical cancer;

(7) Low income, nonpregnant individuals who may receive family planning services and supplies;

(8) Pregnant women who may be determined presumptively eligible for Medicaid;

(9) Children who may be determined presumptively eligible for Medicaid;

(10) Low income parents.

The bill specifies what is to happen if the ODM Director alters the eligibility requirements for, or terminates the Medicaid program's coverage of, an optional eligibility group or subgroup. If the ODM Director alters the eligibility requirements for an optional eligibility group or subgroup:

(1) No individual enrolled before the effective date of the altered eligibility requirements in Medicaid as part of the group or subgroup is to remain enrolled in Medicaid on and after that effective date unless the individual meets the altered eligibility requirements for the group or subgroup or meets the eligibility requirements for another eligibility group or subgroup.

(2) Beginning on the effective date of the altered eligibility requirements, no individual may enroll in Medicaid as part of the group or subgroup unless the individual meets the altered eligibility requirements for the group or subgroup or meets the eligibility requirements for another eligibility group or subgroup.

If the ODM Director terminates Medicaid coverage of an optional eligibility group or subgroup:

(1) No individual enrolled, before the effective date of the termination, in Medicaid as part of the group or subgroup is to remain enrolled in Medicaid on and after that effective date unless the individual meets the eligibility requirements for another eligibility group or subgroup.

(2) Beginning on the effective date of the termination, no individual may enroll in Medicaid as part of the group or subgroup but may enroll in Medicaid as part of another group or subgroup for which the individual meets the eligibility requirements.

If the ODM Director alters eligibility requirements for, or terminates, an optional eligibility group or subgroup, ODM must take actions it determines necessary to inform Medicaid recipients about the altered eligibility requirements or termination and, in the case of Medicaid recipients who will cease to be eligible for Medicaid as part of the group or subgroup, offer to assist the recipients with (1) continued Medicaid enrolled as part of another eligibility group or subgroup and (2) transitioning to other health coverage options available to them. ODM may require county departments of job and family services to take actions related to these duties.

No individual is allowed to appeal a denial of Medicaid eligibility as part of a group or subgroup whose Medicaid coverage is terminated if the denial is for Medicaid eligibility that would begin or continue on or after the effective date of the termination. An individual may initiate or continue, on or after the effective date of the termination, an appeal concerning the individual's eligibility for Medicaid as part of the group or

subgroup if the decision being appealed concerns the individual's eligibility for Medicaid as part of the group or subgroup before the effective date of the termination. Such an appeal may not result in the appellant being enrolled, or continuing to be enrolled, in Medicaid as part of the group or subgroup on or after the effective date of the termination.

The alteration of the eligibility requirements for, or termination of, an optional eligibility group or subgroup has no effect on an automatic right of recovery or automatic assignment of rights.

All rules, standards, guidelines, or orders regarding an optional eligibility group or subgroup issued by the ODM Director before the effective date of altered eligibility requirements for, or termination of, the group or subgroup must be used for the purpose of determining the state's legal obligations for claims related to the group or subgroup that arise from (1) eligibility determinations regarding enrollment in Medicaid before that effective date, (2) claims for payment for Medicaid services provided before that effective date, and (3) recoveries of erroneous Medicaid payments.

The bill permits the ODM Director to initiate, before January 1, 2014, the rule-making process to alter the eligibility requirements for, or to eliminate, one or more Medicaid optional eligibility groups or subgroups. However, none of the rules may go into effect before that date.

Federal maintenance of effort requirement

Federal law requires states participating in Medicaid to comply with a maintenance of effort requirement regarding Medicaid eligibility. During the period that begins on March 23, 2010, and ends on the date on which the U.S. Secretary of Health and Human Services determines that a health care benefits exchange is fully operational in the state, a state cannot have in effect eligibility standards, methodologies, or procedures for its Medicaid program that are more restrictive than the eligibility standards, methodologies, or procedures in effect on March 23, 2010. This maintenance of effort requirement continues through September 30, 2019, with respect to the eligibility standards, methodologies, and procedures for individuals under age 19 (or a higher age as the state may have elected).[104] The bill repeals a requirement that the state comply with the maintenance of effort requirement while it is in effect except to the extent, if any, otherwise authorized by the U.S. Secretary.

[104] 42 U.S.C. 1396a(gg).

Eligibility simplification

The bill repeals a requirement that rules be adopted to reduce the complexity of the eligibility determination processes for the Medicaid program caused by the different income and resource standards for the numerous Medicaid eligibility categories. The Office of Medical Assistance adopted such rules after this provision was enacted in 2011.

Medicaid expansion

The federal health-care reforms enacted in 2010, the Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act of 2010, include a major expansion of the Medicaid program. As enacted, a state's Medicaid program is required to cover, beginning January 1, 2014, individuals who (1) are under age 65, (2) not pregnant, (3) not entitled to (or enrolled for) benefits under Medicare Part A, (4) not enrolled for benefits under Medicare Part B, (5) not otherwise eligible for Medicaid, and (6) have incomes not exceeding 133% (138% after using individuals' modified adjusted gross incomes) of the federal poverty line.[105] Although the federal health care reforms made the Medicaid expansion a mandatory eligibility group, the U.S. Supreme Court, in its 2012 ruling on the reforms, effectively made the expansion an optional eligibility group by prohibiting the U.S. Secretary of Health and Human Services from withholding all or part of a state's other federal Medicaid funds for failure to implement the expansion.[106]

The bill permits the Medicaid program to cover the expansion group, or one or more subgroups of the group, if the enhanced federal match for expenditures for Medicaid services provided to the group or subgroup is at least the amount specified in federal law as of March 30, 2010. The following are the amounts of the federal match as of March 30, 2010:

(1) 100% of the expenditures for calendar years 2014, 2015, and 2016;

(2) 95% of the expenditures for calendar year 2017;

(3) 94% of the expenditures for calendar year 2018;

(4) 93% of the expenditures for calendar year 2019;

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[105] 42 U.S.C. 1396a(a)(10)(A)(i)(VIII) and (e)(14).

[106] *National Federation of Independent Business v. Sebelius* (2012), 132 S. Ct. 2566.

(5) 90% of the expenditures for calendar year 2020 and each calendar year thereafter.[107]

The bill requires that the Medicaid program cease to cover the expansion group, and any subgroup of the group, if the enhanced federal match for expenditures for Medicaid services provided to the group or subgroup is lowered to an amount below the amount specified in federal law as of March 30, 2010. If the Medicaid program so ceases to cover the group, or any subgroup of the group, each individual enrolled in Medicaid as part of the group or subgroup is to be disenrolled from Medicaid on the first day of the month following the effective date of the federal match's reduction unless the individual meets the eligibility requirements for another Medicaid eligibility group or subgroup.

If federal law or the U.S. Department of Health and Human Services requires the state to reduce or eliminate any tax, the ODM Director may terminate the Medicaid program's coverage of the expansion group or any subgroup or alter the eligibility requirements for the group or subgroup in a manner that causes fewer individuals to meet the eligibility requirements. If the expansion group or any subgroup is so terminated, each individual enrolled in Medicaid as part of the group or subgroup must be disenrolled from Medicaid on a date the Director specifies unless the individual meets the eligibility requirements for another Medicaid eligibility group or subgroup. If the eligibility requirements for the expansion group or any subgroup is so altered, each individual enrolled in Medicaid as part of the group or subgroup must be disenrolled from Medicaid on a date the Director specifies unless the individual meets the altered eligibility requirements or meets the eligibility requirements for another Medicaid eligibility group or subgroup.

An individual's disenrollment from Medicaid pursuant to a provision discussed above is not subject to appeal under the bill's provisions regarding Medicaid appeals.

The bill provides that if the Medicaid program covers the expansion group, or any subgroup of the group, the cost-sharing requirements instituted under continuing law do not apply to any member of the group or subgroup who has countable income exceeding 100% of the federal poverty line. Instead, ODM is required to institute new cost-sharing requirements for such members of the group or subgroup. In instituting the cost-sharing requirements, all of the following apply:

(1) The requirements shall not apply to any individual exempt from cost-sharing requirements pursuant to federal law.

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[107] 42 U.S.C. 1396d(y).

(2) The copayment amounts for drugs shall be not less than the copayment amounts for drugs established under the cost-sharing requirements instituted under continuing law.

(3) The copayment amount for nonemergency emergency department services must be higher than the copayment amount for nonemergency emergency department services established under the cost-sharing requirements instituted under continuing law;

(4) Copayments must be established for at least all other types of Medicaid services that are subject to copayments included in the cost-sharing requirements instituted under continuing law and the copayment amounts for those services may be higher than the copayment amounts for those services under the cost-sharing requirements implemented under continuing law.

A Medicaid provider is permitted to refuse to provide a Medicaid service to a Medicaid recipient subject to the new cost-sharing requirements if the recipient fails to pay the copayment for the service. Before refusing to provide a Medicaid service, the Medicaid provider must inform the recipient whether an alternative Medicaid service for which there is no copayment is available. A Medicaid provider may attempt to collect unpaid copayments but may not waive a recipient's obligation to pay a copayment. In the case of a Medicaid provider that is a hospital, the provider may take action to collect a copayment by providing, at the time the provider provides hospital services to a recipient subject to the copayment requirement, notice that a copayment may be owed.

209(b) option regarding aged, blind, and disabled individuals

Generally, an individual receiving SSI benefits is eligible for Medicaid as part of a mandatory eligibility group established by federal law. However, federal law permits states to establish more restrictive Medicaid eligibility requirements for aged, blind, and disabled persons that cause some individuals receiving SSI benefits to not qualify for Medicaid. This option is often referred to as the "209(b)" option. Ohio's Medicaid program currently implements the 209(b) option.

The bill expressly authorizes the Medicaid program to continue to implement the 209(b) option.

Tuition savings and scholarships exempt from consideration

The bill repeals a law that requires the value of the following to be exempt from consideration in Medicaid eligibility determinations: tuition payment contracts entered into under state law; scholarships for college savings programs authorized by state law;

and payments made by the Ohio Tuition Trust Authority pursuant to the contract or scholarship.

Trust reporting for Medicaid eligibility

(R.C. 5163.21)

The bill requires a Medicaid applicant or recipient who is a beneficiary of a trust to submit a complete copy of the trust instrument to the relevant county department of job and family services (CDJFS) and ODM. A copy is considered to be complete if it contains all pages of the trust instrument and all schedules, attachments, and accounting statements referenced in or associated with the trust. The bill specifies that the copy is confidential and is not subject to disclosure under Ohio's Public Records Law (R.C. 149.43).

Under law generally unchanged by the bill, the CDJFS must determine what type of trust it is and whether the trust or a portion of it is a resource available to the applicant or recipient, contains income available to the applicant or recipient, or both, for purposes of determining the applicant's or recipient's eligibility for Medicaid. The bill requires this responsibility to be completed on the CDJFS's receipt of the trust instrument or when the CDJFS determines that the applicant or recipient is a trust beneficiary.

The bill also eliminates a reference to an obsolete category of low-income Medicare beneficiaries – known as "qualifying individuals-2" or "Q2s" – who participated in a federal program called the "Qualified Individuals Program." Since January 1, 2003, that program has paid the Medicare Part B premiums for only one category of low-income Medicare beneficiaries known as "qualifying individuals-1" or "Q1s." Q2s had to have incomes between 135% and 175% of the federal poverty level; Q1s have even lower income (between 120% and 135% of the federal poverty level).[108]

Third-party liability – disclosure of third-party payer information

(R.C. 5160.37 and 5160.371)

Congress intended that Medicaid be the payer of last resort; that is, if a Medicaid recipient has another source of payment for health services, that source is to pay instead

[108] U.S. Department of Health and Human Services, Centers for Medicare & Medicaid Services, *List and Definitions of Dual-Eligibles* (revised April 2, 1999), available at: www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/MedicareEnrpts/downloads/Buy-InDefinitions.pdf.

of Medicaid.[109] Consistent with this principle, current law gives ODJFS and a CDJFS an automatic right of recovery against the liability of a third party for the cost of medical assistance paid on behalf of a medical assistance recipient. The bill defines a "medical assistance program" as all of the following: (1) the Medicaid program, (2) the Children's Health Insurance Program, (3) the Refugee Medical Assistance Program, and (4) any other program that provides medical assistance and state statutes authorize ODM to administer (R.C. 5160.01(C)). The bill gives ODM that right instead of ODJFS.

In connection with the right of recovery, a medical assistance recipient and the recipient's attorney (if any) must, pursuant to current law, cooperate with ODM and the relevant CDJFS. In furtherance of this requirement, the recipient or attorney must, not later than 30 days after initiating informal recovery activity or filing a legal recovery action against a third party, provide written notice of the activity or action to ODM or, under the bill, the relevant CDJFS if it has paid medical assistance.

Similar to the current requirement described above, the bill requires a medical assistance recipient and the recipient's attorney (if any) to cooperate with each medical provider of the recipient. The bill specifies that cooperation consists of disclosing to the provider all information the recipient and attorney possess that would assist the provider in determining each third party that is responsible for the payment or processing of a claim for medical assistance provided to the recipient. If such disclosure is not made, the bill specifies that the recipient and the recipient's attorney are liable to reimburse ODM for the amount that would have been paid by a third party had a third party been disclosed to the provider by the recipient or the recipient's attorney.

Assignment of ODM's right of recovery

(R.C. 5160.37(K) and 5160.40)

The bill authorizes ODM to assign to a medical assistance provider its right of recovery against a third party for a claim for medical assistance if ODM notifies the provider that ODM intends to recoup ODM's prior payment for the claim. If ODM makes such an assignment, the bill requires the third party to treat the provider as ODM and pay the provider the greater of the following:

(1) The amount ODM intends to recoup from the provider for the claim;

(2) If the third party and the provider have an agreement that requires the third party to pay the provider at the time the provider presents the claim to the third party, the amount that is to be paid under that agreement.

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[109] U.S. Government Accountability Office, *Medicaid Third Party Liability: Federal Guidance Needed to Help States Address Continuing Problems* (Sept. 2006), available at www.gao.gov/new.items/d06862.pdf, at p. 1.

Medicaid services

Mandatory and optional services

(R.C. 5164.03 (primary) and 5164.01)

As with eligibility groups, federal law requires a state's Medicaid program to cover certain services and permits the program to cover other services. The services that must be covered are called mandatory services and the services that may be covered are optional services.

Continuing state law specifies certain services that the Medicaid program must, may, or cannot cover. Generally, however, whether Ohio's Medicaid program covers a service is specified in rules authorized by continuing law that requires the Medical Assistance Director (under current law) or ODM Director (under the bill) to adopt rules establishing the amount, duration, and scope of Medicaid services.

The bill establishes general requirements regarding the Medicaid program's coverage of services. It requires Medicaid to cover all mandatory services and all of the optional services that state statutes require Medicaid to cover. The bill permits Medicaid to cover any of the optional services that state statutes expressly permit Medicaid to cover and optional services that state statutes do not address whether Medicaid may cover. Medicaid is prohibited by the bill from covering any optional services that state statutes prohibit Medicaid from covering.

Rules regarding payment amounts

(R.C. 5164.02)

The rules regarding Medicaid services are to establish the payment amount for each Medicaid service or, in lieu of the payment amount, the method by which the payment amount is to be determined for each Medicaid service. The bill provides that the ODM Director is not required to adopt a rule establishing the payment amount for a Medicaid service if the Director adopts a rule establishing the method by which the payment amount is to be determined for the Medicaid service and makes the payment amount available on the Internet web site maintained by ODM.

Provider agreements

Requirement to have provider agreement with ODM

(R.C. 5164.30)

Continuing law has many provisions regarding Medicaid provider agreements that indirectly establish the requirement for providers to have such an agreement to participate in Medicaid. The bill expressly prohibits any person or government entity from participating in Medicaid as a provider without a valid provider agreement with ODM.

Time limit on Medicaid provider agreements

(R.C. 5164.32 (primary), 5164.31, 5164.38, and 5165.07)

Current law requires the ODM Director to adopt rules establishing procedures for the use of time-limited Medicaid provider agreements. All provider agreements are to be time-limited in accordance with the procedures, other than provider agreements with Medicaid managed care organizations, nursing facilities, ICFs/IID, and hospitals. ODM is to phase in the use of time-limited provider agreements during a period beginning not later than January 1, 2008, and ending January 1, 2015.

The bill revises the law governing time-limited Medicaid provider agreements. Under the revisions, all provider agreements, including provider agreements with Medicaid managed care organizations, nursing facilities, ICFs/IID, and hospitals, are to be time-limited. The bill eliminates the phase-in process for converting provider agreements to time-limited provider agreements. The bill also eliminates provisions of current law that permit ODM to (1) take an action to convert a provider agreement by sending a notice by regular mail to the address of the provider on record with ODM advising the provider of the conversion and (2) make the effective date of a provider agreement retroactive for a period not to exceed one year from the date of the provider's application for the agreement, as long as the provider met all Medicaid program requirements during that period. Whereas current law provides that a provider agreement is to expire not later than seven years from its effective date, the bill sets the maximum duration of a provider agreement to five years.

Current law requires ODM's rules regarding time-limited provider agreements to include a process for re-enrollment of providers and specifies that all of the following apply to the re-enrollment process:

(1) ODM may terminate a time-limited provider agreement or deny re-enrollment when a provider fails to file an application for re-enrollment within the time and in the manner required under the re-enrollment process.

(2) If a provider files an application for re-enrollment within the required time and in the required manner, but the provider agreement expires before ODM acts on the application or before the effective date of ODM's decision on the application, the provider may continue operating under the terms of the expired provider agreement until the effective date of ODM's decision.

(3) A decision by ODM to approve an application for re-enrollment becomes effective on the date of ODM's decision, and a decision to deny re-enrollment takes effect not sooner than 30 days after the date ODM mails written notice of the decision to the provider. ODM must specify in the notice the date on which the provider is required to cease operating under the provider agreement.

The bill requires that ODM's rules regarding time-limited provider agreements include a process for revalidating providers' continued enrollment as providers rather than a process for re-enrolling providers. The rules must be consistent with federal Medicaid regulations regarding provider screening and enrollment. All of the following apply to the revalidation process:

(1) ODM must refuse to revalidate a provider's provider agreement when the provider fails to either (a) file a complete application for revalidation within the time and in the manner required under the revalidation process or (b) provide required supporting documentation not later than 30 days after the date the provider timely applies for revalidation.

(2) If a provider files an application for revalidation within the required time and in the required manner and timely provides required supporting documentation, but the provider agreement expires before ODM acts on the application or before the effective date of ODM's decision on the application, the provider may continue operating under the terms of the expired provider agreement until the effective date of ODM's decision. However, if ODM denies the provider's application, Medicaid payments cannot be made for Medicaid services provided during the period beginning on the date the provider agreement expired and ending on the effective date of a subsequent provider agreement, if any, that ODM enters into with the provider.

Incomplete provider agreement or revalidation application

(R.C. 5164.38)

Generally, ODM is required to issue an order pursuant to an adjudication conducted in accordance with the Administrative Procedure Act (R.C. Chapter 119.) when taking various actions regarding Medicaid provider agreements, such as entering into or refusing to enter into a provider agreement. This requirement does not apply under certain circumstances, including when ODM enters into or refuses to enter into a provider agreement with a managed care organization.

Renewing or refusing to renew a provider agreement is one of the actions that generally requires an adjudication. Consistent with the changes discussed above (see "**Time limit on Medicaid provider agreements**,") the bill replaces references to renewal with references to revalidation.

The bill provides that the requirement to issue an order pursuant to an adjudication does not apply when ODM (1) denies an application for a Medicaid provider agreement because the application is not complete or (2) unless the provider is a nursing facility or ICF/IID, refuses to revalidate a provider agreement because the provider fails to file a complete application for revalidation within the required time and in the required manner or fails to provide required supporting documentation within the required time.

Application fees for Medicaid provider agreements

(R.C. 5164.31)

ODM is required by current law to charge an application fee to a provider seeking to enter into or renew a Medicaid provider agreement, unless the provider is exempt from paying the fee under federal Medicaid regulations. The bill requires ODM to collect an application fee from a provider before (1) entering into a Medicaid provider agreement with a provider seeking initial enrollment as a provider, (2) entering into a provider agreement with a former provider seeking re-enrollment as a provider, and (3) revalidating a provider's continued enrollment as a provider. The bill maintains the exception for providers who are exempt under the federal Medicaid regulations.

The bill specifies that the application fees are nonrefundable when collected in accordance with the federal Medicaid regulation governing the fees.

Medicaid-related criminal records checks

(R.C. 5164.34 (primary), 109.572, 5164.341, and 5164.342)

The bill revises the law governing Medicaid-related criminal records checks. Continuing law requires an independent provider of home and community-based services covered by an ODM-administered Medicaid waiver program to submit to a criminal records check as a condition of obtaining or maintaining a provider agreement. Continuing law also requires an individual to submit to a database review and, unless the individuals fails the database review, a criminal records check as a condition of being employed by a waiver agency in a position that involves providing home and community-based services covered by an ODM-administered Medicaid waiver program. (An individual already employed in such a position is subject to a database review and criminal records check only if so required by ODM rules.) ODM has authority under continuing law to require that (1) other providers, including applicants for provider agreements, submit to criminal records checks as a condition of maintaining or obtaining provider agreements, (2) other providers, including applicants for provider agreements, require their owners, officers, and board members (including prospective owners, officers, and board members) to submit to criminal records checks, and (3) other providers, including applicants for provider agreements, (a) determine, pursuant to database reviews, whether any employee or prospective employee is included in certain databases and (b) unless a provider cannot employ an employee or prospective employee because of the results of the database review, require the employee or prospective employee to submit to a criminal records check. These provisions do not apply to individuals who are subject to other laws regarding criminal records checks applicable to providers or employees of various health services, including hospice, home health, and nursing home care.

Intervention in lieu of conviction

Unless ODM's rules provide otherwise, ODM must terminate, or deny an application for, a provider agreement (including a provider agreement for an independent provider of home and community-based services covered by an ODM-administered Medicaid waiver program) if the provider is found by a criminal records check to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for, a disqualifying offense. A Medicaid provider is prohibited, unless ODM's rules provide otherwise, from permitting a person to be an owner, officer, board member, or employee of the provider if the person is found by a criminal records check to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for, a disqualifying offense. The bill eliminates the requirement for ODM to terminate or deny a provider agreement, as well as the requirement for a provider to prohibit a person from being an owner, officer,

board member, or employee, when the provider or person has been found eligible for intervention in lieu of conviction for a disqualifying offense.

Release of results of criminal records check

Continuing law provides that the report of a criminal records check to which a Medicaid provider (or owner, officer, board member, or employee of a provider) submits is not a public record and may be made available only to certain persons, such as the subject of the check and the ODM Director. The bill permits the results to be released to an individual receiving or deciding whether to receive, from the subject of the check, home and community-based services available under an ODM-administered Medicaid waiver program or the Medicaid state plan. In the case of a criminal records check of an independent provider of home and community-based services covered by an ODM-administered Medicaid waiver program, current law already permits the results to be released to an individual receiving the services from the provider. The bill permits the results to be released, in addition, to an individual deciding whether to receive the services from the provider.

System for Award Management web site

Before a waiver agency providing home and community-based services covered by an ODM-administered Medicaid waiver program requires an employee or prospective employee to submit to a criminal records check, the waiver agency must conduct a review of certain databases to determine whether the waiver agency may employ the employee or prospective employee. (The requirement to conduct a database review for an existing employee applies only if ODM rules require that the database review be conducted.) The Excluded Parties List System is one of the databases that must be reviewed. It is maintained by the U.S. General Services Administration. The bill specifies that the Excluded Parties List System is available at the federal web site known as the System for Award Management.

Medicaid dispensing fee for noncompounded drugs

(Section 323.130)

The bill sets the Medicaid dispensing fee for each noncompounded drug covered by the Medicaid program at $1.80 for the period beginning July 1, 2013, and ending on the effective date of a rule changing the amount of the fee that the ODM Director adopts. This is the same amount that was in effect during fiscal years 2010 through 2013.

Drug dispensing fee survey

(R.C. 5164.752 and 5164.753)

For the purpose of establishing a Medicaid drug dispensing fee, current law requires ODM to initiate a private survey of retail pharmacy operations. The survey must include operational data and direct prescription expenses, professional services and personnel costs, usual and customary overhead expenses, and profit data of the retail pharmacies surveyed. Current law does not require pharmacies to participate in the survey.

Effective July 1, 2014, the bill modifies the provisions regarding the survey to require that Medicaid-participating terminal distributors of dangerous drugs, rather than all retail pharmacies, participate in the survey. The bill specifies that survey responses are confidential and not a public record, except as necessary to publish the survey's results. The requirement that the survey include "profit data" is eliminated. The ODM Director, when using the survey to establish the dispensing fee, is to consider the extent to which each terminal distributor participates in the Medicaid program as a provider of drugs.

Current law provides that the dispensing fee is effective the January following the survey. The bill instead provides that the fee is effective the following July.

Medicaid payment rates

(Sections 323.250, 323.260, and 323.270)

The ODM Director is required by the bill to make all of the following adjustments to Medicaid payment rates:

(1) Reduce the payment rate for radiological services in situations in which the services are provided (a) in a physician's office or an independent diagnostic testing facility, and (b) more than once by the same provider for the same Medicaid recipient during the same treatment session;

(2) Identify physician services for which Medicaid payment rates should vary depending on where the services are provided and establish varying Medicaid payment rates for those services;

(3) Identify Medicaid services for which Medicaid payment methodologies should be aligned with Medicare payment methodologies for the services and establish those aligned payment methodologies.

The bill requires the adjustments to be made by adopting rules. It specifies that the rules cannot take effect before January 1, 2014.

Rates for physician groups acting as outpatient hospital clinics

(Section 323.240)

The bill requires the ODM Director to rescind Ohio Administrative Rule 5101:3-1-60.1 and specifies that the rescission cannot take effect before January 1, 2014. That rule requires different Medicaid payment amounts (generally the regular Medicaid payment multiplied by 1.4) for physician group practices that meet both of the following criteria:

(1) The physician group practice is physically attached to a hospital that does not provide physician clinic outpatient services and the hospital and physician group practice have signed a letter of agreement indicating that the physician group practice provides the outpatient hospital clinic service for that hospital;

(2) The state Medicaid agency provider utilization summary for calendar year 1990 establishes that the physician group practice provides at least 40% of the total number of Medicaid physician visits provided in the county in which the physician group practice is located and an aggregate total of at least 10% of the physician visits provided in the contiguous counties.

Medicaid payments for noninstitutional services provided to Medicare Part B enrollees

(Section 323.230)

The bill establishes Medicaid payment amounts for noninstitutional services, provided from January 1, 2014 through July 1, 2015, to a Medicaid recipient who is a dual eligible individual enrolled for benefits under Medicare Part B. Physician services are excluded from this provision of the bill, but free standing dialysis center services are included. Under the bill, a Medicaid payment for noninstitutional services is to equal the lesser of the following:

(1) The sum of the Medicare Part B deductible, coinsurance, and copayment for the services that are applicable to the individual;

(2) The greater of: (a) the maximum allowable Medicaid payment for the services when provided to other Medicaid recipients, less the total Medicaid payment (if any) most recently paid on the Medicaid recipient's behalf for such services, or (b) zero.

Medicaid payments for home health and private duty nursing services

(Section 323.233)

For fiscal years 2014 and 2015, the bill permits Medicaid payments for home health and private duty nursing services provided by the responsible adult of a Medicaid recipient only if the provision of services meets conditions to be established by the ODM Director. A "responsible adult" under the bill is the spouse of a Medicaid recipient or, in the case of a minor, the minor's parent, foster caregiver, stepparent, guardian, legal custodian, or any other person who stands in the place of a parent for the minor.

The ODM Director is required to consult with provider representatives, consumer representatives, and other stakeholders in developing rules regarding Medicaid payments to responsible adults for such services. The rules may include any of the following:

(1) Qualification and training requirements necessary for responsible adults to receive Medicaid payments;

(2) Oversight requirements necessary for responsible adults to receive Medicaid payments;

(3) Procedures designed to protect against fraud, waste, and abuse that may occur as a result of making Medicaid payments to responsible adults;

(4) Any other procedures, standards, or requirements the ODM Director considers appropriate.

Inpatient psychiatric hospital services for certain individuals under age 21

(Section 323.340)

During fiscal years 2014 and 2015, the bill permits Medicaid to cover inpatient psychiatric hospital services provided by psychiatric residential treatment facilities to Medicaid recipients under age 21 who are in the custody of the Ohio Department of Youth Services (ODYS) and have been identified as meeting a clinical criterion of serious emotional disturbance.

The bill requires ODYS, in collaboration with ODM and the Ohio Department of Mental Health and Addiction Services (ODMHAS), to specify the clinical criterion of serious emotional disturbance to be used for purposes of identifying these individuals.

Prior authorization for community mental health services

(Section 323.80)

The bill continues for fiscal years 2014 and 2015 a provision that Am. Sub. H.B. 153 of the 129th General Assembly established for fiscal years 2012 and 2013. Under the provision, a Medicaid recipient under 21 years of age automatically satisfies all requirements for any prior authorization process for community mental health services provided under a component of the Medicaid program administered by ODMHAS if the recipient (1) is in the temporary or permanent custody of a public children services agency or private child placing agency, (2) is in a planned permanent living arrangement, (3) has been placed in protective supervision by a juvenile court, (4) has been committed to ODYS, or (5) is an alleged or adjudicated delinquent or unruly child receiving services under the Felony Delinquent Care and Custody Program.

Review of long-term services to improve efficiency and individual care

(Section 323.290)

The bill authorizes ODM to review home health nursing services, home health aide services, and private duty nursing services covered by the Medicaid program to identify opportunities to improve the efficiency of, and individual care provided by, long-term care services and supports. In its review, ODM may consider establishing any of the following:

(1) New methods for authorizing and coordinating long-term care services and supports, including such services and supports covered by the Medicaid state plan, using case managers or care coordinators;

(2) Competency and training requirements for the case managers or care coordinators;

(3) Other mechanisms for improving efficiency and individual care in the delivery of long-term care services and supports.

Medicaid coverage of wheelchairs

(R.C. 5165.01 and 5165.19; Section 323.236)

Custom wheelchairs removed from bundling

Am. Sub. H.B. 1 of the 128th General Assembly (the main operating appropriations act) included the costs of wheelchairs among the costs included in nursing facilities' ancillary and support costs. Am. Sub. H.B. 487 of the 129th General

Assembly (the mid-biennium budget review act) moved the costs of wheelchairs from nursing facilities' ancillary and support costs to their direct care costs. The inclusion of wheelchair costs in nursing facilities' costs is part of what has been called "bundling." Other costs that are part of bundling include resident transportation, oxygen, over-the-counter pharmacy products, physical therapy, occupational therapy, speech therapy, and audiology. Bundling affects nursing facilities' Medicaid payments.

The bill removes custom wheelchairs from nursing facilities' Medicaid costs beginning with fiscal year 2015. A custom wheelchair is a wheelchair specifically designed to provide mobility to an individual who, without the specifically designed wheelchair, would be confined to lying, sitting, or another sedentary state. A bed- or chair-confined individual is considered to be confined to a sedentary state.

Continuing law provides for a portion of nursing facilities' Medicaid payment rates for direct care costs to be based on their costs for bundled services. Under current law, this is reflected with an $1.88 per Medicaid day payment rate increase for nursing facilities' costs per case-mix unit, a factor in determining their Medicaid payment rates for direct care costs. With the removal of custom wheelchair costs beginning in fiscal year 2015, this amount is reduced to $1.56 for that fiscal year and each fiscal year thereafter. Both the current increase and the bill's lower increase are to cease when ODM first rebases nursing facilities' costs per case-mix unit. Rebasing is a redetermination of nursing facilities' costs per case-mix unit using information from Medicaid cost reports for a calendar year that is later than the calendar year used for the previous determination of such costs. Continuing law provides that ODM does not have to conduct a rebasing more than once every ten years.

Purchasing strategies for wheelchairs

The bill requires the ODM Director to implement, for fiscal year 2015, strategies for purchasing wheelchairs for Medicaid recipients residing in nursing facilities. In implementing the purchasing strategies, the Director is to seek to achieve a more efficient allocation of resources and price and quality competition among wheelchair providers. The Director must consider one or more of the following when determining the purchasing strategies:

(1) Establishing selective contracting or competitive bidding;

(2) Establishing a manufacturer's rebate program;

(3) Another purchasing strategy that saves the Medicaid program an amount equivalent to the savings that would be realized from one or both of the purchasing strategies specified above.

Nursing facilities' peer groups

(R.C. 5165.15, 5165.16, 5165.17, and 5165.19)

Nursing facilities are placed into various peer groups for the purposes of determining their Medicaid payment rates for ancillary and support costs, capital costs, and direct care costs. The bill provides for a nursing facility located in Mahoning or Stark county to be treated as if it were in a different peer group when its Medicaid payment rate is determined for the period beginning October 1, 2013, and ending on the first day of the first rebasing of nursing facilities' Medicaid payment rates. This will affect the Medicaid payment rates only for nursing facilities located in those counties. Nursing facilities located in either county are to become a part of the different peer groups beginning with the first rebasing. This will affect the Medicaid payment rates for all nursing facilities in the peer groups affected by the changes. A rebasing is a redetermination of nursing facilities' Medicaid payment rates for certain cost centers using information from Medicaid cost reports for a calendar year that is later than the calendar year used for the previous determination of the costs.

For the purpose of determining nursing facilities' Medicaid payment rates for ancillary and support costs and capital costs, a nursing facility located in Mahoning or Stark county is placed in either peer group five or six, depending on how many beds it has. If it has fewer than 100 beds, it is placed in peer group five. If it has 100 or more beds, it is placed in peer group six. Nursing facilities located in any of the following counties are also placed in peer group five or six, depending on their number of beds: Adams, Allen, Ashland, Athens, Auglaize, Belmont, Carroll, Columbiana, Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, Jefferson, Lawrence, Logan, Meigs, Mercer, Monroe, Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, Scioto, Shelby, Trumbull, Tuscarawas, Van Wert, Vinton, Washington, Wayne, Williams, and Wyandot. During the period beginning October 1, 2013, and ending on the first day of the first rebasing, a nursing facility located in Mahoning or Stark county is to be treated as if it were part of peer group three if it has fewer than 100 beds and peer group four if it has 100 or more beds. Beginning with the first rebasing, nursing facilities located in Mahoning or Stark County are to be placed, rather than just treated as if they were part of, peer group three or four. Peer groups three and four currently consist of nursing facilities located in any of the following counties: Ashtabula, Champaign, Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette, Franklin, Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, Lorain, Lucas, Madison, Marion, Medina, Miami, Montgomery, Morrow, Ottawa, Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Summit, Union, and Wood.

For the purpose of determining nursing facilities' Medicaid payment rates for direct care costs, a nursing facility located in Mahoning or Stark county is placed in peer group three. Peer group three also consists of nursing facilities located in any of the following counties: Adams, Allen, Ashland, Athens, Auglaize, Belmont, Carroll, Columbiana, Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, Jefferson, Lawrence, Logan, Meigs, Mercer, Monroe, Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, Scioto, Shelby, Trumbull, Tuscarawas, Van Wert, Vinton, Washington, Wayne, Williams, and Wyandot. During the period beginning October 1, 2013, and ending on the first day of the first rebasing, a nursing facility is to be treated as if it were part of peer group two. Beginning with the first rebasing, nursing facilities located in Mahoning or Stark County are to be placed, rather than just treated as if they were part of, peer group two. Peer group two currently consists of nursing facilities located in any of the following counties: Ashtabula, Champaign, Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette, Franklin, Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, Lorain, Lucas, Madison, Marion, Medina, Miami, Montgomery, Morrow, Ottawa, Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Summit, Union, and Wood.

Nursing facilities' quality incentive payments

(R.C. 5165.25 (primary), 173.47, and 5165.26)

Maximum quality incentive payment

Continuing law provides for a quality incentive payment to be part of nursing facilities' Medicaid payments. A nursing facility's per Medicaid day quality incentive payment for a fiscal year is the product of $3.29 and the number of points it is awarded for meeting accountability measures. There is, however, a cap on the quality incentive payment that may be paid. Under current law, the maximum per Medicaid day payment is $16.44. Beginning with fiscal year 2015, the bill revises the law governing the maximum payment as follows:

(1) The maximum payment is to remain at $16.44 per Medicaid day for a nursing facility that is awarded at least one point for meeting accountability measures regarding pain, pressure ulcers, physical restraints, urinary tract infections, and vaccinations.

(2) The maximum payment is to be reduced to $13.16 per Medicaid day for a nursing facility that fails to be awarded at least one point for the accountability measures specified above.

Fiscal year 2014 accountability measures

The bill retains the current accountability measures for which nursing facilities may be awarded points. However, the bill includes specific percentage amounts to be used for certain accountability measures rather than having those percentages determined administratively in accordance with directions included in provisions the bill eliminates. The following are the accountability measures for which the bill establishes specific percentage amounts to be used and the percentage amounts so specified:

(1) Not more than 13.35% of a nursing facility's long-stay residents report severe to moderate pain during the minimum data set assessment process;[110]

(2) Not more than 5.73% of a nursing facility's long-stay, high-risk residents have been assessed as having one or more stage two, three, or four pressure ulcers during the minimum data set assessment process;

(3) Not more than 1.52% of a nursing facility's long-stay residents were physically restrained as reported during the minimum data set assessment process;

(4) Less than 7.78% of a nursing facility's long-stay residents had a urinary tract infection as reported during the minimum data set assessment process.

Fiscal year 2015 and thereafter accountability measures

The bill revises the list of accountability measures for which nursing facilities can be awarded points for fiscal year 2015 and thereafter. A nursing facility is to be awarded one point for each of the following accountability measures it meets:

(1) Its overall score on its resident satisfaction survey is at least 87.5;

(2) Its overall score on its family satisfaction survey is at least 85.9;

(3) It satisfies the requirements for participation in the Advancing Excellence in America's Nursing Homes campaign;

(4) Both of the following apply:

(a) It had not been listed on Table B of the Special Focus Facility list for 18 or more consecutive months during any time during the calendar year

[110] The minimum data set is the standardized, uniform, and comprehensive assessment of nursing facility residents that is used to identify potential problems, strengths, and preferences of residents and is part of the resident assessment instrument required by federal Medicaid law.

immediately preceding the fiscal year for which the point is to be awarded.[111]

(b) It had neither of the following on its most recent standard survey conducted not later than the last day of the calendar year immediately preceding the fiscal year for which the point is to be awarded or any complaint surveys conducted in the calendar year immediately preceding the fiscal year for which the point is to be awarded: (i) A health deficiency with a scope and severity level greater than F, or (ii) A deficiency that constitutes a substandard quality of care.

(5) It does all of the following:

(a) Offers at least 50% of its residents at least one of the following dining choices for at least two meals each day: restaurant-style dining, buffet-style dining, family-style dining, open dining, or 24-hour dining;

(b) Maintains a written policy specifying the manner or manners in which residents' dining choices for meals are offered;

(c) Communicates the policy to its staff, residents, and families of residents.

(6) It does all of the following:

(a) Enables at least 50% of its residents to take a bath or shower when they choose;

(b) Maintains a written policy regarding residents' choices in bathing;

(c) Communicates the policy to its staff, residents, and families of residents.

(7) It has at least both of the following scores on its resident satisfaction survey:

(a) With regard to the question in the survey regarding residents' ability to choose when to go to bed in the evening, at least 89;

(b) With regard to the question in the survey regarding residents' ability to choose when to get out of bed in the morning, at least 76.

[111] See "**Special Facility Focus Program**" in this analysis for a discussion of the Special Focus Facility list and its tables.

(8) It has at least both of the following scores on its family satisfaction survey:

(a) With regard to the question in the survey regarding residents' ability to choose when to go to bed in the evening, at least 88;

(b) With regard to the question in the survey regarding residents' ability to choose when to get out of bed in the morning, at least 75.

(9) Not more than 13.35% of its long-stay residents report severe to moderate pain during the minimum data set assessment process.

(10) Not more than 5.16% of its long-stay, high-risk residents have been assessed as having one or more stage two, three, or four pressure ulcers during the minimum data set assessment process.

(11) Not more than 1.52% of its long-stay residents were physically restrained as reported during the minimum data set assessment process.

(12) Less than 7% of its long-stay residents had a urinary tract infection as reported during the minimum data set assessment process.

(13) It does all of the following:

(a) Uses a tool for tracking residents' admissions to hospitals;

(b) Informs ODM of the tool;

(c) Each month, reports to ODM hospital admission data for all residents.

(14) Both of the following apply:

(a) At least 95% of its long-stay residents are assessed for risk of pneumococcal pneumonia and, if appropriate as determined by the assessment, vaccinated against pneumococcal pneumonia;

(b) At least 93% of its long-stay residents are assessed for risk of seasonal influenza and, if appropriate as determined by the assessment, vaccinated against seasonal influenza.

(15) An average of at least 50% of its Medicaid-certified beds are in either, or in a combination of both, of the following:

(a) Private rooms;

(b) Semi-private rooms to which all of the following apply: (i) each room provides a distinct territory for each resident occupying the room, (ii) each distinct territory has a window and is separated by a substantial wall from the other distinct territories in the room,[112] (iii) each resident is able to enter and exit the distinct territory of the resident's room without entering or exiting another resident's distinct territory, and (iv) complete visual privacy for each distinct territory may be obtained by drawing a curtain or other screen.

(16) It does both of the following:

(a) Obtains at least a 95% compliance rate with requesting resident reviews required by a federal regulation for individuals who are exempted hospital discharges;[113]

(b) Reports to ODM data demonstrating its compliance with the resident review requirements.

(17) It does both of the following:

(a) Maintains a written policy that requires consistent assignment of nurse aides and specifies the goal of having a resident receive nurse aide care from not more than 12 different nurse aides during a 30-day period;

(b) Communicates the policy to its staff, residents, and families of residents.

(18) Its staff retention rate is at least 75%.

(19) Its turnover rate for nurse aides is not higher than 65%.

(20) For at least 50% of its resident care conferences, a nurse aide who is a primary caregiver for the resident attends and participates in the conference.

(21) All of the following apply:

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[112] A substantial wall is a permanent structure that reaches from floor to ceiling and divides a semi-private room into two distinct living spaces, each with its own window.

[113] An "exempted hospital discharge" is an individual (1) who is admitted to a nursing facility directly from a hospital after receiving acute inpatient care at the hospital, (2) who requires nursing facility services for the condition for which the individual received care in the hospital, and (3) whose attending physician has certified before admission to the nursing facility that the individual is likely to require less than 30 days of nursing facility services (42 C.F.R. 483.106(b)(2)(i)).

(a) At least 75% of its residents have the opportunity, following admission and before completing or quarterly updating their individual plans of care, to discuss their goals for the care they are to receive there, including their preferences for advance care planning, with a member of the resident's health care teams that the facility, its residents, and residents' sponsors consider appropriate.

(b) It records the residents' care goals, including their advance care planning preferences, in their medical records.

(c) It uses the residents' care goals, including their advance care planning preferences, in the development of their individual plans of care.

(d) It maintains a written policy that encourages advance care planning.

(e) It communicates the policy to its staff, residents, and families of residents.

(22) It does both of the following:

(a) Maintains a written policy that prohibits the use of overhead paging systems or limits their use to emergencies, as defined in the policy;

(b) Communicates the policy to its staff, residents, and families of residents.

Points may be awarded for the accountability measures specified in (21) and (22), above, only for fiscal year 2015.

As with the accountability measures to be used until fiscal year 2015, to be awarded a point for meeting an accountability measure for fiscal year 2015 and thereafter (other than the accountability measure specified in (4)(b), above), a nursing facility must meet the accountability measure in the calendar year immediately preceding the fiscal year for which the point is to be awarded. A nursing facility is to be awarded points for meeting accountability measures regarding resident satisfaction surveys or family satisfaction surveys only if a resident satisfaction survey or family satisfaction survey, as appropriate, was initiated for the nursing facility in the calendar year immediately preceding the fiscal year for which the points are to be awarded.

Critical access incentive payments

(R.C. 5165.23)

Continuing law requires ODM to pay, each fiscal year, a critical access incentive payment to each nursing facility that qualifies as a critical access nursing facility. The bill adds a requirement that a nursing facility must meet to qualify as a critical access nursing facility.

Under current law, a nursing facility qualifies as a critical access nursing facility if it meets all of the following requirements:

(1) It is located in an area that, on December 31, 2011, was designated an empowerment zone under the federal Internal Revenue Code.

(2) It has an occupancy rate of at least 85% as of the last day of the calendar year immediately preceding the fiscal year.

(3) It has a Medicaid utilization rate of at least 65% as of the last day of the calendar year immediately preceding the fiscal year.

The bill adds a fourth requirement. A nursing facility must have been awarded at least five points for meeting accountability measures applicable to quality incentive payments for the fiscal year and at least one of the five points must have been awarded for meeting the following:

(1) For fiscal year 2014, the accountability measures regarding pain, pressure ulcers, physical restraints, and urinary tract infections;

(2) For fiscal year 2015 and thereafter, the accountability measures regarding pain, pressure ulcers, physical restraints, urinary tract infections, and vaccinations.

Medicaid payment to reserve nursing facility bed

(R.C. 5165.34)

Continuing law requires ODM to make Medicaid payments to a nursing facility provider to reserve a bed for a Medicaid recipient during a temporary absence (under conditions prescribed by ODM). Under current law, the Medicaid payment rate to reserve a bed for a day is to equal the following:

(1) In the case of a nursing facility that had an occupancy rate in the preceding calendar year exceeding 95%, an amount not exceeding 50% of the payment rate the provider would be paid if the recipient were not absent from the facility that day;

(2) In the case of a nursing facility that had an occupancy rate in the preceding calendar year not exceeding 95%, an amount not exceeding 18% of the payment rate the provider would be paid if the recipient were not absent from the facility that day.

The bill modifies this formula by specifying the Medicaid cost report to be used to determine a nursing facility's occupancy rate. For the purpose of setting a nursing facility's payment rate to reserve a bed for a day during the period beginning on the effective date of this provision of the bill and ending December 31, 2013, ODM is to determine the facility's occupancy rate by using information reported on its Medicaid cost report for calendar year 2012. For the purpose of setting a nursing facility's payment rate to reserve a bed for January 1, 2014, or thereafter, ODM is to determine the facility's occupancy rate by using information reported on its Medicaid cost report for the calendar year preceding the fiscal year in which the reservation falls.

Alternative purchasing model for nursing facility services

(Section 323.280)

The bill permits the ODM Director to establish as a Medicaid waiver program an alternative purchasing model for nursing facility services that are provided during the period beginning July 1, 2013, and ending July 1, 2015 to Medicaid recipients with specialized health care needs, including recipients dependent on ventilators and recipients who have severe traumatic brain injury. If established, the alternative purchasing model must recognize a connection between enhanced Medicaid payment rates and improved health outcomes capable of being measured. The total Medicaid payment rate for nursing facility services provided under the alternative purchasing model may differ from the rate that would otherwise be paid.

Special Facility Focus Program

(R.C. 5165.771 and 5165.80)

The bill requires ODM to terminate a nursing facility's Medicaid participation if the nursing facility is placed on the federal Special Facility Focus (SFF) list and fails to make improvements or graduate from the SFF program within certain periods of time. The SFF list is part of the SFF program that federal law requires the U.S. Department of Health and Human Services to create for nursing facilities identified as having substantially failed to meet applicable requirements of the Social Security Act.[114] The SFF list has different tables. Table A identifies nursing facilities that are newly added to the list. Table B identifies nursing facilities that have not improved. Table C identifies

[114] 42 U.S.C. 1396r(f)(10).

nursing facilities that have shown improvement. Table D identifies nursing facilities that have recently graduated from the SFF program.

Under the bill, ODM is to issue an order terminating a nursing facility's participation in Medicaid if any of the following apply:

(1) The nursing facility is listed in Table A or Table B on the effective date of this provision of the bill and fails to be placed on Table C not later than 12 months after that date;

(2) The nursing facility is listed in Table A, Table B, or Table C on the effective date of this provision of the bill and fails to be placed on Table D not later than 24 months after that date;

(3) The nursing facility is placed in Table A after the effective date of this provision of the bill and fails to be placed in Table C not later than 12 months after the placement;

(4) The nursing facility is placed in Table A after the effective date of this provision of the bill and fails to be placed in Table D not later than 24 months after the placement.

An order terminating a nursing facility's Medicaid participation is not subject to appeal under the Administrative Procedure Act (R.C. Chapter 119.).

Under continuing law, ODM or an agency under contract with ODM may do either of the following when a nursing facility's Medicaid participation is terminated for certain reasons: (1) appoint a temporary manager for the nursing facility subject to the provider's continuing consent or (2) apply to a common pleas court for such injunctive relief as is necessary for the appointment of a special master. The bill permits ODM or the contract agency to take either of these actions when a nursing facility's Medicaid participation is terminated pursuant to the bill's provisions regarding the SFF list.

Post-payment reviews of nursing facility Medicaid claims

(R.C. 5165.49 (primary) and 5165.41)

The bill permits ODM to conduct a post-payment review of a claim submitted by a nursing facility and paid by the Medicaid program to determine whether the nursing facility was overpaid. ODM must provide the nursing facility a written summary of the review's results. The results are not subject to an adjudication under the Administrative Procedure Act (R.C. Chapter 119.). However, the nursing facility may request that the ODM Director reconsider the results. The ODM Director is to reconsider the results on

receipt of a request made in good faith. ODM is prohibited from deducting from the nursing facility's Medicaid payments any amounts that ODM claims to be due from the nursing facility as a result of the review until the conclusion of the Director's reconsideration, if any.

ODM is required to redetermine a nursing facility's Medicaid payment rate for a nursing facility using revised information if a post-payment review results in a determination that the nursing facility received a higher Medicaid payment rate than it was entitled to receive. The nursing facility must refund the overpayment and ODM may charge interest on the overpayment.

Nursing facility resident's personal needs allowance

(R.C. 5163.33)

Current law establishes a personal needs allowance for residents of a nursing facility. A personal needs allowance is income used for personal items that must be disregarded in determining a nursing facility resident's eligibility for Medicaid or patient liability. The bill increases the amount of the personal needs allowance for Medicaid recipients residing in nursing facilities as follows:

(1) For calendar year 2014, increases the amount to not less than $45 (from $40) for an individual and not less than $90 (from $80) for a married couple;

(2) Beginning in calendar year 2015, increases the amount to not less than $50 for an individual and not less than $100 for a married couple.

Collection of patient liabilities for home and community-based services

(Section 323.320)

The bill authorizes the ODM Director, for fiscal years 2014 and 2015, to (1) contract with a person or government entity to collect patient liabilities for home and community-based services available under a Medicaid waiver component and (2) adopt rules as necessary to implement the above provision.

Integrated Care Delivery System Medicaid waiver

(R.C. 5166.16)

The bill permits the ODM Director to create, as part of the Integrated Care Delivery System (ICDS), a Medicaid waiver program covering home and community-based services. ICDS is an existing program created to test and evaluate the integration

of care that individuals eligible for both Medicaid and Medicare (dual eligible individuals) receive under those programs.

When the ICDS Medicaid waiver program begins to accept enrollments, no ICDS participant who is eligible for the waiver program is to be enrolled in another Medicaid waiver program administered by ODM or the Ohio Department of Aging (ODA) (the PASSPORT program, Choices program, Ohio Home Care program, and Ohio Transitions II Aging Carve-Out program) regardless of whether the participant prefers to remain enrolled or be enrolled in the other ODM- or ODA-administered Medicaid waiver program. A dual eligible individual who is eligible for another ODM- or ODA-administered Medicaid waiver program may enroll in that waiver program before the individual begins to participate in ICDS. But the dual eligible individual must disenroll from the other ODM- or ODA-administered Medicaid waiver program and enroll in the ICDS Medicaid waiver program once the individual becomes an ICDS participant and it is possible to enroll the individual in the ICDS Medicaid waiver program. This requirement applies regardless of whether the dual eligible individual prefers to remain enrolled in the other ODM- or ODA-administered Medicaid waiver program.

An ICDS participant's disenrollment from another ODM- or ODA-administered Medicaid waiver program and enrollment in the ICDS Medicaid waiver program must be accomplished without a disruption in the participant's services.

Home care attendant services

(R.C. 5166.30, 5166.301, 5166.302, 5166.305, 5166.306, 5166.307, 5166.309, 5166.3010, and 5811.8811 (repealed))

The bill provides for two additional Medicaid waiver programs, the PASSPORT program and the ICDS Medicaid waiver program, to cover home care attendant services. Under current law, only the Ohio Home Care program and Ohio Transitions II Aging Carve-Out program cover those services. Home care attendant services are all of the following as provided by a home care attendant: (1) personal care aide services, (2) assistance with self-administration of medication, and (3) assistance with nursing tasks.

Because ODA administers the PASSPORT program, the bill provides for the ODA Director to perform many of the same types of actions regarding the PASSPORT program's coverage of home care attendant services that the ODM Director performs regarding home care attendant services covered by ODM-administered Medicaid waiver programs. For example, a home care attendant providing services under the PASSPORT program annually must provide the ODA Director satisfactory evidence of having completed not less than 12 hours of in-service continuing education regarding

home care attendant services. However, the ODM Director is to enter into provider agreements with all home care attendants, including those who are to provide services under the PASSPORT program.

Home and community-based services for individuals with behavioral health issues

(Section 323.330)

During fiscal years 2014 and 2015, the bill permits Medicaid to cover state plan home and community-based services for Medicaid recipients of any age who have behavioral health issues and countable incomes not exceeding 150% of the federal poverty line. A Medicaid recipient is not required to undergo a level of care determination to be eligible for the services.

The bill authorizes the ODM Director to adopt rules as necessary to implement the above provisions.

Administrative issues related to termination of waiver programs

(Section 323.110)

If ODM and ODA terminate the PASSPORT, Choices, Assisted Living, Ohio Home Care, or Ohio Transitions II Aging Carve-Out program, all applicable statutes, and all applicable rules, standards, guidelines, or orders issued by ODM or ODA before the program is terminated, are to remain in full force and effect on and after that date, but solely for purposes of concluding the program's operations, including fulfilling ODM's and ODA's legal obligations for claims arising from the program relating to eligibility determinations, covered medical assistance provided to eligible persons, and recovering erroneous overpayments. The right of subrogation for the cost of medical assistance and an assignment of the right to medical assistance continue to apply with respect to the terminated program and remain in force to the full extent provided under law governing the right of subrogation and assignment. ODM and ODA are permitted to use appropriated funds to satisfy any claims or contingent claims for medical assistance provided under the terminated program before the program's termination. Neither ODM nor ODA has liability under the terminated program to reimburse any provider or other person for claims for medical assistance rendered under the program after it is terminated.

Medicaid managed care

Medicaid managed care inpatient capital payments

(R.C. 5167.10)

One part of the payment made by ODM to Medicaid managed care organizations is referred to in statute as the hospital inpatient capital payment portion. ODM or its actuary must base this portion of the payment on data for services provided to all recipients enrolled in Medicaid managed care organizations, as reported by hospitals on relevant cost reports.

The bill provides that, beginning January 1, 2014, the hospital inpatient capital payment portion may not exceed any maximum rate established in rules the ODM Director may adopt. If ODM establishes a maximum rate, the bill prohibits a Medicaid managed care organization from compensating hospitals for inpatient capital costs in an amount that exceeds the maximum rate.

Emergency services under Medicaid managed care

(R.C. 5167.201)

Law unmodified by the bill provides that, when a Medicaid recipient enrolled in a Medicaid managed care organization receives emergency services from a provider that is not under contract with that organization, the provider must accept from the organization, as payment in full, not more than the amounts that the provider could collect if the Medicaid recipient received Medicaid other than through the managed care system.

The bill provides that any agreement entered into by a Medicaid managed care participant, a participant's parent, or a participant's legal guardian that requires payment for emergency services in violation of this law is void and unenforceable.

Medicaid payments for graduate medical education costs

(R.C. 5164.74 and 5164.741)

Current law requires the ODM Director to adopt rules governing the calculation and payment of graduate medical education (GME) costs associated with services rendered to Medicaid recipients, including reimbursement of allowable and reasonable GME costs associated with services rendered to Medicaid managed care recipients. Beginning January 1, 2014, the bill eliminates provisions specifying how payments for GME costs are made under the Medicaid managed care system and requires the rules

adopted by the Director to govern the allocation of payment for GME costs associated with both the fee-for-service component of Medicaid and the managed care system.

Under the eliminated provisions, if ODM requires a Medicaid managed care organization to pay for GME costs, ODM must include in its payment to the organization an amount sufficient for the organization to pay those costs; if ODM does include a sufficient amount, all of the following apply:

(1) Unless the provider is a hospital that refuses without good cause to contract with a Medicaid managed care organization, ODM must pay the provider for GME costs;

(2) The provider is prohibited from seeking reimbursement from the organization for those costs;

(3) The organization is not required to pay providers for those costs.

Medicaid Managed Care Performance Payment Fund

(R.C. 5167.30 (primary), 5162.60, and 5162.62; Section 323.60)

A portion of the premiums made to Medicaid managed care organizations are withheld and used by ODM to make payments under the Managed Care Performance Payments Fund. Under current law, the sum of all funds withheld may not exceed 1% of all premium payments made to all Medicaid managed care organizations. These amounts are held in the Managed Care Performance Payment Fund.

The bill modifies the Managed Care Performance Payment Fund as follows:

(1) Increases the total that may be withheld to 2% (rather than 1%) of all premium payments made to all Medicaid managed care organizations;

(2) Provides that the Fund is to include any fines imposed on and collected from Medicaid managed care organizations for failure to meet performance standards or other requirements specified in a provider agreement or by the Medicaid Director (see "**Health Care Compliance Fund abolished**");

(3) Provides that a Medicaid managed care organization providing care under the Dual Eligible Integrated Care Demonstration Project is not subject to the withholding attributed to Project participants for fiscal years 2014 and 2015 (see "**Dual Eligible Integrated Care Demonstration Project Performance Payments**").

The bill also modifies the use of the Fund to provide that the amounts in it may, rather than must, be used to make performance payments. The amounts may also be

used to (1) meet obligations specified in provider agreements, (2) pay for Medicaid services provided by a Medicaid managed care organization, or (3) during fiscal years 2014 and 2015, reimburse Medicaid managed care organizations that have been fined and have later come into compliance for fiscal years 2014 and 2015, the amounts in the Fund may be used to make payments to Medicaid managed care organizations providing care under the Dual Eligible Integrated Care Demonstration Project.

Dual Eligible Integrated Care Demonstration Project Performance Payments

(Section 323.300)

ODM is authorized under current law to implement a Dual Eligible Integrated Care Demonstration Project to test and evaluate the integration of care received by individuals dually eligible for Medicaid and Medicare. For fiscal years 2014 and 2015, the bill requires ODM, if it implements the project in a way that provides participants with care through Medicaid managed care organizations, to do both of the following:

(1) Develop quality measures designed specifically to determine the effectiveness of the health care and other services provided to participants by Medicaid managed care organizations;

(2) Determine an amount to be withheld from the Medicaid premium payments paid to Medicaid managed care organization for participants.

For purposes of the amount to be withheld from premium payments, the bill requires ODM to establish a percentage amount and apply the same percentage to all Medicaid managed care organizations providing care to Project participants. Each Medicaid managed care organization must agree to the withholding as a condition of receiving or maintaining its Medicaid provider agreement. The bill authorizes the ODM Director to use these amounts to provide performance payments to organizations providing care to Project participants in accordance with rules that the Director may adopt.

Pediatric accountable care organizations

(R.C. 5167.031)

The bill permits, rather than requires, ODM to recognize pediatric accountable care organizations that provide care coordination and other services under the Medicaid care management system to individuals under age 21 who are in the category of individuals who receive Medicaid on the basis of being aged, blind, or disabled. Am. Sub. H.B. 153 of the 129th General Assembly (the main operating appropriations act)

required the recognition system to be implemented no later than July 1, 2012.[115] The bill also eliminates a provision specifying that the purpose of the recognition system is to meet the complex medical and behavioral needs of disabled children through new approaches to care coordination.

Exclusion of BCMH participants from Medicaid managed care

(Section 323.70)

Am. Sub. H.B. 153 of the 129th General Assembly (the main operating appropriations act) expanded the group of individuals required or permitted to participate in the Medicaid care management system, including certain individuals in the Medicaid coverage group known as the "aged, blind, or disabled." However, H.B. 153 prohibits, in fiscal years 2012 and 2013, certain individuals receiving services through the program for medically handicapped children, also known as the Bureau for Children with Medical Handicaps (BCMH), from being included in the Medicaid care management system. The excluded BCMH participants are those who were not already enrolled in the Medicaid care management system before June 30, 2011 and have one or more of the following: (1) cystic fibrosis, (2) hemophilia, or (3) cancer. Am. Sub. H.B. 487 (the mid biennium budget review) extended that exclusion.

The bill changes the exclusion period to provide that the BCMH participants described above are to be excluded from the Medicaid care management system until the first day of the 13th month after the date that ODM first designates any individual who receives Medicaid on the basis of being aged, blind, or disabled who is under age 21 as an individual who is permitted or required to participate in the care management system.

Nursing home and hospital long-term care franchise permit fees

(R.C. 5168.41 (primary) and 5168.40; Sections 812.20 and 812.30)

The bill revises the law governing the amount of the franchise permit fee that nursing homes and hospital long-term care units are assessed for each fiscal year. The fees are a source of revenue for nursing facility and home and community-based services covered by the Medicaid program and the Residential State Supplement program.

Under current law, the franchise permit fee rate is $11.67 per bed per day. The bill replaces the specific dollar amount of the per bed per day rate of the fee with a

[115] The state Medicaid agency has not yet adopted rules to develop the recognition system.

formula to be used to determine the per bed per day fee rate. Effective July 1, 2013, the franchise permit fee rate is to be determined each fiscal year as follows:

(1) Determine the estimated total net patient revenues for all nursing homes and hospital long-term care units for the fiscal year;

(2) Multiply the amount estimated above by the lesser of (a) the indirect guarantee percentage[116] or (b) 6%;

(3) Divide the product determined above by the number of days in the fiscal year;

(4) Determine the sum of (a) the total number of beds in all nursing homes and hospital long-term care units that are subject to the franchise permit fee for the fiscal year and (b) the total number nursing home beds that are exempt from the fee for the fiscal year because of a federal waiver;

(5) Divide the quotient determined pursuant to (3) above by the sum determined under (4) above.

In determining the estimated total net patient revenue for all nursing homes and hospital long-term care units for a fiscal year, the ODM is required to use at least (1) information from Medicaid cost reports that are the most recent at the time the determination is made, (2) the projected total Medicaid payment rates for nursing facility services for the fiscal year, and (3) the projected total number of Medicaid days for the fiscal year.

Hospital Care Assurance Program

(Sections 125.10 and 125.12)

The bill continues the Hospital Care Assurance Program (HCAP) for two additional years. HCAP is scheduled to end October 16, 2013, but under the bill, will continue until October 16, 2015. Under HCAP, hospitals are annually assessed an amount based on their total facility costs and government hospitals make annual intergovernmental transfers. ODM distributes to hospitals money generated by the assessments and intergovernmental transfers along with federal matching funds generated by the assessments and transfers. A hospital compensated under HCAP must

[116] The indirect guarantee percentage is the percentage specified in federal law that is to be used to determine whether a class of providers is indirectly held harmless for any portion of the costs of a broad-based health-care related tax. The indirect guarantee percentage is currently 6%. (42 U.S.C. 1396b(w)(4)(C)(ii).

provide, without charge, basic, medically necessary, hospital-level services to Ohio residents who are not recipients of Medicare or Medicaid and whose income does not exceed the federal poverty line.

Hospital assessments

(Sections 125.11, 125.13, and 323.100)

The bill continues the assessments imposed on hospitals for two additional years, ending October 1, 2015, rather than October 1, 2013. The assessments are in addition to HCAP, but like HCAP, they raise money to help pay for the Medicaid program.

The bill provides for a portion of the hospital assessments to be used during fiscal years 2014 and 2015 to continue the Hospital Inpatient and Outpatient Supplemental Upper Payment Limit Program and the Medicaid Managed Care Hospital Incentive Payment Program. Under the first program, supplemental payments are made to hospitals for Medicaid-covered inpatient and outpatient services. Under the second program, additional funds are provided to Medicaid managed care organizations to be used by the organizations to increase payments to hospitals for providing services to Medicaid recipients who are enrolled in the Medicaid managed care organizations.

Medical assistance confidentiality

(R.C. 5160.99)

Continuing law prohibits, with certain exceptions, any person or government entity from using or disclosing information regarding a medical assistance recipient for any purpose not directly connected with the administration of a medical assistance program.[117] The bill provides that, in addition to Medicaid, CHIP, and RMA, the prohibition applies to any other program that provides medical assistance and that state statutes authorize ODM to administer.

Current law no longer specifies a penalty for violating the confidentiality provisions pertaining to medical assistance programs. This occurred under Am. Sub. H.B. 153 of the 129th General Assembly (the main operating appropriations act), which relocated statutory medical assistance provisions to a Revised Code section separate from the confidentiality provisions that apply to other public assistance programs, such as Ohio Works First. The bill reinstates the penalty that previously applied with respect to violations of the confidentiality provisions applicable to medical assistance programs.

[117] R.C. 5160.45.

Technologies to monitor Medicaid recipient eligibility, claims history, and drug coverage

(R.C. 5164.757)

The bill replaces the ODJFS Director's authority to establish an e-prescribing system for Medicaid with the ODM Director's authority to acquire or specify technologies to give information regarding Medicaid eligibility, claims history, and drug coverage to Medicaid providers through electronic health record and e-prescribing applications.

If the ODM Director chooses to acquire or specify the technologies, the bill requires the e-prescribing applications of the technologies to enable a Medicaid provider to do what the provider may do under the existing e-prescribing system – prescribe a drug for a Medicaid recipient through an electronic system without issuing prescriptions by handwriting or telephone. Like the e-prescribing system authorized by current law, the technologies acquired or specified by the Director also must give Medicaid providers an up-to-date, clinically relevant drug information database and a system to electronically monitor Medicaid recipients' medical history, drug regimen compliance, and fraud and abuse.

Associated with the bill's elimination of the ODJFS Director's authority to establish an e-prescribing system, the bill eliminates the requirement that the Director take the following actions: (1) determine before the beginning of each fiscal year the ten Medicaid providers that issued the most prescriptions for Medicaid recipients receiving hospital services during the preceding calendar year and make certain notifications to those providers, and (2) seek the most federal financial participation available for the development and implementation of the system.

Exchange of certain information by state agencies

(R.C. 191.04 and 191.06)

Am. Sub. H.B. 487 of the 129th General Assembly authorized the OHT Executive Director or the Executive Director's designee to facilitate the coordination of operations and exchange of information between state agencies during fiscal year 2013. The act specified that the purpose of this authority was to support agency collaboration for health transformation purposes, including modernization of the Medicaid program, streamlining of health and human services programs in Ohio, and improving the quality, continuity, and efficiency of health care and health care support systems in Ohio. In furtherance of this authority, the act required the OHT Executive Director (or the Executive Director's designee) to identify each health transformation initiative in Ohio that involved the participation of two or more state agencies and that permitted or

required an interagency agreement. For each health transformation initiative identified, the OHT Executive Director or the Executive Director's designee had to, in consultation with each participating agency, adopt one or more operating protocols.

Am. Sub. H.B. 487 also authorized a state agency to exchange, during fiscal year 2013 only, personally identifiable information with another state agency for purposes related to or in support of a health transformation initiative that has been identified as described above.

The bill extends the authorizations described above to fiscal years 2014 and 2015.

Direct care workers

(R.C. 3701.95 and 5164.83)

Certification program

The bill requires the ODH Director to establish a direct care worker[118] certification program not later than October 1, 2014. The bill authorizes the Director to adopt rules in accordance with the Administrative Procedure Act (R.C. Chapter 119.) as necessary to implement the program. The rules may address standards, procedures, and application fees charged for certification.

For purposes of the direct care worker certification program, the bill requires the Director to do both of the following:

(1) Specify the minimum standards that must be met by a direct care worker to attain certification, which may include standards pertaining to education, experience, and continuing education requirements, as well as standards for compliance with administrative requirements.

(2) Specify a procedure for determining whether a direct care worker satisfies the standards described in (1), above.

Core competencies

The bill requires the OHT Executive Director or the Executive Director's designee, not later than June 30, 2014, and in consultation with the ODM Director and the directors of ODA, ODODD, ODMHAS, and the Ohio Department of Health (ODH), to execute an operating protocol in accordance with law governing health

[118] The bill defines a "direct care worker" as an individual who, for direct or indirect payment, provides direct care services to a Medicaid recipient in the recipient's home, place of residence, or other setting specified by the ODM Director in rules (R.C. 191.061(A)(3)).

transformation initiatives (R.C. 191.06(D)). The operating protocol must document the manner in which each of the directors' departments determine that direct care workers associated with programs administered by the departments demonstrate core competencies.[119] The OHT Executive Director or the Executive Director's designee and any one or more of the other directors may decide that core competencies are demonstrated by a direct care worker attaining certification through the direct care worker certification program established by the ODH Director pursuant to the bill. A decision to this effect does not preclude a director from specifying additional requirements that a direct care worker must meet to participate in a program administered by the director's department.

Medicaid reimbursement

The bill prohibits the ODM Director from doing either of the following unless a direct care worker demonstrates core competencies:

(1) Make a direct or indirect payment[120] to the worker for a direct care service[121] provided by the worker on or after October 1, 2015.

(2) Enter into a provider agreement with the direct care worker on or after October 1, 2015.

Contracts for the management of Medicaid data requests

(R.C. 5162.12 and 5162.56)

The bill authorizes the ODM Director to enter into a contract with one or more persons to receive and process, on the Director's behalf, requests for Medicaid recipient or claims payment data, data from nursing facility audit reports, or extracts or analyses

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[119] The bill defines "core competencies" as the minimum standards a direct care worker must meet when providing direct care services and engaging in one or more of the following activities associated with care for a Medicaid recipient: maintaining a clean and safe environment, ensuring recipient-centered care, promoting the recipient's development, assisting the recipient with activities of daily living, communicating with the recipient, completing administrative tasks, and participating in professional development activities (R.C. 191.061(A)(1)).

[120] The bill defines a "direct payment" as a payment delivered directly to a direct care worker by the Medicaid program for direct care services provided by the worker to a Medicaid recipient (R.C. 5164.83(A)(2)). An "indirect payment" is defined as a payment that is delivered to a third party but later transferred to a direct care worker by the Medicaid program for direct care services provided by the worker to a Medicaid recipient (R.C. 5164.83(A)(3)).

[121] The bill defines "direct care services" as health care services, ancillary services, or services related to or in support of the provision of health care or ancillary services (R.C. 191.061(A)(2)).

of any of the foregoing data, made by persons who intend to use the items for commercial or academic purposes. The contracts must do both of the following:

--Authorize the contracting person to engage in the activities described above for compensation, which must be stated as a percentage of the fees paid by persons who are provided the items;

--Specify the schedule of fees the contracting person is to charge for the items.

The bill requires the ODM Director to use the fees the Director receives pursuant to a contract to pay obligations the Director has to the persons who have entered into these contracts with the Director. Any money remaining after those obligations are paid must be deposited in the Health Care Services Administration Fund created under existing law.[122]

The bill specifies that, except as otherwise required by federal or state law and subject to certain exclusions, both of the following conditions apply with respect to a request for data covered by a contract:

--The request must be made through a person who has entered into a contract with the ODM Director as described above.

--An item prepared pursuant to a request may be provided to ODM and is confidential and not subject to disclosure under Ohio's Public Records Law[123] or the statute governing the confidentiality of personal information held by state and local agencies.[124]

Exclusions

The bill specifies that requests for Medicaid recipient or claims payment data, data from nursing facility audit reports, and extracts or analyses of any of the foregoing data that are for any of the following reasons are excluded from the contracting provisions:

--Treatment of Medicaid recipients;

--Payment of Medicaid claims;

--Establishment or management of Medicaid third party liability;

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[122] R.C. 5162.56.

[123] R.C. 149.43.

[124] R.C. 1347.08.

--Compliance with the terms of an agreement the ODM Director enters into for purposes of administering the Medicaid program;

--Compliance with an operating protocol the Executive Director of the Office of Health Transformation (OHT) or the Executive Director's designee adopts under existing law for health transformation initiatives.[125]

Joint Legislative Committee for Unified Long-Term Services and Supports

(Section 323.90)

The bill provides for the continued existence of the Joint Legislative Committee for Unified Long-Term Services and Supports, which was created under Am. Sub. H.B. 153 of the 129th General Assembly. The Committee is to consist of the following members:

(1) Two members of the House of Representatives from the majority party and one member from the minority party, all appointed by the Speaker of the House of Representatives;

(2) Two members of the Senate from the majority party and one member from the minority party, all appointed by the Senate President.

The Speaker of the House is required to designate one of the House members from the majority party to serve as co-chairperson of the Committee. The Senate President is to designate one of the Senate members from the majority party to serve as the other co-chairperson. The Committee is to meet at the call of the co-chairpersons. The co-chairpersons are permitted to request assistance for the Committee from the Legislative Service Commission.

The Committee may examine the following issues:

(1) Implementing the dual eligible integrated care demonstration project;

(2) Implementing the unified long-term services and support Medicaid waiver component;

(3) Providing consumers choices regarding a continuum of services that meet their health-care needs, promote autonomy and independence, and improve quality of life;

[125] R.C. 191.06(D).

(4) Ensuring that long-term care services and supports are delivered in a cost effective and quality manner;

(5) Subjecting county homes, county nursing homes, and district homes to the nursing home franchise permit fee;

(6) Other issues of interest to the Committee.

The act requires the Committee's co-chairpersons to provide for the ODM Director to testify before the Committee at least quarterly regarding the issues that the Committee examines.

Rebalancing long-term care

(Section 323.160)

The bill requires ODM, ODA, and ODODD to continue efforts to achieve a sustainable and balanced delivery system for long-term services and supports. In working to achieve such a delivery system, the Departments are to strive to meet, by June 30, 2015 (extended from an earlier date of June 30, 2013), certain goals regarding the utilization of non-institutionally-based long-term services and supports. The goals are to have the services and supports used as follows: (1) by at least 50% of Medicaid recipients who are age 60 or older and need long-term services and supports and (2) by at least 60% of Medicaid recipients who are less than age 60 and have cognitive or physical disabilities for which long-term services and supports are needed. "Non-institutionally based long-term services and supports" is a federal term that means services not provided in an institution, including (1) home and community-based services, (2) home health care services, (3) personal care services, (4) PACE services, and (5) self-directed personal assistance services.

Balancing Incentive Payments Program

(Section 323.160)

ODM is permitted, if it determines that participating in the Balancing Incentives Payments Program will assist in achieving the goals regarding long-term services, to apply to participate. The Program was created as part of the federal health care reform law to encourage states to increase the use of non-institutional care provided under their Medicaid programs. A participating state receives a larger federal match for non-

institutionally based long-term services and supports provided under its Medicaid program.[126]

Existing law requires that any funds Ohio receives as the result of the larger federal match be deposited into the Balancing Incentive Payments Program Fund. The bill instead provides that any funds received be deposited into the General Revenue Fund.

Quality incentive program to reduce avoidable admissions

(Section 323.30)

The bill permits ODM to implement, for fiscal years 2014 and 2015, a quality incentive program to reduce the use of emergency department services, as well as hospital and nursing facility admissions, by certain Medicaid recipients, when admissions and utilizations are avoidable.

The bill's quality incentive program applies to individuals enrolled in a home and community-based services Medicaid waiver component administered by ODM, individuals receiving nursing or home health aide services available under the federal Medicaid home health services benefit, and individuals receiving private duty nursing services.

If ODM implements the quality incentive program, the bill requires that ODM establish methods to determine the program's actual savings to Medicaid. Moreover, if the program is implemented, ODM must distribute not more than 50% of the savings to participating Medicaid providers.

Children's hospitals quality outcomes program

(Section 323.40)

The bill permits the ODM Director to implement, for fiscal years 2014 and 2015, a children's hospitals quality outcomes program. The bill defines a "children's hospital" as a hospital (1) located in this state, (2) primarily serving patients 18 years of age or younger, (3) subject to the Medicaid prospective payment system for hospitals established in ODM rules, and (4) excluded from Medicare prospective payments under federal law.

The quality outcomes program is to encourage children's hospitals to develop the following:

[126] Section 10202 of the Patient Protection and Affordable Care Act (Public Law 111-148).

(1) Infrastructures that are needed to care for patients in the least restrictive setting and that promote the care of patients and their families;

(2) Programs designed to improve birth outcomes and measurably reduce neonatal intensive care admissions;

(3) Patient-centered methods to measurably reduce utilization of emergency department services for primary care needs and nonemergency health conditions;

(4) Other quality-focused reforms that the ODM Director identifies.

Improved birth outcomes initiatives

(Section 323.360)

The bill authorizes the ODM Director to develop and implement, during fiscal years 2014 and 2015, initiatives designed to improve birth outcomes for Medicaid recipients, including improvements designed to (1) reduce the number of preterm births, (2) reduce Medicaid costs, and (3) improve the quality of Medicaid services. In developing the initiatives, the ODM Director is permitted to consult with experts in practice improvement, Medicaid managed care organizations, hospitals, and other Medicaid providers.

The ODM Director, Medicaid managed care organizations, and other Medicaid providers involved in the initiatives must make information about the initiatives available on their web sites.

Medicaid and Veterans' Services collaboration

(Section 323.350)

The bill authorizes ODM to collaborate with the Ohio Department of Veterans Services (ODVS) to determine ways to improve the coordination of ODM and ODVS veterans' services in a manner that enhances veterans' receipt of the services. It also authorizes ODM and ODVS to implement, during fiscal years 2014 and 2015, initiatives that they determine during the collaboration will maximize the efficiency of those services and ensure that veterans' needs are met.

Money Follows the Person Enhanced Reimbursement Fund

(Section 323.140)

The bill provides for federal funds Ohio receives for the Money Follows the Person demonstration project to be deposited into the Money Follows the Person

Enhanced Reimbursement Fund. The Fund was created by Am. Sub. H.B. 562 of the 127th General Assembly after Ohio was first awarded a federal grant for the demonstration project. ODM is required to continue to use the money in the Fund for system reform activities related to the demonstration project.

The Deficit Reduction Act of 2005 authorizes the U.S. Secretary of Health and Human Services to award grants to states for Money Follows the Person demonstration projects.[127] The projects are to be designed to achieve the following objectives with respect to institutional and home and community-based long-term care services under a state's Medicaid program:

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

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

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

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

Health Care Compliance Fund abolished

(R.C. 5111.946 (repealed), 5162.54, and 5162.60; Section 323.380)

The bill abolishes the Health Care Compliance Fund. Currently, the fund is in the state treasury and all of the following must be credited to it:

(1) All fines imposed on and collected from Medicaid managed care organizations for failure to meet performance standards or other requirements specified in Medicaid provider agreements or ODM rules;

(2) Money that ODM receives in a fiscal year for performing eligibility verification services necessary for compliance with a federal regulation regarding

[127] Section 6071 of the Deficit Reduction Act of 2005, Public Law No. 109-171. The federal health care reform act extended authority for Money Follows the Person demonstration project through federal fiscal year 2016 (Section 2403 of the Patient Protection and Affordable Care Act, Public Law 111-148).

independent, certified audits, other than the amounts that are to be credited to the Health Care/Medicaid Support and Recoveries Fund;

(3) The fund's investment earnings.

Current law requires that money credited to the Health Care Compliance Fund be used solely for the following purposes:

(1) To reimburse Medicaid managed care organizations that have paid fines for failure to meet performance standards or other requirements and have come into compliance by meeting requirements specified by ODM;

(2) To provide financial incentive awards to Medicaid managed care organizations.

The bill provides for part of the money that otherwise would be credited to the Health Care Compliance Fund to be credited to the Managed Care Performance Payment Fund and the remaining money to be credited to the Health Care Services Administration Fund. The Managed Care Performance Payment Fund is to be credited with all fines imposed on and collected from Medicaid managed care organizations for failure to meet performance standards or other requirements specified in Medicaid provider agreements or ODM rules. The Health Care Services Administration Fund is to be credited with money that ODM receives in a fiscal year for performing eligibility verification services necessary for compliance with a federal regulation regarding independent, certified audits, other than the amounts that are to be credited to the Health Care/Medicaid Support and Recoveries Fund.

Prescription Drug Rebates Fund abolished

(R.C. 5111.942 (repealed) and 5162.52; Section 323.370)

The bill abolishes the Prescription Drug Rebates Fund. Currently, the fund is in the state treasury and both of the following must be credited to it:

(1) The nonfederal share of all rebates paid by drug manufacturers to ODM in accordance with rebate agreements required by federal law;

(2) The nonfederal share of all supplemental rebates paid by drug manufacturers to ODM in accordance with the Supplemental Drug Rebate program established by continuing state law.

Current law requires ODM to use money credited to the fund to pay for Medicaid services and contracts. The bill provides for the money that would otherwise

be credited to the Prescription Drug Rebates Fund to be credited instead to the Health Care/Medicaid Support and Recoveries Fund.

DEPARTMENT OF MENTAL HEALTH AND ADDICTION SERVICES

Merger of Department of Mental Health and Department of Alcohol and Drug Addiction Services

- Merges the Department of Mental Health (ODMH) and the Department of Alcohol and Drug Addiction Services (ODADAS), making the Department of Mental Health and Addiction Services (ODMHAS).

- Updates certain terms to reflect current terminology in use at the two departments.

- Removes the authority of ODMH to appoint an individual to the position of chief executive officer of an institution from persons holding positions in the classified services in the Department.

- Specifies that the suspension from employment of a special police officer positioned at a mental health institution is to be done in accordance with applicable collective bargaining agreements, as opposed to the Administrative Procedure Act.

- Makes the requirement that ODMH contract with licensed hospitals to provide services for mentally ill patients a permissive authority.

- Removes the authority of ODMH to provide for the care of mentally ill persons hospitalized elsewhere than within the enclosure of a hospital, if the Department determines that such care is necessary.

- Removes the procedures prescribed for ODMH in relation to the appointment of a person in a classified to an unclassified position in favor of the standard procedures and stipulations prescribed by the Department of Administrative Services (DAS).

- Removes the requirement that ODMH receive the approval of the Governor and the Attorney General when conducting a transaction involving real estate in favor of utilizing the services of DAS for such transactions.

- Specifies that moneys received from the sale, lease, or exchange of property be deposited into the Department of Mental Health Trust Fund, as opposed to the GRF.

- Requires ODMHAS to design and set criteria for the determination of priority populations rather than the determination of severe mental disability.

- Removes the requirement that ODMHAS provide training to those Department employees who are utilized by state operated, community based mental health services providers.

- Removes specifications for rules adopted by ODMH for the purpose of carrying law related to local boards and the hospitalization of the mentally ill.

- Removes the requirement that ODMH provide consultative services to community mental health agencies.

- Alters requirements placed on board related to providing information for inclusion in ODMHAS' behavioral health information systems.

- Alters the policies and procedures related to the submission of services plans by local boards and the allocation and withholding of funds.

- Alters policies and procedures related to confidential records.

- Alters certification standards related to the provision of mental health and addiction services.

- Alters eligibility standards and policies related to residential state supplement payments.

- Abolishes the Council on Alcohol, Drug, and Gambling Addiction Services.

- Enacts uncodified law to provide for the merger of ODMH and ODADAS into ODMHAS.

Alcohol, drug addiction, and mental health service districts

- Makes changes to the membership requirements of alcohol, drug addiction, and mental health services boards; alcohol and drug addiction services boards; and community mental health boards.

- Removes the requirement that each service district without an alcohol and drug addiction services board create a standing committee on alcohol and drug addiction services.

- Revises the planning duties of boards:

    - Requires that (1) when a board of alcohol, drug addiction, and mental health services assesses the community's addiction and mental health needs, the board also evaluate strengths and challenges, and (2) when setting priorities, the priorities include treatment and prevention, and the board to consult with the county commissioners of the counties in the board's service districts.

- Requires, in service districts that have separate alcohol and drug addiction services and community mental health services boards, each board to submit a separate community services plan and each board to consult with its counterpart.

- Removes certain information required in current law regarding inpatient services from being included in services plans.

- Requires a board of alcohol, drug addiction, and mental health services to submit to the ODMHAS a budget for all federal, state, and local moneys the board expects to receive and establishes a procedure for approval and amendment of the budget.

- Permits ODMHAS to withhold funds to boards if the boards' use of the funds fails to comply with an approved budget.

- Requires a board to create lists of services that are compatible with the approved budget and to include crisis intervention services and services required for a parent, guardian, or custodian of a child who is in imminent risk of being abused or neglected.

- Requires a board to enter into a continuity of care agreement with the state institution operated by ODMHAS.

- Requires boards to submit to ODMHAS a report summarizing complaints concerning the rights of persons receiving services, investigation of the complaints, and outcomes of the investigations.

- Requires boards to submit annually, and upon any change in membership, to ODMHAS a list of all current members of the boards, the appointing authority of each member, and the members' specific qualifications.

- Prohibits a board from contracting with an unlicensed residential facility that is required to be licensed by the Director.

- Authorizes a board of alcohol, drug addiction, and mental health services to inspect any residential facility located in its district and licensed under the Hospitalization of the Mentally Ill Law, eliminating the current law requirement that the inspection be pursuant to a contract with ODMH.

- Requires a board to submit any other information reasonably required for ODMHAS's operations, service evaluation, reporting activities, research, system administration, and oversight.

- Makes permissive that a utilization review process be established as part of a contract for services entered into between a board and a community addiction or mental health agency services provider.

- Reorganizes the list of services performed by a board for which a county can be reimbursed and specifies that the services must be approved by ODMHAS within the continuum of care or approved support functions.

- Expands the protected classes against which boards and contracted services providers are prohibited from discriminating to include age, ancestry, sexual orientation, military status, and genetic information and replaces the protected class of "creed" with "religion."

- Requires a board to strive to attain a yearly construction contract dollar procurement goal of 5% for EDGE business enterprises, instead of setting the percentage aside for minority business enterprises.

- Permits a board that is unable to comply with the EDGE procurement goal after having made a good faith effort to apply in writing to the Director for a waiver or modification of the goal.

- Removes boards' requirements for administration of mental health clinics and child guidance homes financed partly by state funds as of June 30, 1967.

- Makes conforming changes to reflect the merger of ODMH and ODADAS into ODMHAS.

- Updates certain terms to reflect industry terminology.

Level of care determinations

- Requires that an individual with a mental illness undergo a level of care determination before admission or readmission to a nursing facility from a hospital if the hospital is:

    --Maintained, operated, managed, and governed by the Department of Mental Health and Addiction Services (ODMHAS); or

    --Licensed by ODMHAS as a freestanding hospital or unit of a hospital.

- Requires that ODMHAS, in consultation with the Department of Medicaid, administer the Recovery Requires a Community Program to identify individuals residing in nursing facilities who can be moved successfully into community settings.

Merger of Department of Mental Health and the Department of Alcohol and Drug Addiction Services

(R.C. Chapter 3793. and 5119.; conforming changes in multiple R.C. sections)

The bill merges the Department of Mental Health (ODMH) and the Department of Alcohol and Drug Addiction Services (ODADAS), making the Department of Mental Health and Addiction Services (ODMHAS). By and large, the majority of responsibilities and authorities granted under current law remain intact under the bill, with the bill primarily merging the administrative and oversight functions under one department. Substantive changes to current law are discussed below. The bill also updates certain terms to reflect current terminology in use at the two departments.

Psychiatric rehabilitation facilities

(R.C. 5119.04)

The bill removes the exemption for facilities designated by ODMH for use as a psychiatric rehabilitation center from the requirement that institutions under the supervision of ODMH be in substantial compliance with standards set forth for psychiatric facilities adopted by the Joint Commission on Accreditation of Health Care Organizations (Joint Commission).

Classified service

(R.C. 5119.27 (renumbered 5119.05))

The bill removes the express authority of ODMH (ODMHAS) to appoint an individual to the position of chief executive officer of an institution from persons holding positions in the classified services in the Department. The bill specifies that the managing officer has the authority and responsibility for entering into contracts and other agreements for the efficient operations of the institution.

Special police officers

(R.C. 5119.14 (renumbered 5119.08) (C)(4))

The bill specifies that the suspension from employment of a special police officer positioned at a mental health institution is to be done in accordance with applicable collective bargaining agreements, as opposed to the Administrative Procedure Act.

Department organization and duties

(R.C. 5119.01 (renumbered 5119.10) (A), (E), and (F); R.C. 3793.03, 5119.013, and 5119.05)

The bill specifies that the Director of ODMHAS may organize the Department for its efficient operation, including creating divisions or offices as necessary.

Similar to current law for ODMH, the bill authorizes ODMHAS to enter into contracts and other agreements with providers, agencies, institutions, and other entities, both public and private, as necessary for the Department to carry out its duties. The bill specifies that the Ohio Public Personnel Laws do not apply to contracts the Director enters into for services provided to individuals with mental illness by providers, agencies, institutions, and other entities not owned or operated by the Department.

Under current law, ODMH is required to contract with hospitals licensed by the department for the care and treatment of mentally ill patients, or with persons, organizations, or agencies for the custody, evaluation, supervision, care, or treatment of mentally ill persons receiving services elsewhere than within the enclosure of a hospital. The bill authorizes ODMHAS to enter into such contracts, but does not require it.

The bill removes the authority for the Department to prepare and publish regularly a state mental health plan that describes the Department's philosophy, current activities, and long term and short term goals and activities.

Medical director

(R.C. 5119.07 (renumbered 5119.11))

The bill requires a person appointed as the medical director of ODMHAS to have, in addition to existing qualification standards, certification or substantial training and experience in the field of addiction medicine or addiction psychiatry. In addition to current responsibilities, under the bill the medical director is responsible for decisions relating to prevention and the clinical aspects of outpatient facilities and the certification of mental health and addiction services.

Responsibilities to provide services outside of a hospital

(R.C. 5119.02 (renumbered 5119.14) (B), (D), and (H) and 5119.03)

The bill authorizes ODMHAS to provide or contract to provide addiction services for offenders incarcerated in the state prison system.

The bill removes the authority of ODMH (ODMHAS) to provide for the custody, supervision, control, treatment, and training of mentally ill persons hospitalized elsewhere than within the enclosure of a hospital, if the Department determines that such action is necessary.

Department authority

(R.C. 5119.012 (renumbered 5119.141))

The bill adds to the authority provided to ODMH (ODMHAS) to carry out its powers and duties, the authority to adopt rules pursuant to the Administrative Procedure Act that may be necessary to carry out the purposes of Mental Health and Addiction Services Law.

Certified position appointments

(R.C. 5119.071 (renumbered 5119.18))

The bill removes the procedures and stipulations prescribed for ODMH in relation to the appointment of a person in a certified position in the classified service to a position in the unclassified service in favor of the standard procedures and stipulations prescribed by DAS. As such, the following current law procedures and policies are removed in favor of the standard DAS policies and procedures:

- An employee's right to resume such a position is only valid when the employee is demoted to a pay range lower than the employee's original pay range or when ODMHAS revokes the employee's appointment to the unclassified service.

- An employee forfeits the right to resume a classified position if the employee is removed from the unclassified position due to incompetence, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, violation of applicable laws or rules, or any other failure of good behavior, acts of misfeasance, malfeasance, or nonfeasance, or the conviction of a felony.

- An employee forfeits the right to resume a position in the classified service upon transfer to a different agency.

- Reinstatement to a classified position is to be to a position substantially equal to the classified position previously held.

- If the classified position the person previously held is no longer available, the employee is to be appointed to a comparable classified position.

- Service in the unclassified position is to be counted as service in the classified position originally held.

- When a person is reinstated to a classified position, the person is entitled to all rights, status, and benefits accruing to the classified position during the person's time of service in the unclassified position.

Under the bill, the standard DAS procedures also apply to such persons who hold a permanent position in the classified service within the Department.

Training agreements

(R.C. 5119.11(A) (renumbered 5119.186))

The bill specifies that either the Director of ODMHAS (continuing law) or the managing officer of an institution of the Department (added by the bill) may enter into an agreement with the directors of one or more institutions of higher education or hospitals licensed to establish collaborative training efforts for students preparing for careers in mental health-related fields. The bill expands this provision to apply to addiction services as well. The bill also removes the duty of the Director of ODMH to determine which positions and occupations are substantially related enough to the care and treatment of persons receiving mental health or addiction services to warrant developing collaborative training programs with institutions of higher education.

Real estate transactions

(R.C. 3793.031 (renumbered 5119.201) (A), (B), and (C); 3793.02 and 5119.37)

The bill removes the requirement that ODMH receive the approval of the Governor and the Attorney General when conducting a transaction involving real estate, and removes other policies and procedures related to such transactions, in favor of utilizing the services of DAS for such transactions.

The bill specifies that moneys received from the sale, lease, or exchange of property be deposited into the Department of Mental Health Trust Fund, as opposed to the GRF, as stipulated under current law.

Department of Mental Health requirements

(R.C. 5119.06 (renumbered 5119.21))

The bill adds pregnant women, parents, and guardians or custodians of children at risk of abuse or neglect to the list of demographic groups for which ODMHAS is to

provide special focus when promoting and developing mental health and addiction services.

The bill requires ODMHAS to design and set criteria for the determination of priority populations rather than the determination of severe mental disability.

The bill removes the requirement that ODMHAS provide training related to the provision of community based mental health services to those Department employees who are utilized in state operated, community based mental health services.

Rules

(R.C. 5119.61 (renumbered 5119.22))

The bill removes specifications for rules adopted by ODMH for the purpose of carrying law related to local boards and the hospitalization of the mentally ill, instead granting the ODMHAS Director the broader authority to adopt rules necessary to carry out the purposes of those laws. Specifically, the bill removes all of the following requirements related to adopted rules:

- Rules governing a community mental health agency's services to an individual referred to the agency.

- Rules governing the duties of mental health agencies and boards of alcohol, drug addiction, and mental health services regarding referrals of individuals with mental illness or severe mental disability to residential facilities and effective arrangements for ongoing mental health services for those individuals.

- Rules related to governing the method of paying a community mental health facility for providing services.

The bill removes the requirement that ODMH provide consultative services to community mental health agencies with the knowledge and cooperation of local boards.

The bill requires ODMHAS to specify the information that must be provided to the Department by local boards of alcohol, drug addiction, and mental health services for inclusion in the Department's behavioral health information systems. The bill alters the specific requirements related to the information collected as follows:

- Rather than financial information other than price related data regarding expenditures of local boards, the Department is to collect financial information related to expenditures of federal, state, or local funds.

- Boards are now required to provide information about persons served under a contract with a board.

The bill removes the requirement that boards submit this information no less than annually for each client and each time a client's case is opened or closed. Instead the bill specifies that the boards must submit such information in accordance with timeframes set by the Department.

In addition to submitting a mental health and addiction services plan, the bill requires local boards to also submit a budget and statement of services. The bill removes the following current law requirements related to the submission of the plan:

- The Director of ODMH must issue criteria for determining when a plan is complete, for plan approval or disapproval, and provisions for conditional approval.

- If the Director disapproves all or part of any plan, the Director is to provide the board an opportunity to present its position. The Director is to inform the board of the reasons for the disapproval and of the criteria that must be met before the plan may be approved.

- The Director is to give the board a reasonable time in which to meet the criteria and is to offer technical assistance to the board to help it meet the criteria.

- If approval of a plan remains in dispute, either party may request that the dispute be resolved by a mediator, with the cost of the mediator being shared between both parties.

- The mediator is to issue a recommendation on the dispute.

- The Director, taking into account the recommendation of the mediator, is to issue a final decision on the dispute.

In place of the previous policies and procedures, the bill enacts the following provisions:

- ODMHAS may withhold all or part of the funds allocated to a board if ODMHAS disapproves all or part of the board's plan, budget, or statement of services.

- Prior to a final decision to withhold funds, a representative of ODMHAS is to meet with the board with regard to the issue provide corrective

action that should be taken to make the plan, budget, or statement of services acceptable to the Department.

- The board is to be given a reasonable time to resolve the issue and to submit a revised plan, budget, or statement of services.

- If a board decides to amend an already approved plan, budget, or statement, the board must submit such an amendment to ODMHAS. ODMHAS may approve or disapprove the amendment.

- If ODMHAS disapproves the amendment, the board is to be allowed an opportunity to present its position.

- ODMHAS is to provide the board with the reason for the disapproval and provide the board a reasonable time within which to meet related criteria.

- ODMHAS is required to provide technical assistance in meeting the criteria.

- ODMHAS is required to establish procedures for the review of plans, budgets, or statements of services and for correct action or the revisal of such documents.

Fund allocation

(R.C. 5119.62 (renumbered 5119.23))

The bill removes specific requirements related to the allocation of funds appropriated by the General Assembly to boards of alcohol, drug addiction, and mental health services in favor of a general requirement that the ODMHAS is to establish guidelines related to the allocation of such funds in consultation with the boards. Specifically, the bill removes the authority of ODMH to allocate to boards a portion of the funds appropriated by the General Assembly to the Department for the operation. Accordingly, all of the following provisions are removed:

- If the Department allocates the fund, the Department is to:

    - In consultation with the boards, annually determine the unit costs of providing state hospital services and establish the methodology for allocating the funds to the boards;

    - Determine the type of unit costs of providing state hospital services to be included as a factor in the methodology and include that unit cost as a factor in the methodology;

- Allocate the funds to the boards in manner consistent with the methodology and other state and federal laws;

- Notify each board of the Department's estimate of the amount of funds to be allocated to the board during the next fiscal year;

- If the Department makes an allocation, notify each board of the unit costs of providing state hospital services for the upcoming fiscal year.

- Each board is to notify the Department as to whether the board has elected to accept or decline the funds allocated by the Department.

The bill removes the prohibition against using state funds allocated to a local board for the purpose of discouraging employees from seeking collective bargaining representation or encouraging employees to decertify a recognized collective bargaining agent. The bill removes the requirement that the Department is to charge against an allocation made to a local board any unreimbursed costs for services provided by the Department.

Withholding funds due to discrimination

(R.C. 5119.622 (renumbered 5119.25) (B) and (C))

Current law enables ODMH to withhold funds from a local board for failure to comply with applicable laws. In addition to this authority, current law authorizes ODMH to withhold funds otherwise to be allocated to a local board if the board denies available service on the basis of race, color, religion, sex, national origin, developmental disability, age, or disability. The bill expands this list of protected classes to include marital status, sexual orientation, genetic information, and military status. Under current law, if a department decides to withhold funds, the department must provide information on how the board can come into compliance with the applicable laws, and give the board a reasonable time within to comply. Under the bill, the board has ten days to comply and may, but is not required to, offer technical assistance. Additionally, ODMHAS must hold a hearing on the matter and, under the bill, the hearing is to be held within ten days of receipt of the board's position on the matter.

Confidential documents

(R.C. 5119.28 and 5119.99(C))

The bill enacts new requirements related to confidential mental health records. All records, and reports, other than court journal entries or court docket entries, identifying a person and pertaining to the person's mental health condition, assessment,

provision of care or treatment, or payment for assessment, care or treatment that are maintained in connection with any services certified by ODMHAS, or any hospitals or facilities licensed or operated by the Department, is to be kept confidential and is not to be disclosed by any person except:

- If the person identified, or the person's legal guardian, if any, or if the person is a minor, the person's parent or legal guardian, consents.

- When disclosure is provided for in the ODMHAS Law, the local board law, the Hospitalization of the Mentally Ill Law, or the laws relating to occupations and professions.

- That hospitals, boards of alcohol, drug addiction, and mental health services, licensed facilities, and community mental health services providers may release necessary medical information to insurers and other third-party payers, including government entities responsible for processing and authorizing payment, to obtain payment for goods and services furnished to the person. Before disclosing this type of record, the custodian must attempt to obtain the person's consent to the disclosure.

- Pursuant to a court order signed by a judge.

- That a person is to be granted access to the person's own psychiatric and medical records, unless access specifically is restricted in a person's treatment plan for clear treatment reasons.

- That ODMHAS may exchange psychiatric records and other pertinent information with community mental health services providers and boards of alcohol, drug addiction, and mental health services relating to the person's care or services. Records and information that may be exchanged pursuant to this provision is to be limited to medication history, physical health status and history, financial status, summary of course of treatment in the hospital, summary of treatment needs, and a discharge summary, if any. Before disclosing this type of record, the custodian must attempt to obtain the person's consent to the disclosure.

- That ODMHAS, hospitals and community providers operated by the Department, hospitals licensed by the Department, and community mental health services providers may exchange psychiatric records and other pertinent information with payers and other providers of treatment and health services if the purpose of the exchange is to facilitate continuity of care for the person or for the emergency treatment of the person.

- That ODMHAS and community mental health services providers may exchange psychiatric records and other pertinent information with boards of alcohol, drug addiction, and mental health services for purposes of any board function set forth in the local board law. Boards of alcohol, drug addiction, and mental health services are to not access any personal information from the Department or providers except as required or permitted by law for purposes related to payment, care coordination, health care operations, program and service evaluation, reporting activities, research, system administration, oversight, or other authorized purposes.

- That a person's family member who is involved in the provision, planning, and monitoring of services to the person may receive medication information, a summary of the person's diagnosis and prognosis, and a list of the services and personnel available to assist the person and the person's family, if the person's treatment provider determines that the disclosure would be in the best interests of the person. No such disclosure is to be made unless the person is notified first and receives the information and does not object to the disclosure.

- That community mental health services providers may exchange psychiatric records and certain other information with the board of alcohol, drug addiction, and mental health services and other providers in order to provide services to a person involuntarily committed to a board. Release of records under this provision is to be limited to medication history, physical health status and history, financial status, summary of course of treatment, summary of treatment needs, and discharge summary, if any. Before disclosing this type of record, the custodian must attempt to obtain the person's consent to the disclosure.

- That information may be disclosed to the executor or the administrator of an estate of a deceased person when the information is necessary to administer the estate.

- That information may be disclosed to staff members of the appropriate board or to staff members designated by the Director of ODMHAS for the purpose of evaluating the quality, effectiveness, and efficiency of services and determining if the services meet minimum standards. Information obtained during such evaluations is to not be retained with the name of any person.

- That records pertaining to the person's diagnosis, course of treatment, treatment needs, and prognosis is to be disclosed and released to the appropriate prosecuting attorney if the person was committed pursuant to the laws relating to competency to stand trial and acquittal by reason of insanity, or to the attorney designated by the board for proceedings pursuant to involuntary commitment under the Hospitalization of the Mentally Ill Law.

- That ODMHAS may exchange psychiatric hospitalization records, other mental health treatment records, and other pertinent information with the Department of Rehabilitation and Correction and with the Department of Youth Services to ensure continuity of care for inmates and offenders who are receiving mental health services in an institution of the Department of Rehabilitation and Correction or the Department of Youth Services and may exchange psychiatric hospitalization records, other mental health treatment records, and other pertinent information with boards of alcohol, drug addiction, and mental health services and community mental health services providers to ensure continuity of care for inmates or offenders who are receiving mental health services in an institution and are scheduled for release within six months. The release of records under this provision is limited to records regarding an inmate's or offender's medication history, physical health status and history, summary of course of treatment, summary of treatment needs, and a discharge summary, if any.

- That a community mental health services provider that ceases to operate may transfer to either a community mental health services provider that assumes its caseload or to the board of alcohol, drug addiction, and mental health services of the service district in which the person resided at the time services were most recently provided any treatment records that have not been transferred elsewhere at the person's request.

No person is to reveal the content of a medical record of a person except as authorized by law. The bill makes violating these requirements a fifth degree felony.

Federal block grant funds

(R.C. 5119.60 (renumbered 5119.32))

The bill makes ODMHAS the administrative agency for the federal Substance Abuse Prevention Treatment Block Grant and the federal Community Mental Health Services Block Grant, which are the successors to the Alcohol, Drug Abuse, and Mental

Health Services Block Grant. With regard to these grants, the bill removes the requirement that the Department establish and administer an annual plan to utilize federal block grant funds.

Services providers and certification of services

(R.C. 5119.611 (renumbered 5119.36) and 5119.612 (renumbered 5119.37))

Continuing law requires ODMHAS to establish certification standards for mental health and addiction services. The bill expands the list of topics the standards are required to address to include the limitations to be placed on a provider that is granted conditional certification.

Continuing law requires ODMHAS to adopt rules related to the certification of services providers. Under the bill, ODMHAS is no longer required to establish standards for qualifications of mental health professionals and personnel who provide community mental health services.

Under continuing law, if a community services provider does not satisfy the standards for certification, the Director must identify the areas of noncompliance. Under current law, the Department is required to offer technical assistance to the local board. The bill makes this offer permissive but also permits the offer to be made to the services provider.

Continuing law enables a services provider to be certified by standards other than the standard standards that the department uses. The bill authorizes the ODMHAS to certify services providers according to other, unspecified, alternative standards in addition to those already listed.

Determination of services needed

(R.C. 5119.061 (renumbered 5119.40))

Current law requires ODMH to determine whether a mentally ill person seeking admission to a nursing facility requires the level of services provided by a nursing facility. This evaluation is not required in certain situations, however, unless certain criteria, newly added by the bill, apply. In other words, an evaluation for a situation that would normally be exempt is required if the hospital from which the individual is transferred or directly admitted to a nursing facility is either of the following:

- A hospital that ODMHAS maintains, operates, manages, and governs for the care and treatment of mentally ill persons.

- A free-standing hospital, or unit of a hospital, licensed by ODMHAS.

Residential state supplement

(R.C. 5119.69 (renumbered 5119.41) and 5119.691 (renumbered 5119.411))

Continuing law prescribes eligibility standards for residential state supplement payments. Under current law one of the places that a person must reside in to be eligible for the supplement is a home or facility, other than a nursing home or nursing home unit of a home for the aging, licensed accordingly. Under the bill, this eligible residence is replaced by a residential care facility, licensed accordingly, or an assisted living program.

Current law requires ODMH to notify each person denied approval for residential state supplement payments of the person's right to a hearing on the matter. The bill requires the county department of job and family services to provide this notification.

Continuing law requires each residential state supplement administrative agency to determine whether individuals who reside in the agency's area are on a waiting list for the residential state supplement program have been admitted to a nursing facility. Under current law, if an agency determines that such an individual has been admitted to a facility the agency is to notify the long-term care consultation program administrator serving the area in which the individual resides about the determination. Under the bill, the notification requirement is removed.

Compilation of statistics

(R.C. 3793.12 (renumbered 5119.61))

Continuing law requires ODMHAS to collect and compile statistics and other information related to addiction services. In addition, under the bill the Department is to collect information about services delivered and persons served as required for reporting and evaluation relating to state and federal funds expended for such purposes.

Outright repeals

The following is a list and brief description of those sections that are completely repealed in the merger of ODMH and ODADAS into ODMHAS.

Council on Alcohol, Drug, and Gambling Addiction Services

(R.C. 3793.07 (repealed))

The bill abolishes the Council on Alcohol, Drug, and Gambling Addiction Services.

Revolving Loans for Recovery Homes Fund

(R.C. 3793.19 (repealed))

This section creates the Revolving Loans for Recovery Homes Fund, consisting of money received from the federal government. Such funds are no longer being received.

Physician specialists

(R.C. 5119.09 (repealed))

This section authorizes ODMH to prepare job descriptions, classifications, and requirements for physician specialists working in ODMH. This responsibility now falls to DAS.

Purchase of supplies and competitive bidding

(R.C. 5119.31 (repealed))

The section authorizes DAS to purchase supplies for ODMH. This section is redundant, and ODMH and ODADAS already use DAS to purchase supplies.

Statement of policy

(R.C. 5119.47 (repealed))

This section specifies that it is the policy of Ohio, and of ODMH, to operate state hospital inpatient services and other community-based services, in order to provide for a full range of services for persons in need of mental health services.

Operation of runaway shelters for minors

(R.C. 5119.65 through 5119.68 (repealed))

These sections provide for the operation of runaway shelters for minors. These requirements have been subsumed by general requirements and laws related to facilities overseen by ODMHAS.

Definitions

(R.C. 3793.01 (renumbered 5119.01), 5119.22 (renumbered 5119.34), and 5119.69 (renumbered 5119.41))

The bill adds definitions that mirror definitions in related chapters and alters definitions to reflect current practices of ODMH and ODADAS.

Transition relating to consolidation of departments

(Sections 327.20, 327.20.10, 327.20.20, 327.20.30, 327.20.40, 327.20.50, 327.20.60, and 512.50)

On July 1, 2013, the bill creates the ODMHAS, which is to be administered by the Director of Mental Health and Addiction Services. The Director of ODMHAS is to be appointed by the Governor, with the advice and consent of the Senate, and is to hold office during the term of the appointing Governor, and is subject to removal at the pleasure of the Governor. The Director is the executive head of ODMHAS. ODADAS and the ODMH are to be consolidated into ODMHAS. All of the authority, functions, and assets and liabilities of ODMH and ODADAS are transferred to ODMHAS. ODMHAS is thereupon and thereafter successor to, assumes the obligations of, and otherwise constitutes the continuation of ODMH and ODADAS. The Director assumes all of the duties, authorities, and responsibilities of the Director of ODMH and the Director of ODADAS. Any action, license, or certification that was undertaken or issued by the ODMH or ODADAS that is current and valid on the effective date of the consolidation is deemed to be an action, license, or certification undertaken or issued by ODMHAS under the statute creating that Department.

Any business commenced but not completed by July 1, 2013, by ODMH or ODADAS is to be completed by ODMHAS. The business is to be completed in the same manner, and with the same effect, as if completed by ODMH or ODADAS prior to July 1, 2013.

No validation, cure, right, privilege, remedy, obligation, or liability is lost or impaired by reason of this act's transfer of responsibility from ODMH and ODADAS to ODMHAS. Each such validation, cure, right, remedy, obligation, or liability is to be administered by ODMHAS pursuant to the statute creating that Department.

All rules, orders, and determinations made or undertaken pursuant to the authority and responsibilities of ODMH and ODADAS prior to July 1, 2013, is to continue in effect as rules, orders, and determinations of the ODMHAS until modified or rescinded by the Department. If necessary to ensure the integrity of the numbering system of the Administrative Code, the Director of the Legislative Service Commission

is to renumber the rules to reflect the transfer of authority and responsibility to ODMHAS.

Any action or proceeding that is related to the functions or duties of ODMH or ODADAS pending on July 1, 2013, is not affected by the transfer of responsibility to the ODMHAS and is to be prosecuted or defended in the name ODMHAS. In all such actions and proceedings, ODMHAS, on application to the court, is to be substituted as a party.

It is the intention of ODMHAS that community subsidies allocated or distributed by the Department will be used to fund mental health and addiction services in largely the same proportion that such services were funded when allocated or distributed as separate funding streams through the separate ODMH and ODADAS.

All employees of ODMH and ODADAS are to be employees of ODMHAS and are to serve in the positions previously held within their respective agencies unless ODMHAS determines otherwise. The merger of ODMH and ODADAS is not to be deemed a transfer of employees pursuant to Ohio Public Employee Personnel Law. Any unclassified employee of ODMH or ODADAS who held a right to resume a position within the classified service of his or her previous respective agency is to retain the right subject to specified exceptions.

On July 1, 2013, or as soon as possible thereafter, notwithstanding any provision of law to the contrary, and if requested by ODMHAS, the Director of OBM is to make budget changes made necessary by the consolidation, if any, including administrative organization, program transfers, the creation of new funds, the transfer of state funds, and the consolidation of funds. The Director of OBM may make any transfer of cash balances between funds.

On July 1, 2013, or as soon as possible thereafter, the Director of ODMHAS is to certify to the Director of OBM all encumbrances held by ODMH and ODADAS, and specify which of those encumbrances are requested to be transferred to ODMHAS. The Director of OBM may cancel any existing encumbrances as certified by the Director of ODMHAS and re-establish them in the new agency. The bill appropriates the re-established encumbrance amounts. Any business commenced but not completed with regard to the encumbrances certified is to be completed by ODMHAS in the same manner and with the same effect as if it were completed by the ODMH and ODADAS.

Not later than 30 days after the transfer and consolidation of the operations and related management functions of ODMH and ODADAS to ODMHAS, an authorized officer of the former ODMH and the former ODADAS must certify to the Director of ODMHAS the unexpended balance and location of any funds and accounts designated

for building and facility operation and management functions, and the custody of such funds and accounts is to be transferred to ODMHAS.

Not later than September 1, 2013, the Director of ODMH and the Director of ODADAS must certify to the Director of OBM the amount of all of the unexpended, unencumbered balances of GRF appropriations made to the department for FY 2012, excluding Ohio Public Facilities Commission rental payment funds. On receipt of the certification, the Director of OBM must transfer cash to the Department of Mental Health and Addiction Services Trust Fund in an amount up to, but not exceeding, the total amounts certified by the Directors of ODMH and ODADAS

Effective July 1, 2013, the Director of ODMHAS must perform activities that parallel continuing law and law amended by the bill regarding local boards.

Effective July 1, 2013, all records and reports, other than court journal entries or court docket entries, identifying a person and pertaining to the person's mental health condition, assessment, provision of care or treatment, or payment for assessment, care, or treatment that are maintained in connection with any services certified by the ODMHAS, or any hospitals or facilities licensed or operated by the Department, are to be kept confidential and are not to be disclosed by any person, with certain exceptions. This provision and the exceptions to this requirement mirror R.C. 5119.28, which is enacted in the bill.

Effective July 1, 2013, ODMHAS may adopt rules governing licensure and operation of residential facilities, that include procedures for conducting criminal records checks for operators, employees, and volunteers who have direct access to facility residents.

Effective July 1, 2013, to the extent funds are available and on application of boards of alcohol, drug addiction, and mental health services, ODMHAS may approve state reimbursement of, or state grants for, community construction programs, including residential housing for severely mentally disabled persons and persons with substance use disorders. ODMHAS may also approve an application for reimbursement or a grant for such programs submitted by other governmental entities or by private, nonprofit organizations after the board of alcohol, drug addiction, and mental health services has reviewed and approved the application and the application is consistent with the plan, budget, and statement of services submitted and approved by ODMHAS. ODMHAS is to adopt rules in accordance with the Administrative Procedure Act that specify procedures for applying for state reimbursement and for state grants for community construction programs, including residential housing for severely mentally disabled persons and persons with substance use disorders.

Effective July 1, 2013, ODMHAS must collect information about services delivered and persons served as required for reporting and evaluation relating to state and federal funds expended for such purposes. No alcohol, drug addiction, or mental health program, agency, or services provider may fail to supply statistics or other information within its knowledge and with respect to its programs or services upon the request of the Department.

ODMHAS is required to administer specified Medicaid services as delegated by the State's single agency responsible for the Medicaid program (the Department of Medicaid).

ODMHAS RELOCATION TABLES

In merging ODMH and ODADAS into ODMHAS, the bill relocates a large number of sections. In some cases, the bill simply renumbers a section. In others, the bill repeals the current section and merges the operative provisions into another section, either verbatim or in substance. Below are two charts. The first chart shows the reorganization by current section number. The second chart shows the reorganization by new section number.

Current location to new location

R.C. section number under current law	R.C. section number under the bill
3793.01	5119.01
3793.02	5119.21
3793.03	5119.10
3793.031	5119.201
3793.032	5119.47
3793.04	5119.22(D) (partial)
3793.041	5119.22(D) (partial)
3793.05	5119.22(D) (partial)
3793.051	5119.161
3793.06	5119.36
3793.061	5119.37
3793.07	Repealed by H.B. 284 of the 129th General Assembly
3793.08	5119.60
3793.09	Repealed
3793.10	5119.38

R.C. section number under current law	R.C. section number under the bill
3793.11	5119.39
3793.12	5119.61
3793.13	5119.27
3793.14	5119.26
3793.15	5119.17
3793.16	5119.188
3793.18	5119.30
3793.19	Repealed
3793.20	5119.42
3793.21	5119.24
3793.22	5119.49
3793.31	5119.90
3793.32	5119.91
3793.33	5119.92
3793.34	5119.93
3793.35	5119.94
3793.36	5119.95
3793.37	5119.96
3793.38	5119.97
3793.39	5119.98
3793.99	5119.99
5119.01	5119.10
5119.011	5119.14
5119.012	5119.141
5119.013	5119.10(B)(8)
5119.02	5119.14
5119.03	5119.14
5119.04	5119.04
5119.05	5119.10
5119.06	5119.21
5119.06(B)	5119.14
5119.061	5119.40
5119.07	5119.11

R.C. section number under current law	R.C. section number under the bill
5119.071	5119.18
5119.072	5119.181
5119.08	5119.182
5119.09	Repealed
5119.10	5119.184
5119.101	5119.185
5119.11	5119.186
5119.12	5119.187
5119.14	5119.08
5119.16	5119.44
5119.161	5119.45
5119.17	5119.51
5119.18	5119.46
5119.20	5119.33
5119.201	5119.331
5119.202	5119.332
5119.21	5119.333
5119.22(A) to (D), (F) to (O)	5119.34
5119.22(E)	5119.341
5119.221	5119.342
5119.23	5119.31
5119.24	5119.15
5119.27	5119.05
5119.30	5119.09
5119.31	Repealed
5119.33	5119.54
5119.34	5119.50
5119.35	5119.56
5119.351	5119.55
5119.36	5119.52
5119.37	5119.201
5119.39	5119.201
5119.42	5119.07

R.C. section number under current law	R.C. section number under the bill
5119.43	5119.06
5119.44	5119.051
5119.46	5119.60 5119.341
5119.47	5119.14
5119.50	5119.70
5119.51	5119.71
5119.52	5119.72
5119.53	5119.73
5119.57	5119.29
5119.60	5119.32
5119.61	5119.22 5119.01
5119.611	5119.36
5119.612	5119.37
5119.613	5119.361
5119.62	5119.23
5119.621	5119.24
5119.622	5119.25(A) and (C)
5119.623	5119.25(B)
5119.63	5119.42
5119.631	5119.421
5119.64	Repealed
5119.65	Repealed
5119.66	Repealed
5119.67	Repealed
5119.68	Repealed
5119.69	5119.41
5119.691	5119.411
5119.99	5119.99

New location to current location

R.C. section number under the bill	R.C. section number under current law
5119.01	3793.01 5119.61
5119.04	5119.04
5119.05	5119.27
5119.051	5119.44
5119.06	5119.43
5119.07	5119.42
5119.08	5119.14
5119.09	5119.30
5119.10	3793.03 5119.01 5119.05
5119.10(B)(8)	5119.013
5119.11	5119.07
5119.14	5119.011 5119.02 5119.03 5119.06 5119.47
5119.141	5119.012
5119.15	5119.24
5119.161	3793.051
5119.17	3793.15
5119.18	5119.071
5119.181	5119.072
5119.182	5119.08
5119.184	5119.10
5119.186	5119.11
5119.187	5119.12
5119.188	3793.16
5119.20	5119.39

R.C. section number under the bill	R.C. section number under current law
5119.201	3793.031 5119.37
5119.21 5119.21	3793.02 5119.06
5119.22(D)	3793.04 3793.041 3793.05
5119.22	5119.61
5119.23	5119.62
5119.24	3793.21
5119.24	5119.621
5119.25(A) and (C)	5119.622
5119.25(B)	5119.623
5119.26	3793.14
5119.27	3793.13
5119.29	5119.57
5119.30	3793.18
5119.31	5119.23
5119.32	5119.60
5119.33	5119.20
5119.331	5119.201
5119.332	5119.202
5119.333	5119.21
5119.34	5119.22(A) to (D), (F) to (O)
5119.341	5119.22(E) 5119.46
5119.342	5119.221
5119.36 5119.36	3793.06 5119.611
5119.361	5119.613
5119.37 5119.37	3793.061 5119.612
5119.38	3793.10

R.C. section number under the bill	R.C. section number under current law
5119.39	3793.11
5119.40	5119.061
5119.41	5119.69
5119.411	5119.691
5119.42	3793.20 5119.63
5119.421	5119.631
5119.44	5119.16
5119.45	5119.161
5119.46	5119.18
5119.47	3793.032
5119.49	3793.22
5119.50	5119.34
5119.51	5119.17
5119.52	5119.36
5119.54	5119.33
5119.55	5119.351
5119.56	5119.35
5119.60	3793.08 5119.46
5119.61	3793.12
5119.70	5119.50
5119.71	5119.51
5119.72	5119.52
5119.73	5119.53
5119.90	3793.31
5119.91	3793.32
5119.92	3793.33
5119.93	3793.34
5119.94	3793.35
5119.95	3793.36
5119.96	3793.37
5119.97	3793.38

R.C. section number under the bill	R.C. section number under current law
5119.98	3793.39
5119.99	3793.99
5119.99	5119.99
5191.185	5119.101
Repealed	3793.09 3793.19 5119.09 5119.31 5119.64 5119.65 5119.66 5119.67 5119.68
Repealed by H.B. 284 of the 129th General Assembly	3793.07

Alcohol, drug addiction, and mental health service districts

(R.C. 340.01, 340.011, 340.02, 340.021, 340.022 (repealed), 340.03, 340.031, 340.032, 340.033 (repealed), 340.04, 340.05, 340.06 (repealed), 340.07, 340.08, 340.09, 340.091, 340.10, 340.11, 340.12, 340.13, 340.14 (repealed), 340.15, and 340.16; conforming changes in multiple R.C. sections)

Changes to membership of local boards

Continuing law requires each alcohol, drug addiction, and mental health service district to have either (1) a board of alcohol, drug addiction, and mental health services (ADAMHS) or (2) an alcohol and drug addiction services (ADAS) board and a community mental health (CMH) board. The bill makes several changes to the membership requirements of these boards. The bill permits ADAMHS, ADAS, and CMH boards to elect to consist either of 18 members, as required by current law, or of 14 members. The bill requires the boards to notify ODMHAS not later than January 1, 2014, of a board's election to continue to operate as an 18-member board or to transition to operation as a 14-member board. This election is final. If a board fails to provide the notice within the time period, the failure shall be deemed an election to continue operation as an 18-member board. If a board provides timely notice of its election to transition to operate as a 14-member board, the number of board members may decline

from 18 to 14 through attrition as current members' terms expire, provided that the composition of the board reflects the bill's requirements for 14-member boards.

Alcohol, drug addiction, and mental health services (ADAMHS) boards

For ADAMHS boards, the proportion of members interested in mental health services and addiction services remains the same under the bill as under current law (half must be interested in mental health services and half must be interested in addiction services), however, interest in addiction services is expanded to include gambling addiction services in addition to alcohol or drug addiction services.

Reflecting the bill's merger of ODMH and ODADAS, the bill combines the number of members the director of each agency appoints under current law (four by the ODMH Director and four by the ODADAS Director) by requiring the Director of ODMHAS to appoint eight members of an 18-member ADAMHS Board. Continuing law requires the board of county commissioners to appoint the remaining ten members. For ADAMHS boards operating as 14-member boards, the bill requires the Director of ODMHAS to appoint six members and the board of county commissioners to appoint eight members.

The bill maintains current law regarding the appointment of members of an 18-member board and enacts provisions regarding the appointment of members of a 14-member board. For 14-member boards, each member will be appointed for a term of four years, commencing the first day of July, except that four of the initial appointments to a newly established board, and to the extent possible to expanded boards, will be for terms of two years, five initial appointments will be for terms of three years, and five initial appointments will be for terms of four years.

The bill allows, in specific circumstances, a member to serve longer on a board than under current law. The bill prohibits a member of a board from serving more than two consecutive four-year terms **under the same appointing authority**. Similarly, the bill provides that a member may serve for three consecutive terms **under the same appointing authority** only if one of the terms is for less than two years. The bill provides that a member who has served two consecutive four-year terms or three consecutive terms totaling less than ten years is eligible for reappointment **by the same appointing** authority one year following the end of the second or third term. Current law prohibits any member from (1) serving more than two consecutive four-year terms, (2) serving for three consecutive terms only if one of the terms is for less than two years, or (3) being eligible for reappointment one year following the end of the second or third term, regardless of appointing authority.

The bill maintains some provisions of current law regarding composition of the board: the Director of ODMHAS is required to ensure that an ADAMHS board includes a person who has received or is receiving mental health services paid for by public funds and a parent or other relative of such a person. The bill replaces or repeals other provisions related to board composition:

Directors of ODMH and ODADAS are required by current law to ensure these members are on each ADAMHS board	Director of ODMHAS is required by the bill to ensure these members are on each ADAMHS board
Psychiatrist or licensed physician	Clinician with experience in the delivery of mental health services
Mental health professional	No provision
Professional in the field of alcohol or drug addiction services	Clinician with experience in the delivery of addiction services
Advocate for persons receiving treatment for alcohol or drug addiction	No provision
Person who has received or is receiving alcohol or drug addiction services	Person who has received or is receiving addiction services paid for by public funds
Parent or relative of a person who has received or is receiving alcohol or drug addiction services	Parent or relative of a person who has received or is receiving addiction services paid for by public funds

Thus, the bill requires the Director to ensure that one member of the board is a clinician with experience in the delivery of mental health, one member is a person who has received or is receiving mental health services paid for by public funds, one member is a parent or relative of such a person, one member is a clinician with experience in the delivery of addiction services, one member is a person who has received or is receiving addiction services paid for by public funds, and one member is a parent or other relative of such a person.

The bill provides that a single member of a board who meets both the clinician qualifications may fulfill the requirement for a clinician with experience in the delivery of mental health services and a clinician with experience in the delivery of addiction services.

The bill prohibits any member of a board from being an employee of any provider with which the board has entered into a contract for the provision of services or facilities. Current law allows an ADAMHS board member to be an employee of a provider with which the board has entered into a contract for the provision of services or facilities, if the board member's employment duties with the provider consist of providing, only outside the district the board serves, services for which the Medicaid program pays.

The bill removes current law's prohibition against the required annual in-service training sessions that each board member is required to attend from being considered to be a regularly scheduled meeting of the board.

Alcohol and drug addiction services (ADAS) and community mental health (CMH) boards

The bill changes the number of members appointed by the Director of ODMHAS and the board of county commissioners for ADAS and CMH boards. The bill requires that for boards operating as 18-member boards, eight members be appointed by the Director and ten members be appointed by the board of county commissioners. Current law requires six members be appointed by the Director and 12 members be appointed by the board of county commissioners. For 14-member boards, the Director is required to appoint six members and the board of county commissioners is required to appoint eight members.

The bill requires that the Director **ensure** one member of an ADAS board be each of the following: (1) a person who has received or is receiving services for alcohol, drug, or gambling addiction, (2) a parent or relative of such a person, (3) and a clinician with experience in the delivery of addiction services. Current law requires the Director to **appoint** each of the following: (1) a person who has received or is receiving services for alcohol or drug addiction, (2) a parent or relative of such a person, (3) a professional in the field of alcohol or drug addiction services, and (4) an advocate for persons receiving treatment for alcohol or drug addiction. Thus, the bill includes gambling addiction in addition to drug and alcohol addiction, replaces the professional with a clinician with experience, and removes the requirement that an advocate be on the board.

The bill requires that the Director **ensure** that one member of the CMH board be each of the following: (1) a person who has received or is receiving mental health services, (2) a parent or relative of such a person, and (3) a clinician with experience in the delivery of mental health services. Current law requires that the Director **appoint** each of the following: (1) a person who has received or is receiving mental health services, (2) a parent or relative of such a person, (3) a psychiatrist or a physician, and (4) a mental health professional.

The bill removes expired language that provides for the establishment of an ADAMHS board between the original deadline for establishment (within 30 days of October 10, 1989) and January 1, 2007; allows a board of county commissioners to adopt a final resolution, at any time in the future, that establishes an ADAMHS board in lieu of ADAS and CMH boards; and removes the requirement that each service district without an alcohol and drug addiction services board create a standing committee on alcohol and drug addiction services.

Duties of boards

The bill consolidates, amends, reorganizes, and enacts provisions regarding board duties with respect to mental health services and alcohol and drug addiction services. The bill maintains most of the duties that are in existing law and combines those that currently are split between addiction services and mental health services. Most of these provisions are organized under R.C. 340.03 and R.C. 340.08 of the bill, which enumerate the responsibilities of ADAMHS, ADAS, and CMH boards.

Planning duties

The bill specifies that instead of implementing an annual plan that is approved by ODMHAS, a board must operate in accordance with such a plan. The bill requires boards, in serving as the community addiction and mental health services planning agency, to evaluate strengths and challenges for such services and, when setting priorities as required by current law, to include treatment and prevention priorities. The bill expands the duties of a community support system, which current law requires a board to establish to the extent resources are available, to include prevention in addition to treatment, support, and rehabilitation services and opportunities and requires residential addiction and mental health services to be components of the system.

The bill replaces the requirement that the annual plan include the needs of all residents of the district now residing in state mental institutions and severely mentally disabled adults, children, and adolescents, with a requirement that the annual plan include the needs of all residents of the district currently receiving inpatient services in state-operated hospitals and the needs of other populations as required by state or federal law.

The bill removes the requirement that the annual plan include a statement of the inpatient and community based services the board proposes that ODMH operate and an assessment of the number and types of residential facilities needed, and consequently removes the requirement that ODMH's statement of approval or disapproval specifies these services that ODMH will operate for the board. For a district that has ADAS and CMH boards, the bill requires the ADAS board to submit a community addiction services plan and the CMH board to submit a community mental health services plan. The bill directs the ADAS and CMH boards (1) to consult with each other in developing the plans and (2) to address the interaction between the local addiction services and mental health services systems and populations with regard to needs and priorities in developing its plan.

The bill requires the board to submit to ODMHAS a statement identifying the services described in categories of continuum of care and support functions, approved by ODMHAS, which the board intends to make available (see "**ODMHAS**

reimbursement" below). Crisis intervention services for individuals in emergency situations and services required for a parent, guardian, or custodian of a child who is in imminent risk of being abused or neglected must be included in the statement, and the board is required to explain the manner in which it will make the services available.

Fiduciary duties

The bill requires each board, in accordance with rules or guidelines issued by the Director, to submit to ODMHAS a report of receipts and expenditures for all federal, state, and local moneys the board expects to receive. Current law requires the board to receive, compile, and transmit to ODMHAS an application for funding. The bill states that the board's proposed budget for expenditures of state and federal funds distributed to the board by ODMHAS will be deemed an application for funds, and ODMHAS must approve or disapprove the budget for these expenditures. If the budget is disapproved, ODMHAS is required to inform the board of the reasons for disapproval and of the criteria that must be met before the budget may be approved. The Director is required (1) to provide the board an opportunity to present its case on behalf of the submitted budget, (2) to give the board a reasonable time in which to meet the criteria, and (3) to offer the board technical assistance to help it meet the criteria.

If, after approval of the budget, a board determines that it is necessary to amend the budget, the bill requires the board to submit a proposed amendment to the Director. The Director must approve or disapprove of all or part of the amendment and then inform the board of the reasons for disapproval of all or part of the amendment and the criteria that must be met before the amendment may be approved. Then, the Director must complete (1), (2), and (3) in the paragraph above.

With regard to the statement that a board is required to submit to ODMHAS that identifies the services described in categories of continuum of care and support functions (see "**Planning duties**" above and "**ODMHAS reimbursement**" below), the bill requires the list to be compatible with the submitted budget. ODMHAS must approve or disapprove the proposed listing of services and, in the case of disapproval, inform the board of the reasons for disapproval and the criteria that must be met before the listing may be approved. The Director is required to complete (1), (2), and (3) above.

The bill allows the Director to withhold funds otherwise to be allocated to a board if the board's use of state and federal funds fails to comply with the approved budget, or an amended approved budget.

Other duties

The bill requires boards to enter into a continuity of care agreement with the state institution operated by ODMHAS and designated as the institution serving the

district encompassing the board's service district. The agreement must outline ODMHAS's and the board's responsibilities to plan for and coordinate with the institution to address the needs of board residents who are patients in the institution, with an emphasis on managing appropriate hospital bed day use and discharge planning.

The bill requires boards to submit to ODMHAS a report summarizing complaints and grievances received by the board concerning the rights of persons seeking or receiving services, investigations of complaints and grievances, and outcomes of the investigations.

The bill requires boards annually, and upon any change in membership, to submit to ODMHAS a list of all current members of the board, including the appointing authority for each member, and the member's specific qualification for appointment in accordance with the law.

The bill requires boards to establish a mechanism for obtaining advice and involvement of persons receiving publicly funded addiction or mental health services on matters pertaining to mental health services in the district. Current law does not specify that the services be publicly funded. The bill prohibits a board from contracting with an unlicensed residential facility that is required to be licensed by the Director.

With regard to inspections of residential facilities, the bill permits a board to conduct an inspection of any residential facility licensed under the Hospitalization of the Mentally Ill Law that is located in the board's district. This eliminates the current requirement that the inspection be pursuant to a contract with ODMH.

Boards are required by the bill to submit to ODMHAS other information as is reasonably required for purposes of ODMHAS's operations, service evaluation, reporting activities, research, system administration, and oversight.

The bill makes permissive that a utilization review process be established as part of a contract for services entered into between a board and a community addiction or mental health agency services provider. Current law requires the utilization review process to be established.

The bill creates references in Chapter 340. (the law regarding local boards), to both of the following existing law provisions: (1) duties of boards to operate, in conjunction with ODMHAS, a coordinated system for tracking and monitoring certain persons found not guilty by reason of insanity and (2) duties of boards to provide to ODMHAS information submitted to the community information system or systems established by ODMHAS.

Repealed duties

The bill removes current law's requirement that boards administer mental health clinics and child guidance homes financed partly by state funds as of June 30, 1967.

ODMHAS reimbursement

The bill reorganizes the list of board services for which a county is eligible for monetary assistance from appropriated funds. The bill specifies that the services must be approved by ODMHAS within the continuum of care or be approved support functions. Categories in the continuum of care may include (1) inpatient, (2) residential, (3) outpatient treatment, (4) intensive and other support, (5) recovery support, and (6) prevention and wellness management. Support functions may include (1) consultation, (2) research, (3) administrative, (4) referral and information, (5) training, and (6) service and program evaluation. Current law provides a county may be reimbursed for the following services: (1) outpatient, (2) inpatient, (3) partial hospitalization, (4) rehabilitation, (5) consultation, (6) mental health education and other preventive services, (7) emergency, (8) crisis intervention, (9) research, (10) administrative, (11) referral and information, (12) residential, (13) training, (14) substance abuse, (15) service and program evaluation, (16) community support system, (17) case management, (18) residential housing, and (19) other services approved by the board and the Director.

Protected classes

The bill expands the protected classes against which boards and contracted services providers are prohibited from discriminating in the provisions of services under its authority, in employment, or contract. The bill expands the protected classes to include age, ancestry, sexual orientation, military standards, and genetic information and replaces the protected class of "creed" with "religion."

EDGE business enterprise procurement goals

The bill requires, to the extent that a board is authorized to enter into contracts for construction, the board to strive to attain a yearly contract dollar procurement goal the aggregate value of which equals approximately 5% of the aggregate value of construction contracts for the current fiscal year for EDGE business enterprises only. Current law sets aside these contracts for bidding by certified minority business enterprises. "EDGE business enterprise" means a sole proprietorship, association, partnership, corporation, limited liability corporation, or joint venture certified as a participant in the encouraging diversity, growth, and equity program by the Director of Administrative Services (DAS). The bill requires any EDGE business enterprise that

desires to bid on a contract to first apply to the Equal Employment Opportunity Coordinator of DAS.

The bill permits a board that is unable to comply with the EDGE contracting procurement goal, after having made a good faith effort, to apply in writing to the Director for a waiver or modification of the goal. The application must be on a form prescribed by DAS. The bill specifies that the provisions regarding EDGE contracts do not preclude any EDGE business enterprise from bidding on any other contract not specifically subject to the procurement goals.

Continuing law requires each board to file a report with ODMHAS, within 90 days after the beginning of each fiscal year, that shows for that fiscal year the name of each minority business enterprise with which the board entered into a contract, the value and type of each such contract, the total value of the contracts, and the total value of contracts for construction and purchases of equipment, materials, supplies, or services, other than contracts entered into pursuant to the planning duties of local ADAMHS boards. The bill additionally applies these provisions to each EDGE business enterprise with which the board entered into a contract.

The bill provides that any person who intentionally misrepresents the person's self as owning, controlling, operating, or participating in an EDGE business enterprise in order to obtain contracts or other benefits is guilty of theft by deception.

Miscellaneous changes

The bill makes conforming changes to reflect the merger, by the bill, of ODMH and ODADAS into ODMHAS. The bill also updates certain terms to reflect industry terminology:

Current law	Bill
Agency Agency, corporation, or association Agency, corporation, or individual	Services provider Provider
Client Consumer Patient	Person receiving services
Alcohol and drug addiction services	Addiction services Alcohol, drug, and gambling addiction services
Programs	Services Services and facilities

Current law	Bill
Comprehensive community mental health plan	Comprehensive community addiction and mental health services budget Budget Budget and statement of services

For purposes of qualification as the executive director of a board, the bill defines "mental health professional" and "addiction services professional" as an individual who is qualified to work with mentally ill persons or persons receiving addiction services, pursuant to standards established by the Director of ODMHAS under state law.

The bill removes the expired requirement that ODMHAS and the Department of Job and Family Services collaborate to formulate a plan for funding responsibilities of public children services agencies and alcohol, drug addiction, and mental health services boards.

Recovery Requires a Community Program

(Section 751.10)

The bill requires that ODMHAS, in consultation with the Department of Medicaid (ODM), administer the Recovery Requires a Community Program to identify individuals residing in nursing facilities who can be successfully moved into community settings with the aid of nonMedicaid services. The ODMHAS and ODM Directors must agree on an amount that represents the savings realized from decreased nursing facility utilizations as a result of the program. The savings are to be transferred, within the 2014 and 2015 biennium, from ODM to ODMHAS to support nonMedicaid program costs for individuals moving into community settings.

DEPARTMENT OF NATURAL RESOURCES

Oil and Gas Law

- Changes the definition of "gas" in the Oil and Gas Law to mean all hydrocarbons that are in a gaseous state at standard temperature and pressure rather than all natural gas and all other fluid hydrocarbons that are not oil, including condensate, as in current law.

- Requires the owner of a horizontal well to file production statements quarterly rather than annually, and specifies additional information to be included in the statements, including the production of condensate, the American Petroleum Institute gravity of the oil, and the British thermal unit measurement of the gas.

- Requires the owner of a well to retain all records substantiating a production report for at least seven years, specifies what the records are to include, and requires the owner to provide the records to the Chief of the Division of Oil and Gas Resources Management for inspection upon request.

- Restricts oil and gas severance tax information received from the Department of Taxation from being disclosed by the Chief except for enforcement purposes.

- Requires the term "material safety data sheet," as used in the statute governing well completion records in the Oil and Gas Law, to conform to any changes in the term by the Occupational Safety and Health Administration.

- Revises the restrictions in current law regarding the disposal of brine, crude oil, natural gas, or other fluids associated with the exploration or development of oil and gas resources, and applies the restrictions to such fluids associated with production and plugging.

- Prohibits a person who treats brine or other waste fluids or substances associated with the exploration, development, production, or plugging of oil and gas resources from transferring the treated substances to another person for disposal unless the receiving person has been issued a specified order or permit.

- Allows disposal of brine by any method not specified in the statute governing disposal of brine that is approved by an order of the Chief rather than by methods approved by the Chief for testing or implementing a new technology or method of disposal as in current law.

- Requires that pits and steel tanks for containing brine and other waste substances be liquid tight.

- With regard to impoundments used for temporary storage:

  --Refers to impoundments rather than earthen impoundments;

  --Specifies that impoundments must be constructed utilizing a synthetic liner; and

  --Adds that impoundments may be used for the temporary storage of fluids used in the construction or plugging of a well in addition to the stimulation of a well as in current law.

- Precludes brine that is produced from a horizontal well from being allowed to be spread on a road.

- Requires notice to be provided by an assignor or transferor when an interest in, rather than the entire interest of, an oil and gas lease is assigned or otherwise transferred, and adds the lessor to the list of persons who are to be notified.

- Requires such an assignee or transferee to record the assignment or transfer in the office of the county recorder of the county where the property that is subject to the lease is located.

- Revises the procedures and requirements governing the proposed assignment or transfer of the entire interest of a well to the landowner for use as an exempt domestic well.

Technologically enhanced naturally occurring radioactive material and other material from horizontal wells

- Does all of the following with regard to material that is used in or results from the construction, operation, or plugging of a horizontal well:

  -- Generally requires the owner of a well or a person that is an authorized agent of the owner (hereafter owner) to determine the concentration level of radium in the material if it is technologically enhanced naturally occurring radioactive material (TENORM), and generally prohibits the material from being removed from the location associated with the production operation of the well until an analysis of the material is complete and the results are available;

  -- Specifies that the owner is not required to determine the concentration level of radium in TENORM if the material is reused in the horizontal well from where it originated or is transferred to another site for reuse in a horizontal well;

-- Requires the owner to transport and dispose of TENORM in accordance with all applicable laws;

-- If the material is not TENORM and the material has come in contact with a refined oil-based substance, requires the owner to dispose of it at a solid waste facility, beneficially use it, or recycle it; and

-- If the material is not TENORM and has not come in contact with a refined oil-based substance, allows the material to remain at the location associated with the production operation of the horizontal well and be used at that site.

- Prohibits the owner or operator of a solid waste facility from accepting for transfer or disposal TENORM if that material contains or is contaminated with a specified concentration level of radium (hereafter contaminated TENORM).

- Generally authorizes the owner or operator of a solid waste facility to receive and process contaminated TENORM for purposes other than transfer or disposal.

- Authorizes the Director of Environmental Protection to adopt rules regarding the receipt, acceptance, processing, handling, management, and disposal by solid waste facilities of material that contains or is contaminated with radioactive material, including contaminated TENORM.

- Authorizes the rules to include, at a minimum, requirements in accordance with which the owner or operator of a solid waste facility must perform specified activities, including monitoring leachate and ground water for radionuclides.

- Prohibits the owner or operator of a solid waste facility from receiving, accepting, processing, handling, managing, or disposing of TENORM associated with drilling operations without first obtaining representative analytical results to determine compliance with the bill and applicable rules adopted under it.

- Authorizes the Director of Environmental Protection to adopt rules establishing requirements governing the beneficial use of material from a horizontal well that has come in contact with a refined oil-based substance and that is not TENORM.

- Requires the Director of Health to adopt rules establishing requirements governing TENORM, and states that the rules must not apply to naturally occurring radioactive material.

- Defines "technologically enhanced naturally occurring radioactive material" as naturally occurring radioactive material with radionuclide concentrations that are

increased by or as a result of past or present human activities, excluding natural background radiation, byproduct material, or source material.

- Defines "naturally occurring radioactive material" as material that contains any nuclide that is radioactive in its natural physical state, excluding source material, byproduct material, or special nuclear material.

Watercraft and waterways

- Clarifies and revises the application of the Watercraft and Waterways and Watercraft Certificates of Title Laws by revising the definition of "watercraft," including stating that a watercraft is a vessel that is required to be registered under the Watercraft and Waterways Law rather than a vessel that is used or capable of being used for transportation on the water.

- States that sailboards, kiteboards, paddleboards, and belly boats or float tubes are not watercraft, and defines those terms and "recreational vessel" for purposes of the Watercraft and Waterways Law.

- Applies the definition of "watercraft" to the Division of Parks and Recreation Law.

- Revises other definitions in the Watercraft and Waterways Law, including stating in the definition of "inflatable watercraft" that inflatable watercraft that is propelled by human muscular effort using an oar, paddle, or pole must be classified as a rowboat and registered by length.

- Requires a livery owner to be issued a tag for each watercraft that has been registered in accordance with current law governing liveries, and requires the tag to be affixed to each such watercraft in accordance with the bill prior to the watercraft's being rented to the public.

- Revises the current requirement that a livery watercraft registration number be displayed on each watercraft in the fleet for which an annual certificate of livery registration certificate has been issued by requiring a livery owner, not later than March 15, 2015, to identify each watercraft in the owner's fleet in one of two specified ways.

- Requires each watercraft in a livery fleet to be identified in a uniform and consistent manner.

- Specifies that rental agreements, rather than rental receipts as in current law, are subject to inspection by Division of Watercraft personnel.

- Eliminates the Watercraft Revolving Loan Program and the Watercraft Revolving Loan Fund.

Funds

- Eliminates the Division of Forestry Law Enforcement Fund and the Division of Natural Areas and Preserves Law Enforcement Fund.

- Requires proceeds from forfeited property resulting from investigations conducted by the Division of Forestry and the Division of Natural Areas and Preserves to be deposited in the Division of Parks and Recreation Law Enforcement Fund, and requires that Fund to be used by the Division of Parks and Recreation for law enforcement purposes.

- Eliminates authority for the Chief of the Division of Wildlife to barter or sell wild animals to other states, state or federal agencies, and conservation or zoological organizations, and eliminates the Wild Animal Fund, which consists of moneys received from those sales.

- Eliminates the Mined Land Set Aside Fund, which consists of federal grants and is used for specified reclamation and restoration activities.

- Eliminates annual transfers of investment earnings from the Coal-Workers Pneumoconiosis Fund to the Mine Safety Fund and the Coal Mining Administration and Reclamation Reserve Fund, the authority for which is scheduled to expire June 30, 2013.

- Eliminates the Conservancy District Organization Fund, which is used to provide an advance of money to a conservancy district for specified purposes.

Definition of "gas" in Oil and Gas Law

(R.C. 1509.01)

The bill changes the definition of "gas" in the Oil and Gas Law to mean all hydrocarbons that are in a gaseous state at standard temperature and pressure rather than all natural gas and all other fluid hydrocarbons that are not oil, including condensate, as in current law.

Production reports

(R.C. 1509.062 and 1509.11)

The bill requires the owner of a horizontal well that is producing or capable of producing oil or gas to file a production statement with the Chief of the Division of Oil and Gas Resources Management on a quarterly basis rather than annually as in current law. It then makes a conforming change by requiring the owner of a horizontal well that has no reported production for eight consecutive reporting periods rather than two consecutive reporting periods as in current law - both of which equal two years - to plug the well, obtain temporary inactive well status for the well, or perform another activity regarding the well that is approved by the Chief.

The bill retains existing requirements governing production statements for all wells and specifically applies them to production statements for horizontal wells. In addition, it requires the statement for a horizontal well to include the production of condensate, the American Petroleum Institute gravity of the oil according to the standards for determining density of oil as established by the Institute, and the British thermal unit measurement of the gas.

Under the bill, the owner of any well must retain records substantiating a production report, regardless if the well is transferred to a new owner or plugged, for at least seven years after the date on which the report was filed with the Chief. The bill requires the records to include at least receipts, transfer vouchers, bills of lading, or other pertinent or similar records. The owner of a well must provide the records to the Chief for inspection upon request.

The bill also restricts oil and gas severance tax information received from the Department of Taxation from being disclosed by the Chief except for purposes of enforcement of the Oil and Gas Law and consequently removes a provision that allows the Chief to disclose such information after the related production statement is filed with the Chief.

Material safety data sheet

(R.C. 1509.10)

The bill requires the term "material safety data sheet," as used in the statute governing well completion records in the Oil and Gas Law, to conform to any revision of or change in the term by the Occupational Safety and Health Administration.

Brine disposal

(R.C. 1509.22 and 1509.226)

The bill revises the restrictions in current law regarding the disposal of brine, crude oil, natural gas, or other fluids by prohibiting a person from doing any of the following with brine, crude oil, natural gas, or other waste fluids associated with the exploration, development, production, or plugging of oil and gas resources except when acting in accordance with the statute governing the surface application of brine to roads or in accordance with an order issued by the Chief of the Division of Oil and Gas Resources Management regarding storage and disposal:

(1) Placing or causing them to be placed in ground water;

(2) Causing them to be placed in or on the land; or

(3) Discharging or causing them to be discharged in surface water.

Current law instead prohibits anyone, except when acting in accordance with the statute governing the surface application of brine to roads, from placing or causing to be placed brine, crude oil, natural gas, or other fluids associated with the exploration or development of oil and gas resources in surface or ground water or in or on the land in such quantities or in such manner as actually causes or could reasonably be anticipated to cause either water used for consumption by humans or domestic animals to exceed the standards of the Safe Drinking Water Act or damage or injury to public health or safety or the environment.

The bill also prohibits a person who treats mechanically, chemically, or by another process brine or other waste fluids or substances associated with the exploration, development, production, or plugging of oil and gas resources from transferring the treated brine, waste fluids, or other substances to another person for disposal in ground or surface water or in or on the land unless the receiving person has been issued an order authorizing disposal, a permit for drilling or plugging, or a permit for secondary or additional recovery operations.

Additionally, the bill allows disposal of brine by any method not specified in the statute governing disposal of brine that is approved by an order of the Chief rather than by other methods approved by the Chief for testing or implementing a new technology or method of disposal as in current law.

The bill requires that pits and steel tanks for containing brine and other waste substances be liquid tight. With regard to impoundments used for temporary storage, it does all of the following:

(1) Refers to impoundments rather than earthen impoundments as in current law;

(2) Specifies that impoundments must be constructed utilizing a synthetic liner; and

(3) Adds that impoundments may be used for the temporary storage of fluids used in the construction or plugging of a well in addition to the stimulation of a well as in current law.

Finally, the bill precludes brine that is produced from a horizontal well from being allowed to be spread on a road.

Oil and gas lease assignment and transfer

(R.C. 317.08 and 1509.31)

The bill requires that whenever an interest in an oil and gas lease is assigned or otherwise transferred, the assignor or transferor must notify in writing the lessor, the holders of the royalty interests, and, if a well or wells exist on the lease, the Division of Oil and Gas Resources Management of the assignee's or transferee's name and address by certified mail, return receipt requested, within 30 days of the assignment or transfer. Current law requires provision of this notice only when the entire interest of the lease is assigned or transferred and does not require the lessor to be notified.

The bill also requires the assignee or transferee of the lease to record a copy of the document used to assign or transfer the interest in the oil and gas lease in the office of the county recorder of the county where the property that is subject to the lease is located. It then includes all such assignments and transfers of interests in oil and gas leases in the record of leases that current law requires a county recorder to keep.

The bill authorizes the Chief of the Division of Oil and Gas Resources Management to approve an application for an assignment or transfer of the entire interest of a well to the landowner for use as an exempt domestic well only if the application is accompanied by a copy of each document used to release each oil and gas lease that is included in the applicable formation of the drilling unit and a copy of a document in which the owner transfers the well to the surface tract so that the well becomes a part of the title to the surface tract and runs with the land and if each document of release and transfer of the well to the surface tract is recorded. Current law

instead authorizes the Chief to approve the application if it is accompanied by a release of all of the oil and gas leases that are included in the applicable formation of the drilling unit, in a form such that the well ownership merges with the fee simple interest of the surface tract, and the release is in a form that may be recorded.

The bill requires the owner of a proposed exempt domestic well to post a $5,000 bond with the Division prior to the assignment or transfer of the well to ensure that the well will be properly plugged if: (1) the owner does not release each oil and gas lease associated with the well that is proposed to be assigned or transferred, or (2) the surface tract to which the well is transferred is less than five acres. Under current law, the well owner must post the $5,000 bond prior to the assignment or transfer if: (1) the owner does not release the oil and gas leases associated with the well that is proposed to be assigned or transferred, or (2) the fee simple tract that results from the merger of the well ownership with the fee simple interest of the surface tract is less than five acres.

Technologically enhanced naturally occurring radioactive material and other material from horizontal wells

(R.C. 1509.074, 3734.01, 3734.02, 3734.125, 3748.01, and 3748.04)

The bill establishes requirements and procedures governing technologically enhanced naturally occurring radioactive material as defined by the bill (hereafter TENORM) (see below) and other material from horizontal wells. It assigns to the Departments of Natural Resources and Health and the Environmental Protection Agency specific functions and responsibilities regarding those requirements and procedures. Under the Oil and Gas Law, a horizontal well is a well that is drilled for the production of oil or gas in which the wellbore reaches a horizontal or near horizontal position in the Point Pleasant, Utica, or Marcellus formation and the well is stimulated.

Department of Natural Resources

With regard to material, presumably any material, that is used in or results from the construction, operation, or plugging of a horizontal well, the bill establishes all of the following requirements and procedures in the Oil and Gas Law:

(1) Except as discussed below, the owner of a well or a person that is an authorized agent of the owner (hereafter owner) must determine the concentration of radium-226 and radium-228 in the material if the material is TENORM. The owner must provide for the collection and analysis of representative samples of the material, which must be performed in accordance with requirements approved by the Director of Health. The bill does not specify under what authority or in accordance with what procedures the Director approves those requirements.

Additionally, the owner cannot remove the material from the location associated with the production operation of the horizontal well until the analysis is complete and the results are available. However, the owner may temporarily store the material in an area adjacent to that location while the results from the analysis are pending if the material is located in an area that is designated by the Division of Oil and Gas Resources Management and the owner complies with all conditions imposed by the Chief of that Division. The bill does not specify any other purpose of the analysis or use of the results.

An owner who has obtained results from the collection and analysis must keep and maintain the results for a period of three years. The owner must provide a copy of the results to the Chief upon request.

(2) The owner is not required to determine the concentration of radium-226 and radium-228 of the TENORM if the material is reused in the horizontal well from where it originated or is transferred to another site for reuse in a horizontal well. For purposes of that provision, a material is reused if the material is used in a substantially similar manner as it was originally used.

(3) Except as discussed above in item (2), the owner must transport and dispose of TENORM in accordance with all applicable laws.

(4) If the material is not TENORM and the material has come in contact with a refined oil-based substance, the owner must do one of the following:

-- If the material is removed from the location associated with the production operation of the well, dispose of the material at a solid waste facility that is authorized to accept the material in accordance with the Solid, Hazardous, and Infectious Wastes Law and rules adopted under it, or beneficially use the material in accordance with rules adopted by the Director of Environmental Protection under the bill (see below); or

-- If the material is not removed from the location associated with the production operation of the well, recycle or reuse it with the approval of the Chief.

(5) If the material is not TENORM and the material has not come in contact with a refined oil-based substance, the material may remain at the location associated with the production operation of the horizontal well, and the owner may utilize the material at the site of the horizontal well.

Environmental Protection Agency

The bill prohibits the owner or operator of a solid waste facility licensed under the Solid, Hazardous, and Infectious Wastes Law (hereafter licensed solid waste facility) from accepting for transfer or disposal TENORM if that material contains or is contaminated with radium-226, radium-228, or both (hereafter contaminated TENORM) at concentrations equal to or greater than five picocuries per gram above natural background. It defines "natural background" as two picocuries per gram or the actual number of picocuries per gram as measured at an individual licensed solid waste facility, subject to verification by the Director of Health. The bill does not specify who is required to take the measurements or how it is determined if the two picocuries level or the actual number of picocuries level applies.

The owner or operator of a licensed solid waste facility may receive and process, for purposes other than transfer or disposal, contaminated TENORM at concentrations equal to or greater than five picocuries per gram above natural background, provided that the owner or operator has obtained and maintains all other necessary authorizations, including any authorization required by rules adopted by the Director of Health under the Radiation Control Program Law.

Under the bill, the Director of Environmental Protection may adopt rules in accordance with the Administrative Procedure Act governing the receipt, acceptance, processing, handling, management, and disposal by licensed solid waste facilities of material that contains or is contaminated with radioactive material, including contaminated TENORM at concentrations less than five picocuries per gram above natural background. The rules may include, at a minimum, requirements in accordance with which the owner or operator of a licensed solid waste facility must do all of the following:

(1) Monitor leachate and ground water for radium-226, radium-228, and other radionuclides;

(2) Develop procedures to ensure that TENORM accepted at the facility neither contains nor is contaminated with radium-226, radium-228, or both at concentrations equal to or greater than five picocuries per gram above natural background; and

(3) Dispose of radioactive material, including contaminated TENORM at concentrations less than five picocuries per gram above natural background, only in a monocell or monofill that has been permitted for that purpose in accordance with the Solid, Hazardous, and Infectious Wastes Law and rules adopted under it.

Additionally, the bill prohibits the owner or operator of a licensed solid waste facility from receiving, accepting, processing, handling, managing, or disposing of

TENORM associated with drilling operations without first obtaining representative analytical results to determine compliance with the above provisions and rules adopted by the Director under them. The bill defines "drilling operation" to include a production operation as that term is defined in the Oil and Gas Law, which defines "production operation" in part as all operations and activities and all related equipment, facilities, and other structures that may be used in or associated with the exploration and production of oil, gas, or other mineral resources that are regulated under that Law.

Under the bill, the Director may adopt rules in accordance with the Administrative Procedure Act establishing requirements governing the beneficial use of material from a horizontal well that has come in contact with a refined oil-based substance and that is not TENORM. The bill expands the definition of "beneficially use" in the Solid, Hazardous, and Infectious Wastes Law to mean, with regard to material from a horizontal well as described above, to use the material in any manner authorized as a beneficial use in rules adopted by the Director under the bill.

Department of Health

The bill requires the Director of Health to adopt rules in accordance with the Administrative Procedure Act establishing requirements governing TENORM and stipulates that the rules must not apply to naturally occurring radioactive material. It defines "technologically enhanced naturally occurring radioactive material" as naturally occurring radioactive material with radionuclide concentrations that are increased by or as a result of past or present human activities, excluding natural background radiation, byproduct material, or source material. "Naturally occurring radioactive material" is defined by the bill to mean material that contains any nuclide that is radioactive in its natural physical state, excluding source material, byproduct material, or special nuclear material. "Byproduct material," "source material," and "special nuclear material" are defined in the existing Radiation Control Program Law.

Watercraft and Waterways and Watercraft Certificates of Title laws

(R.C. 1541.03 and 1547.01)

Generally, the existing Watercraft and Waterways Law requires a watercraft that is used on Ohio waters to be registered triennially with the Division of Watercraft. A watercraft owner must include a fee with the registration. For purposes of the registration fee, many watercraft are classified by length. The Law also generally requires each watercraft to be numbered by the state. However, certain types of watercraft are exempt from registration, state numbering, or both. Finally, the Law establishes certain safety requirements for watercraft and their operation.

The Watercraft Certificates of Title Law generally requires a person that purchases a watercraft to obtain a certificate of title for the watercraft in the same manner as motor vehicles. A person must file an application for a certificate with the clerk of any court of common pleas. The application is prescribed by the Chief of the Division of Watercraft.

The bill clarifies and revises the application of those Laws to various types of watercraft by revising several definitions in the Watercraft and Waterways Law and adding several new definitions in that Law. First, it revises the definition of "watercraft," for purposes of both of the above Laws, by doing all of the following:

(1) Stating that sailboards, kiteboards, paddleboards, and belly boats or float tubes (see below) are not watercraft;

(2) Stating that a watercraft is a vessel that is required to be registered under the Watercraft and Waterways Law rather than a vessel that is used or capable of being used for transportation on the water;

(3) Applying the definition to the entire Watercraft and Waterways Law rather than specified provisions of that Law;

(4) Including as watercraft a recreational vessel (see below) that is dependent on the wind to propel it in the normal course of operation rather than only a sailboat as in current law;

(5) Including as watercraft a recreational vessel that is propelled by human muscular effort using one or more oars, paddles, or poles rather than only a canoe or rowboat as in existing law; and

(6) Including as watercraft an inflatable, manually propelled recreational vessel, rather than boat as in current law, that is required by federal law to have a hull identification number.

The bill also applies the revised definition of "watercraft" to the Division of Parks and Recreation Law. That Law currently refers specifically to watercraft, rowboats, sailboats, and powercraft.

For purposes of the Watercraft and Waterways Law, the bill defines sailboards, kiteboards, paddleboards, belly boats or float tubes, and recreational vessels. A sailboard is a recreational vessel that has no freeboard, has no cockpit, has a single sail mounted on a mast that is connected to the vessel by a free-rotating, flexible joint, and is operated by an individual who is standing on the vessel. A kiteboard is a recreational vessel that has no freeboard, has no cockpit, and is operated by an individual who is

standing on the vessel while using a kite as a means of propulsion and lift. A paddleboard is a recreational vessel that has no freeboard, is propelled by human muscular effort using a pole or single- or double-bladed paddle, and is operated by an individual who is kneeling, standing, or lying on the vessel. A belly boat or float tube is a vessel that is inflatable, propelled solely by human muscular effort without using an oar, paddle, or pole, and designed to accommodate a single individual as an operator in such a manner that the operator remains partially submerged in the water. A recreational vessel is a vessel that is propelled or controlled by machinery, sails, other contrivance, or human muscular effort using an oar, paddle, or pole and that is manufactured or operated primarily for recreational purposes.

The bill also revises other definitions for purposes of the Watercraft and Waterways Law by doing the following:

(1) Excluding a paddleboard from "rowboat";

(2) Excluding a sailboard from "sailboat"; and

(3) Stating in the definition of "inflatable watercraft" that inflatable watercraft that is propelled by human muscular effort using an oar, paddle, or pole must be classified as a rowboat and registered by length.

Registration and identification of watercraft owned by liveries

(R.C. 1547.542)

The bill revises the law governing the registration of liveries and the identification of watercraft owned by liveries. It requires a livery owner to be issued a tag for each watercraft that has been registered in accordance with current law, requires the tag to be affixed to each such watercraft in accordance with the bill prior to the watercraft's being rented to the public, and requires the Chief of the Division of Watercraft to prescribe the content and form of the tag in rules.

The bill revises the current requirement that a livery watercraft registration number be displayed on each watercraft in the fleet for which an annual certificate of livery registration certificate has been issued by requiring a livery owner, not later than March 15, 2015, to identify each watercraft in the owner's fleet in one of the following ways:

(1) By displaying the livery watercraft registration number assigned to the livery owner on the forward half of both sides of the watercraft in block characters that are of a single color that contrasts with the color of the hull and are at least three inches in height. The registration number must be displayed in such a manner that it is visible

under normal operating conditions. In addition, the tag that has been issued to the watercraft must be placed not more than six inches from the registration number on the port side of the watercraft.

(2) By displaying the livery name on the rear half of the watercraft in such a manner that it is clearly visible under normal operating conditions. However, if there is insufficient space or it is impractical to display the livery name on the sides of the watercraft, the name may be displayed on the rear half of the watercraft's deck, provided that the display of the name does not interfere with the placement of the tag that has been issued to the watercraft. In addition, the tag must be placed in one of the following locations:

-- In the upper right corner of the transom so that the tag does not interfere with the legibility of the hull identification number of the watercraft;

-- Six inches from the stern on the outside of the watercraft below the port side gunwale;

-- On the inside of the watercraft on the upper portion of the starboard side gunwale so that the tag is visible from the port side of the watercraft; or

-- On a deck on the rear half of the watercraft.

The bill requires each watercraft in a livery fleet to be identified in a uniform and consistent manner. Finally, it specifies that rental agreements, rather than rental receipts as in current law, are subject to inspection at any time at the livery's place of business by any authorized representative of the Division of Watercraft or any law enforcement officer.

Watercraft Revolving Loan Program and Fund

(R.C. 1547.721, 1547.722, 1547.723, 1547.724, 1547.725, and 1547.726, repealed)

The bill eliminates the Watercraft Revolving Loan Program, under which loans are made to public or private entities to pay allowable costs of eligible projects involving marine recreational facilities and refuge harbors. The bill also eliminates the Watercraft Revolving Loan Fund, which is used to fund the Program and consists of money appropriated or transferred to it.

Law enforcement funds

(R.C. 1501.45)

The bill eliminates the Division of Forestry Law Enforcement Fund and the Division of Natural Areas and Preserves Law Enforcement Fund, both of which consist of proceeds from forfeited property that were seized pursuant to a law enforcement investigation. It then requires proceeds from forfeited property resulting from investigations conducted by the Division of Forestry and the Division of Natural Areas and Preserves to be deposited in the Division of Parks and Recreation Law Enforcement Fund. Finally, it requires money in the Division of Parks and Recreation Law Enforcement Fund to be used by the Division of Parks and Recreation for law enforcement purposes.

Elimination of authority to sell wild animals and Wild Animal Fund

(R.C. 1531.06, 1531.34 (repealed), and 1531.99)

The bill eliminates both of the following:

(1) The authority for the Chief of the Division of Wildlife, with the approval of the Director of Natural Resources, to barter or sell wild animals to other states, state or federal agencies, and conservation or zoological organizations; and

(2) The Wild Animal Fund, which consists of moneys received from those sales and is used to fund programs for the acquisition, development, and management of lands and waters in Ohio for wildlife purposes.

Mined Land Set Aside Fund

(R.C. 1513.371, repealed)

The bill eliminates the Mined Land Set Aside Fund, which consists of federal grants and is used for specified activities for the reclamation and restoration of land and water resources adversely affected by past coal mining practices.

Transfers from the Coal-Workers Pneumoconiosis Fund

(R.C. 4131.03)

The bill eliminates the authority of the Director to annually request the Administrator of Workers' Compensation to transfer a portion of the investment earnings earned by the Coal-Workers Pneumoconiosis Fund to the Mine Safety Fund and the Coal Mining Administration and Reclamation Reserve Fund. The bill also

eliminates the Administrator's current law authority to transfer up to $3 million to the Mine Safety Fund and up to $1.5 million to the Coal Mining Administration and Reclamation Reserve Fund. Thus, the bill also eliminates the requirement that the Administrator adopt rules governing these transfers to ensure the solvency of the Coal-Workers Pneumoconiosis Fund. Current law establishing this request and transfer process is set to expire June 30, 2013.

Conservancy District Organization Fund

(R.C. 6101.451, repealed)

The bill eliminates the Conservancy District Organization Fund, which is used to provide an advance of money to a conservancy district or a subdistrict to pay expenses of organization, surveys and plans, appraisals, estimates of cost, land options, and other incidental expenses of the district or subdistrict.

OPPORTUNITIES FOR OHIOANS WITH DISABILITIES AGENCY

- Replaces the Rehabilitation Services Commission (RSC) with the Opportunities for Ohioans with Disabilities Agency (OODA), and generally requires the OODA to perform the duties and exercise the responsibilities assigned to the RSC under current law.

- Replaces the Administrator of the RSC with the Executive Director of the OODA, and generally requires the Executive Director to perform the duties and exercise the responsibilities assigned to the Administrator under current law.

- Requires the Governor to appoint the Opportunities for Ohioans with Disabilities Commission (OODC), and provides that members serving on the RSC immediately prior to the provision's effective date are to continue serving on the new OODC.

- Requires the OODC to review and analyze the effectiveness of and consumer satisfaction with the functions performed by the OODA, vocational rehabilitation services provided by state agencies and other entities, and employment outcomes achieved by individuals receiving services.

- Revises several definitions in the law governing the OODA, including replacing "handicapped person" with "person with a disability."

- Eliminates the Governor's Program on Employment Initiatives in the RSC.

Replacement of the Rehabilitation Services Commission

(R.C. 121.35, 121.37, 123.01, 124.11, 125.602, 125.603, 126.45, 127.16, 191.02, 2151.83, 3303.41, 3304.12, 3304.13, 3304.14 (3304.15), 3304.15 (3304.16), 3304.16 (3304.14), 3304.17, 3304.18, 3304.181, 3304.182, 3304.20, 3304.21, 3304.22, 3304.23, 3304.231, 3304.25, 3304.26 (repealed), 3304.28, 3304.41, 3501.01, 3798.01, 4112.31, 4115.32, 4121.69, 4123.57, 4503.44, 4511.191, 5107.64, 5120.07, 5123.022, 5123.023, and 5126.051; Sections 515.20 and 815.20)

The bill replaces the Rehabilitation Services Commission (RSC) with the Opportunities for Ohioans with Disabilities Agency (OODA), generally requires the OODA to perform the duties and exercise the responsibilities assigned to the RSC under current law (see below), and makes conforming changes. The bill states that the OODA is the designated state unit authorized under the federal Rehabilitation Act of 1973 to provide vocational rehabilitation to eligible persons with disabilities. Under law revised

by the bill, the OODA is required to provide vocational rehabilitation services to all eligible persons with disabilities, including any person with a disability who is eligible under the terms of an agreement or arrangement with another state or with the federal government. Under the bill, the OODA may establish up to five positions in the unclassified civil service. Current law does not provide for such positions.

Executive Director; functions and responsibilities

The bill replaces the Administrator of the RSC with the Executive Director of the OODA and generally requires the Executive Director to perform the duties and exercise the responsibilities assigned to the Administrator under current law. In addition, the bill requires the Executive Director, rather than the RSC as in current law, to establish administrative subdivisions as necessary or appropriate to carry out the OODA's functions and duties. The Executive Director also is required to appoint deputy directors of the Bureau of Services for the Visually Impaired and Bureau of Vocational Rehabilitation, but, unlike the Administrator as in current law, does not need to obtain the approval of the RSC (OODA).

Additionally, the bill states that the Executive Director of the OODA is the executive and administrative officer of the OODA. The bill authorizes the Executive Director to establish procedures for the governance of the OODA, the conduct of OODA employees and officers, the performance of OODA business, and the custody, use, and preservation of OODA records, papers, books, documents, and property. Under the bill, the Executive Director of the OODA, like the Administrator of the RSC, is appointed by the Governor, and the Governor may grant the Executive Director authority to appoint, remove, and discipline staff as necessary to carry out the functions of the OODA. In exercising exclusive authority to administer the daily operation and provision of vocational rehabilitation services under the Worker Retraining Law, the Executive Director may perform specified activities.

As discussed in the table below, a number of those activities currently are assigned to the RSC. The bill instead assigns them to the Executive Director. In addition, several of the activities currently specified in statute instead are incorporated in the bill's broad directive that the Executive Director must administer the provision of rehabilitation services to eligible persons with disabilities. Finally, although several current activities are specifically eliminated by the bill, it appears that they may continue to be performed by the Executive Director under other authority established by the bill.

Responsibility of RSC under current law	Responsibility under the bill
Adopt all necessary rules	Executive Director
Prepare and submit annual reports to the Governor	Executive Director
Certify disbursement of funds	Executive Director
Take appropriate action to guarantee rights of services to handicapped persons (see below)	Executive Director
Consult with and advise other state agencies and coordinate applicable programs	Executive Director
Establish an administrative division of consumer affairs and advocacy to promote and help guarantee rights of handicapped persons	Eliminated
Maintain an inventory of state services available to handicapped persons	Specifically eliminated, but may be undertaken by the Executive Director under the authority to adopt rules or to take appropriate action to guarantee rights of persons with disabilities to services
Utilize, support, assist, and cooperate with the Governor's committee on employment of the handicapped	Specifically eliminated, but may be performed by the Executive Director under the authority to consult with and advise other state agencies and coordinate programs for persons with disabilities
Take any other necessary or appropriate action for cooperation with public and private agencies and organizations, which may include reciprocal agreements with other states, contracts with public and other nonprofit agencies, cooperative agreements with the federal government, and functions and services for the federal government	Executive Director
Conduct research and demonstration projects	Executive Director
Accept, hold, invest, reinvest, or otherwise use gifts to further vocational rehabilitation	Executive Director
Ameliorate the condition of the aged, blind, or other severely disabled individuals by establishing a program of home visitation by Commission employees for the purpose of instruction	Specifically eliminated, but may be undertaken by the Executive Director under the authority to adopt rules or to take appropriate action to guarantee rights of persons with disabilities to services
For purposes of the Business Enterprise Program, establish and manage small businesses owned or operated by visually impaired persons, purchase insurance, and accept computers	Executive Director
Enter into contracts	Executive Director

Opportunities for Ohioans with Disabilities Commission (OODC)

(R.C. 3304.12, 3304.13, 3304.16 (3304.14), 3304.22, and 3304.24; Section 803.40)

The bill requires the Governor to appoint the Opportunities for Ohioans with Disabilities Commission (OODC) within the OODA, applies the membership qualifications of the RSC to the OODC, and provides that members serving on the RSC immediately prior to the provision's effective date are to continue serving on the new OODC until the end of their terms. The bill thus continues staggered seven-year terms.

The bill requires the OODC, to the extent feasible, to review and analyze the effectiveness of and consumer satisfaction with the functions performed by the OODA, vocational rehabilitation services provided by state agencies and other entities responsible for providing such services under federal law, and employment outcomes achieved by individuals receiving services.

Definitions

(R.C. 3304.11, 3304.12, 3304.17, 3304.19, 3304.27, and 4503.44)

The bill replaces the term "handicapped person" or "disabled person" with "person with a disability" in the Worker Retraining Law and defines it to mean any person with a physical or mental impairment that is a substantial impediment to employment who can benefit in terms of an employment outcome for the provision of vocational rehabilitation services. It also changes "physical or mental disability" to "physical or mental impairment" and "substantial handicap to employment" to "substantial impediment to employment" in that Law, but retains the definitions in current law. The bill then makes conforming changes throughout that Law. The bill also replaces the term "handicapped person" with "person with a disability" in the Licensing of Motor Vehicles Law and makes conforming changes.

Governor's Program on Employment Initiatives

(R.C. 3304.38, repealed)

The bill eliminates the Governor's Program on Employment Initiatives in the RSC. The purpose of the Program is to create employment opportunities for persons with disabilities by providing equipment or supplies to businesses in consideration for job slots being reserved by the businesses for persons with disabilities referred by the RSC.

- Requires, rather than permits, the State Board of Pharmacy to provide information in the Ohio Automated Rx Reporting System (OARRS) to the medical director of a Medicaid managed care organization and the Medicaid Director.

- Requires the Board to notify the Medicaid Director if it determines from a review of OARRS information that a provider of services under an ODM-administered program may have violated the law.

Ohio Automated Rx Reporting System (OARRS)

(R.C. 4729.80 and 4729.81)

Access to information

Information contained in the Ohio Automated Rx Reporting System (OARRS), information obtained from it, and information contained in the records of requests for information from OARRS are not public records. The bill modifies the circumstances when information from OARRS may or must be released by the State Board of Pharmacy. Current law permits the Board to provide information to the medical director of a Medicaid managed care organization, if the information relates to a Medicaid recipient enrolled in the managed care organization. The bill instead ***requires*** the Board to provide this information, including information related to prescriptions for the recipient that were not covered or reimbursed under an ODM-administered program.

Existing law also permits the Board to provide information to the Department of Job and Family Services (ODJFS) Director, if the information relates to a recipient of a program administered by the ODJFS (e.g., Medicaid, Children's Health Insurance Program (CHIP), Ohio Works First, unemployment compensation). The bill modifies this provision by ***requiring*** the Board to provide information to the Medicaid Director if the information relates to a recipient of a program administered by ODM (e.g., Medicaid and CHIP), including information related to prescriptions for the recipient that were not covered or reimbursed under an ODM-administered program. The bill eliminates the Board's authority to provide OARRS information to the ODJFS Director.

Notification to ODM Director

Current law requires the Board to review information in OARRS and, if it determines that a violation of law may have occurred, the Board must notify the

appropriate law enforcement agency or government entity responsible for the licensure, regulation, or discipline of licensed health professionals authorized to prescribe drugs. The bill requires, in addition, that the Board notify the Medicaid Director if it determines from its review of OARRS information that a violation of law may have been committed by a provider of services under an ODM-administered program.

- Authorizes the State Public Defender to provide legal representation and services to a child committed to the Department of Youth Services relative to the fact, duration, and conditions of the child's confinement.

- Requires the Department to give the State Public Defender access to any child committed to the Department of Youth Services, to any Department Institution, and to any Department record that the State Public Defender needs to provide authorized representation and services.

Representation of a child committed to the Department of Youth Services

(R.C. 120.06(G) to (J) and 5139.04(H))

The bill permits the State Public Defender to provide legal representation and services to a child committed to the Department of Youth Services relative to either of the following:

(a) The fact or duration of the child's confinement, including, but not limited to, appeals, post-conviction relief, petitions for habeas corpus, and administrative issues that may extend the period of confinement;

(b) Conditions of the child's confinement.

"Conditions of confinement," as defined by the bill, means any issue involving a constitutional right or other civil right related to a child's incarceration, including, but not limited to, civil actions cognizable under 42 U.S.C. 1983 for the depravation of any rights, privileges, or immunities secured by statute or the United States Constitution.

The bill grants the State Public Defender the right of access to any child committed to the Department, to any Department Institution, and to any Department record, as needed by the State Public Defender to implement the bill's provisions.

The bill provides that the authority granted to the State Public Defender to provide legal representation and services to a child committed to the Department does not authorize the State Public Defender to represent a child committed to the Department in general civil matters arising solely out of state law. A child's right to the legal representation and services that are authorized by the bill is not affected by the child, or another person on behalf of the child, previously having paid for similar representation or services or having waived legal representation.

The bill also requires that the Department allow the State Public Defender access as authorized by the bill to any child committed to the Department, to any Department Institution, and to any Department record in order to fulfill the Department's constitutional obligation to provide juveniles who have been committed to the Department's care access to the courts.

- Permits a public utility electric light company, through a financial device in a schedule or reasonable arrangement, to recover costs of an economic development and job retention program from Ohio retail electric service customers in addition to customers within its certified territory.

- Permits the Public Utilities Commission (PUCO) to approve any application for, or modification or extension of, a schedule or arrangement that includes such a cost recovery device until January 1, 2018, but allows the schedule or arrangement to continue in effect after that date for any period approved by the PUCO.

Economic development and job retention program cost recovery

(R.C. 4905.31)

The bill allows a public utility electric light company, through a financial device in a schedule or reasonable arrangement, to recover costs that the utility incurred in conjunction with any economic development and job retention program from Ohio retail electric customers and not just within its certified territory. Under the bill, the Public Utilities Commission (PUCO) may approve applications for, or modifications or extensions of, a schedule or arrangement that includes such a cost recovery device from this larger group of customers during the period beginning on the effective date of the bill and ending on January 1, 2018. The bill permits a schedule or arrangement approved during that period and that includes such a cost recovery device to continue in effect after January 1, 2018 for any period approved by the PUCO. After that period, the PUCO can only authorize cost recovery for these programs from customers within the utility's certified territory in the manner provided in current law.

Current law permits a public utility to file a schedule or enter into any reasonable arrangement with another public utility or with one or more of its customers, consumers, or employees, or a mercantile customer or a group of mercantile customers of an electric distribution utility, to provide for a financial device that is advantageous to the interested parties. The financial device may permit a utility to recover costs incurred for economic development and job retention programs within its certified territory. Any schedule or arrangement to recover these costs must be filed with and approved by the PUCO.

OHIO BOARD OF REGENTS

Cap on undergraduate tuition increases

- For fiscal years 2014 and 2015, limits the increases of in-state undergraduate instructional and general fees for:

  (1) State universities and the Northeast Ohio Medical University to 2% or $188, whichever is higher, over the previous year;

  (2) Regional campuses to 2% or $114, whichever is higher, over the previous year; and

  (3) Community colleges, state community colleges, and technical colleges to $100 over the previous year.

Campus completion plans

- Requires each state institution of higher education to submit to the Chancellor of the Board of Regents a campus-specific completion plan designed to increase college completion rates.

Certificates of value

- Authorizes the Chancellor to designate "certificates of value" for certificate programs at adult career-technical education institutions and state institutions of higher education and requires the Chancellor to develop quality standards for those designations.

Faculty workloads

- Specifically permits a state university or college to modify its faculty workload or adopt a policy so that, beginning with the 2013-2014 or 2014-2015 academic year, each full-time research and instructional faculty member teaches at least one additional course than during the 2012-2013 academic year.

- Requires that, if the increased workload policy is adopted, each faculty member to maintain, at a minimum, the same instructional workload as during either the 2013-2014 or 2014-2015 academic year, whichever is greater.

- Requires the Chancellor, by December 1, 2015, to report to the Governor and the General Assembly on the efforts of state institutions of higher education to increase teaching workloads for full-time faculty.

Northeast Ohio Medical University Partnership

- Allows the Northeast Ohio Medical University to enter into a partnership with Cleveland State University to establish an academic campus at Cleveland State University to enable students enrolled under the partnership to receive at least 50% of their training in the Cleveland area.

Scholarship funds

- Creates the Ohio College Opportunity Grant Program Reserve Fund in the state treasury.
- Creates the Choose Ohio First Scholarship Reserve Fund in the state treasury.
- Creates the War Orphans Scholarship Reserve Fund in the state treasury.
- Creates the National Guard Scholarship Donation Fund within the state treasury.
- Renames the Ohio War Orphans Scholarship Fund within the state treasury to the Ohio War Orphans Scholarship Donation Fund.

eTech Ohio Commission

- Abolishes the eTech Ohio Commission, effective July 1, 2013.
- Transfers to the Chancellor the Commission's duties for educational telecommunications activities and teacher professional development and discontinues any other activities of the Commission.
- Transfers to the Chancellor and the Department of Education the employees of the Commission subject to standard lay-off provisions of the Civil Service Law.
- Eliminates the requirement for the development of a state educational technology plan.
- Eliminates the Interactive Distance Learning Pilot Project.
- Eliminates the Education Technology Trust Fund and the Information Technology Service Fund.

Other provisions

- Authorizes the Chancellor to contract with an entity to perform any or all of the Chancellor's duties related to the Distance Learning Clearinghouse.

- Eliminates the requirement that the Chancellor submit an annual report to the Governor and the General Assembly on (1) the status of implementation of faculty improvement programs, (2) the number and types of biobased products purchased by state institutions of higher education, as well as the amount of money spent on these products, and (3) the academic and economic impact of the Ohio Innovation Partnership.

- Eliminates a provision of law that required the Chancellor by August 15, 2011, to develop a plan for designating public institutions of higher education as charter universities.

Cap on undergraduate tuition increases

(Section 363.220)

For fiscal years 2014 and 2015 (the 2013-2014 and 2014-2015 academic years), the bill requires the board of trustees of each state institution of higher education to limit its increases of in-state undergraduate instructional and general fees as follows:

(1) For each state university and the Northeast Ohio Medical University, not more than 2% or $188, whichever is higher, over what the institution charged the previous year;

(2) For each university regional campus, not more than 2% or $114, whichever is higher, over what the institution charged the previous year; and

(3) For each community college, state community college, and technical college, not more than $100 over what the institution charged the previous year.

As in previous biennia when the General Assembly capped tuition increases, the bill's limits do not apply to increases required to comply with institutional covenants related to the institution's obligations or to meet unfunded legal mandates or legally binding obligations incurred or commitments made prior to the bill's effective date, such as bond obligations. Further, the Chancellor of the Board of Regents may modify the limitations, with Controlling Board approval, to respond to exceptional circumstances as the Chancellor identifies.

Campus completion plans for institutions of higher education

(New R.C. 3345.81)

The bill requires each state institution of higher education to submit to the Chancellor of the Board of Regents, for each campus under the authority of that institution, a campus-specific completion plan designed to increase college completion rates. Each plan must be consistent with the mission and priorities of that specific campus and promote student access, retention, progression, and completion of each student's program of study at the respective campus.

The bill also requires that the Chancellor prescribe a format for the college completion plans and determine their required content. At a minimum, plans must examine and, as appropriate, include (1) increased alignment between institutions of higher education, (2) a communications strategy, (3) a guidance plan for current and potential students that includes a broadened awareness of dual enrollment opportunities and financial literacy and planning, (4) increased support to ensure success for first-year students, such as mentoring and career counseling, (5) the development of systems to streamline and accelerate course and degree completion, and (6) incentives and rewards for successful student progression within, and completion of, the student's program.

Certificates of value

(R.C. 3333.342)

The bill authorizes the Chancellor of the Board of Regents to issue the designation as a "certificate of value" to a certificate program at any adult career-technical education institution or state institution of higher education. A certificate program is a series of one or more non-degree courses that focus on a particular area specifically designed for employment in that area. Under the bill, a certificate of value expires six years after its designation date and may be revoked prior to its expiration date if the Chancellor determines that the certificate program no longer complies with the standards used for issuing a designation of "certificate of value" (see "**Certificate standards**" below). The revocation of a certificate of value becomes effective 180 days after the declaration of revocation.

Any institution that desires to be eligible to receive a designation of "certificate of value" must comply with all records and data requests that the Chancellor requires.

Certificate of value standards

The bill requires the Chancellor to develop quality standards for designating certificates of value to certificate programs at adult career-technical education institutions and state institutions of higher education. Those standards must include the following considerations: (1) the certificate program's quality, (2) the ability to transfer agreed-upon technical courses completed through an adult career-technical education institution to a state institution of higher education "without unnecessary duplication or institutional barriers," (3) the extent to which the certificate program encourages a student to obtain an associate's or bachelor's degree, (4) the extent to which the certificate program increases a student's likelihood to complete other certificate programs or an associate's or bachelor's degree, (5) the certificate program's ability to meet the expectations of the workplace and higher education, (6) the extent to which the certificate program is aligned with the strengths of the regional economy, (7) the extent to which the certificate program increases the amount of individuals who remain in or enter Ohio's workforce, and (8) the extent of a certificate program's relationship with private companies in Ohio to fill potential job growth.

Faculty workloads

(R.C. 3345.45; Section 733.30)

Under the bill, each board of trustees or managing authority of a state institution of higher education may choose to increase the instructional workloads for full-time research and instructional faculty members by at least one additional course. The increase will be based upon each faculty member's workload during the 2012-2013 academic year and, if adopted, must be implemented no later than the 2014-2015 academic year; however, each board or managing authority may choose to implement the increase during either the 2013-2014 or 2014-2015 academic year. For subsequent academic years, if the policy is adopted, each faculty member must maintain at least the same instructional workload as during either the 2013-2014 or 2014-2015 academic year, based upon whichever workload was greater.

If the board or managing authority chooses to implement these changes to the workload policy, the bill also contains provisions for faculty members who were either not full-time faculty members or were not serving in an instructional capacity during the 2012-2013 academic year. If a faculty member was on paid sabbatical leave during this time, the member must teach at least one additional course than during the last academic year which the member was not on sabbatical. If a faculty member is hired for the first time in the 2013-2014 academic year, or in any year thereafter, that member must maintain a comparable instructional workload to other faculty members at the same institution whose workloads increased as a result of this provision. If a faculty

member is scheduled to be on paid sabbatical leave during either the 2013-2014 or the 2014-2015 academic year, the increase must be implemented during the next academic year that the member is not on sabbatical.

Finally, the bill requires the Chancellor of the Board of Regents to report, by December 1, 2015, to the Governor and the General Assembly on the efforts of institutions of higher education to increase teaching workloads for full-time faculty. The report must include an appendix that shows the number of courses taught by faculty during the 2012, 2013, 2014, and 2015 fiscal years, as well as the planned courses for fiscal year 2016.

Currently, the board of trustees of each state institution of higher education is required to adopt a faculty workload policy for full-time and part-time faculty, with a special emphasis on the undergraduate learning experience. The policy does not set any minimum or maximum instructional workload, but must comply with standards developed jointly by the Chancellor and all state universities. Faculty workload policies, including the increases outlined in the bill, under continuing law, are not subject to collective bargaining.

Northeast Ohio Medical University Partnership

(R.C. 3350.15)

The bill allows the Northeast Ohio Medical University (NEOMED) to enter into a partnership with Cleveland State University to establish the Northeast Ohio Medical University Academic Campus at Cleveland State University. The campus at Cleveland State University enables students enrolled under the partnership to be based in Cleveland and to take 50% or more of the medical curriculum at Cleveland State, local hospitals, and community- and neighborhood-based primary care clinics.

The bill also states that Cleveland State University may not receive state capital appropriations to pay for facilities for the NEOMED academic campus.[128]

Creation of Higher Education Scholarship and Grant Reserve Funds

The bill creates four funds related to higher education scholarship and grant programs. The details of each fund may be found below:

[128] A similar temporary provision, applicable only to the 2011-2013 biennium, was enacted in H.B. 153 of the 129th General Assembly as temporary law. (See Section 371.20.50(C) of that act.)

Ohio College Opportunity Grant Program Reserve Fund

(R.C. 3333.124)

The bill creates the Ohio College Opportunity Grant Program Reserve Fund in the state treasury. Under the bill, the Chancellor of the Board of Regents is required to certify to the Director of Budget and Management by July 1 of each fiscal year the unencumbered balance of the GRF appropriations made in the immediately preceding fiscal year for purposes of the Ohio College Opportunity Grant Program. Upon receipt of the certification, the bill permits the Director to transfer an amount not exceeding the certified amount from the GRF to the Ohio College Opportunity Grant Program Reserve Fund. Moneys in the Fund must be used to pay grant obligations in excess of the GRF appropriations made for that purpose. The bill also permits the Director to transfer any unencumbered balance from the Fund to GRF.

Choose Ohio First Scholarship Reserve Fund

(R.C. 3333.613)

The bill creates the Choose Ohio First Scholarship Reserve Fund in the state treasury. Under the bill, the Chancellor is required to certify to the Director of Budget and Management by July 1 of each fiscal year the unencumbered balance of the GRF appropriations made in the immediately preceding fiscal year for purposes of the Choose Ohio First Scholarship Program. Upon receipt of the certification, the bill permits the Director to transfer an amount not exceeding the certified amount from the GRF to the Choose Ohio First Scholarship Reserve Fund. Moneys in the Fund must be used to pay scholarship obligations in excess of the GRF appropriations made for that purpose. The bill also permits the Director to transfer any unencumbered balance from the Fund to GRF.

War Orphans Scholarship Reserve Fund

(R.C. 5910.08)

The bill creates the War Orphans Scholarship Reserve Fund in the state treasury. Under the bill, the Chancellor is required to certify to the Director of Budget and Management by July 1 of each fiscal year the unencumbered balance of the GRF appropriations made in the immediately preceding fiscal year for purposes of the War Orphans Scholarship Program. Upon receipt of the certification, the bill permits the Director to transfer an amount not exceeding the certified amount from the GRF to the War Orphans Scholarship Reserve Fund. Moneys in the Fund must be used to pay scholarship obligations in excess of the GRF appropriations made for that purpose. The

bill also permits the Director to transfer any unencumbered balance from the Fund to GRF.

National Guard Scholarship Donation Fund

(R.C. 5919.34 and 5919.342)

The bill creates the National Guard Scholarship Donation Fund within the state treasury for the purpose of operating the existing Ohio National Guard Scholarship Program. The bill requires any gifts, bequests, grants, and contributions from public or private sources be deposited into the National Guard Scholarship Donation Fund instead of into the existing National Guard Scholarship Reserve Fund. Investment earnings of the fund are to be deposited into the fund. The bill also requires amounts in the new fund to be counted when calculating whether amounts appropriated for the Ohio National Guard Scholarship Program and amounts in the National Guard Scholarship Reserve Fund are adequate to provide scholarships under the Program.

Ohio War Orphans Scholarship Donation Fund

(R.C. 5910.02 and 5910.07)

The bill renames the existing Ohio War Orphans Scholarship Fund within the state treasury to the Ohio War Orphans Scholarship Donation Fund.

eTech Ohio Commission

Background

The bill abolishes and transfers the duties of the eTech Ohio Commission. The Commission was created in 2005 by a merger of the Ohio SchoolNet Commission and the Ohio Educational Telecommunications Network Commission. It is a state agency that provides financial and technical assistance to school districts, other educational entities, public television and radio stations, and radio reading services for the acquisition and use of educational technology and for the development of educational materials. The Commission consists of 13 members, nine of whom are voting members and four of whom are nonvoting legislative members. The voting members include six representatives of the public, the Superintendent of Public Instruction (or a designee), the Chancellor of the Board of Regents (or a designee), and the state chief information officer (or a designee). Of the six public members, four are appointed by the Governor (with the advice and consent of the Senate) and one each is appointed by the Speaker of the House and the President of the Senate. The Commission appoints an executive director and other employees to carry out its functions. Its employees are unclassified civil servants and are, generally, exempt from collective bargaining. Some employees,

who transferred from one of the Commission's predecessor agencies may be entitled to collectively bargain if they were included in a bargaining unit with the predecessor agency.

Abolishment of the Commission

(R.C. 105.41, 125.05, 152.09, 154.25, 3301.41, 3313.603, 3314.074, 3317.06, 3317.50, 3317.51, 3319.22, 3319.235, 3333.59, 3333.82, 3333.89, 3333.90, 3333.91, 3333.92, 3333.93, 3333.94, and 3345.12; repealed R.C. 3353.02, 3353.03, and 3353.04; Sections 263.470, 363.570, 515.30, 515.31, and 515.32; Section 4 of H.B. 171 of the 129th General Assembly, amended in Sections 610.20 and 610.21)

The bill abolishes the eTech Ohio Commission effective July 1, 2013. On that date, its duties regarding the operations of the state's educational telecommunications activities and technology-related teacher professional development programs are transferred to the Chancellor of the Board of Regents, while its other duties are discontinued. The Commission's employees will be transferred (subject to the normal civil service layoff provisions) to either the Chancellor's office or to the Department. The Chancellor, the Superintendent of Public Instruction, and the Director of Budget and Management must jointly determine which employees are transferred to the Chancellor and to the Department, respectively. As before, transferred employees retain their collective bargaining rights, only if they were included in a bargaining unit with one of the Commission's predecessors. Also, like the eTech Ohio Commission, and the former Ohio SchoolNet Commission, the activities transferred to the Chancellor are exempt from competitive bidding requirements.

State technology plan

(Repealed R.C. 3353.09)

The eTech Ohio Commission is charged with developing, implementing, and updating a state technology plan "to create an aligned educational technology system" from preschool through higher education. The Commission must consult with the State Board of Education in the development and modification of the plan.

The bill eliminates the requirement for the plan.

Interactive Distance Learning Pilot Project

(Repealed R.C. 3353.20)

H.B. 1 of the 128th General Assembly, in 2009, required the eTech Ohio Commission, with assistance from the Department of Education and the Chancellor, to

establish an interactive distance learning pilot project to provide at least three courses free of charge to high schools.

The bill eliminates this requirement.[129]

Education Technology Trust Fund and Information Technology Service Fund

(Repealed R.C. 183.28 and 3353.15)

The bill eliminates the Education Technology Trust Fund, which formerly held tobacco settlement moneys dedicated to educational technology. It also eliminates the Information Technology Service Fund. The latter fund was created in 2011 by H.B. 153 to hold money received by the eTech Ohio Commission from educational entities for the provision of information technology services.

Distance Learning Clearinghouse

(R.C. 3333.82)

The bill authorizes the Chancellor of the Board of Regents to contract with an entity to perform any or all of the Chancellor's duties related to the Distance Learning Clearinghouse, including administering and maintaining the clearinghouse, reviewing applications for courses, approving or disproving course applications, negotiating changes in course proposals, and cataloging each approved course. The bill's language is similar to a provision of former law that was removed in 2011.

Background

Under the clearinghouse program, school districts, community schools, STEM schools, public and private colleges and universities, and other nonprofit and for-profit course providers may offer on-line or other distance learning courses for sharing with other school districts, community schools, STEM schools, public and private colleges and universities, and individuals. In operating the clearinghouse, the Chancellor or the entity with which the Chancellor contracts must use a "common statewide platform" to support the delivery of courses, but the provider is solely responsible for the course content. The Chancellor has maintained the clearinghouse as the "OhioLearns! Gateway," including an online searchable database of both primary-secondary and higher education courses offered through the program (see www.ohiolearns.org/).

[129] The Chancellor is required to maintain a distance learning clearinghouse on a "common statewide platform" for the delivery of courses developed by a variety of public and private providers. The clearinghouse is currently operated as a program known as "OhioLearns"!

Annual reports by the Chancellor

(R.C. 3333.041)

Currently, the Chancellor of the Board of Regents is required to submit various annual reports to the Governor and the General Assembly. The bill removes three of the Chancellor's reporting requirements, including reports on the following:

(1) The status of implementation of faculty improvement programs;

(2) The number and types of biobased products purchased by state institutions of higher education, as well as the amount of money spent on these products; and

(3) The academic and economic impact of the Ohio Innovation Partnership.

However, while the bill no longer requires the Chancellor to report on the Ohio Innovation Partnership (see above), the bill does maintain current law requiring the Chancellor to report on the assignment and strategy of the Choose Ohio First Scholarships, which are part of the larger Ohio Innovation Partnership. The bill also maintains all other reporting requirements of the Chancellor, including reports on (1) the status of graduates of Ohio school districts at state institutions of higher education, (2) aggregate academic growth data for students assigned to graduates of teacher preparation programs who teach certain subjects and grade levels, (3) specified information regarding the Ohio Tuition Trust Authority, (4) a description of dual enrollment programs offered by secondary schools, and (5) the academic and economic impact of the Ohio Co-op/Internship Program.

Repeal of provision for charter university proposal

(Repealed R.C. 3345.81)

The bill repeals a provision that required the Chancellor of the Board of Regents by August 15, 2011, to develop a plan for designating public institutions of higher education as charter universities for consideration by the General Assembly. The Chancellor issued the report required by this provision.

- Authorizes the sale, by bid, auction, real estate sale agreement, or through any other available legal means, specified surplus state-owned employee housing sites under the jurisdiction of the Department of Rehabilitation and Correction that the Department of Administrative Services and the Department of Rehabilitation and Correction determine should be sold.

- Creates the Office of Enterprise Development Advisory Board to advise and assist the Department of Rehabilitation and Correction in implementing the Department's job training and employment program.

- Eliminates the Advisory Council of Directors for Prison Labor that currently provides some services that are similar to those that will be provided by the Office of Enterprise Development Advisory Board.

Sale of state-owned employee housing sites

(Section 753.10)

The bill authorizes the Director of Administrative Services (DAS) to sell, by bid, auction, real estate sale agreement, or through any other available legal means, all of the state's right title, and interest in the state-owned employee housing sites, described under "**Property List**" below, which are under the jurisdiction of the Department of Rehabilitation and Correction (DRC) that DAS and the Director of DRC determine should be sold in the best interest of, and as surplus to, the needs of the state.

To this end, the bill authorizes the Governor to execute one or more deeds in the name of the state, conveying the real property to one or more purchasers, their heirs and assigns or successors and assigns, all of the state's right, title, and interest in one or more of the real properties and the improvements thereon.

DAS must convey the real estate, its improvements and chattels, "as-is," in its present condition.

Consideration for conveyance of the real estate must be determined by bid, auction, or negotiated purchase agreement, at the discretion of DAS and DRC.

The real property must be conveyed subject to all easements, covenants, conditions, and restrictions of record; all legal highways; zoning, building, and other

laws, ordinances, restrictions, and regulations; and real estate taxes and assessments not yet due and payable.

The deed or deeds to the real estate may contain any terms and conditions DAS and DRC determine to be in the best interest of the state. The deed or deeds may contain restrictions that the Directors determine are reasonably necessary to protect the interest of the state in neighboring state-owned land. The deed or deeds must contain restrictions prohibiting the purchaser from occupying, using, developing, or selling the real estate, such as will interfere with quiet enjoyment of the neighboring state-owned land.

The method of sale and disposition of the real estate must be determined by DAS and DRC.

The real estate may be sold as an entire tract, as multiple tracts, or in parcels.

The purchaser or purchasers must pay all costs associated with the purchase and conveyance of the real estate, including, but not limited to, title evidence, title insurance, transfer costs and fees, recording costs of the deed, taxes, and any other fees and costs that may be imposed. Surveys and legal descriptions as are required for the conveyance of the real estate must be prepared at the purchaser's expense.

The net proceeds of the sale of the real estate must be deposited into the state treasury to the credit of the Property Receipts Fund.

Upon payment of the purchase price for all or any of the real estate, the Auditor of State, with the assistance of the Attorney General, must prepare a deed or deeds for the real estate. A deed must state the consideration, and any terms or conditions and the restrictions. A deed must be executed by the Governor in the name of the state, countersigned by the Secretary of State, sealed with the Great Seal of the State, presented in the Office of the Auditor of State for recording, and delivered to the purchaser. The purchaser must present the deed for recording in the office of the appropriate County Recorder.

Property list:

- 101 Oval Drive, Lima 45801
- 102 Oval Drive, Lima 45801
- 1757 South Avon Belden Road, Grafton 44044
- 2069 South Avon Belden Road, Grafton 44044

- 900 East Capel Road, Grafton 44044
- 1088 North Main Street, Mansfield 44903
- 1659 Scioto Village Drive, Marion 43302
- 1674 Scioto Village Drive, Marion 43302
- 1686 Scioto Village Drive, Marion 43302
- 1693 Scioto Village Drive, Marion 43302
- 1705 Scioto Village Drive, Marion 43302
- 1710 Scioto Village Drive, Marion 43302
- 1717 Scioto Village Drive, Marion 43302
- 745 Likens Road, Marion 43302
- 813 Likens Road, Marion 43302
- PCI Unit 4 - 11781 State Route 762, Orient 43146
- 103 Reservation Circle, Chillicothe 45601
- 123 Reservation Circle, Chillicothe 45601
- 124 Reservation Circle, Chillicothe 45601
- 14166 Pleasant Valley Road, Chillicothe 45601
- 1187 Cook Road, Lucasville 45648

The authorization to sell the real estate expires two years after its effective date.

Creation of the Office of Enterprise Development Advisory Board

(R.C. 5145.162; Sections 610.20 and 610.21)

The bill creates the Office of Enterprise Development Advisory Board to advise and assist the DRC with the creation of training programs and jobs for inmates and releasees through partnerships with private sector businesses. The bill eliminates the Advisory Council of Directors for Prison Labor. Under current law, the Advisory Council provides advice and assistance to DRC when it adopts rules for the administration of DRC's program for the employment of prisoners, establishes prices

for goods, products, services, or labor produced or supplied by prisoners, and otherwise establishes and administers DRC's program for the employment of prisoners.

The bill provides that the Office of Enterprise Development Advisory Board consists of at least five appointed members and the Executive Director of the Office of Correctional Institution Inspection Committee. Under the bill, the Executive Director serves as an ex officio member of the Advisory Board. The members are required to have experience in labor relations, marketing, business management, or business. The members and chairperson are appointed by DRC. Under current law, the members of the Advisory Council are appointed by the Governor. Members of the Advisory Board do not receive compensation but may be reimbursed for expenses actually and necessarily incurred in the performance of official duties of the Advisory Board. Those members who are state employees are reimbursed for expenses pursuant to travel rules promulgated by the Office of Budget and Management.

The Advisory Board is required to adopt procedures for the conduct of the Advisory Board's meetings. The Advisory Board must meet at least once every quarter and at the call of the Chairperson or the Director of DRC. The Advisory Board must obtain the concurrence of a quorum of its members to transact the Board's business. Sixty per cent of the Advisory Board's members constitutes a quorum. The bill provides that the Advisory Board may have committees with persons who are not members of the Advisory Board but whose experience and expertise is relevant and useful to the work of the committee.

The bill gives the Advisory Board the following duties:

(1) Solicit business proposals offering job training, apprenticeship, education programs, and employment opportunities for inmates and releasees;

(2) Provide information and input to the Office of Enterprise Development to support the job training and employment program of inmates and releasees and any additional, related duties that are requested by the Director;

(3) Recommend to the Office any legislation, administrative rule, or department policy change that the Advisory Board believes is necessary to implement DRC's program;

(4) Promote public awareness of the Office and the Office's employment program;

(5) Familiarize itself and the public with avenues to access the Office on employment program concerns;

(6) Advocate for the needs and concerns of the Office in local communities, counties, and the state;

(7) Play an active role in the Office's efforts to reduce recidivism in Ohio by doing all of the following:

(a) Providing input and making recommendations for the Office's consideration in monitoring employment program compliance and effectiveness;

(b) Making suggestions on the appropriate priorities for the Office's grant award criterion;

(c) Being a liaison between the Office and constituents of the Advisory Board's members;

(d) Working to develop constituent groups interested in employment program issues.

(8) Aid in the employment program development process by playing a leadership role in professional associations by discussing employment program issues.

The bill requires DRC to initially screen each business proposal that the Advisory Board receives as a result of the Advisory Board's solicitation of the proposals described in (1), above. The purpose of the initial screening is to ensure that the proposal is a viable venture to pursue. If the proposal is a viable venture to pursue, DRC must submit the proposal to the Advisory Board for objective review against established guidelines. The Advisory Board is required to determine whether to recommend the implementation of the program to DRC.

SECRETARY OF STATE

Corporation Law

- Requires the Secretary of State to confirm with state agencies whether a corporation that is voluntarily dissolving does not have any outstanding liabilities.

- Requires an unlicensed foreign corporation to file a certificate from the Tax Commissioner that the corporation has paid all state taxes, rather than only franchise taxes and penalties.

- Requires the Tax Commissioner to certify to the Secretary of State the failure of a for-profit corporation or a for-profit foreign corporation to file any required reports or returns or to pay any tax or fee within 90 days after the time prescribed by law for filing.

- Requires the Secretary of State to cancel the articles of incorporation or the certificate of authority of a corporation or foreign corporation upon receiving that certification and to take other actions including immediate notification of cancellation and forwarding of the certificate of cancellation to a county recorder for filing.

- Prohibits the county recorder from charging a fee for filing the certificate of cancellation.

- Prohibits a person from exercising or attempting to exercise any powers, privileges, or franchises under the articles of incorporation or certificate of authority after the articles or certificate have been canceled and establishes a penalty for violation.

- Requires the Secretary of State to reinstate a corporation's articles of incorporation or license certificate if the corporation pays any additional required fees and penalties, files a certificate from the Tax Commissioner affirming compliance with tax law, pays a fee of $25, and changes its name in specified circumstances.

- Permits a certificate of reinstatement to be filed in the recorder's office of any county in the state and requires the recorder to charge and collect a base fee of $3 and a Low- and Moderate-Income Housing Trust Fund fee of $3.

- Allows any officer, shareholder, creditor, or receiver of any reinstated corporation to take all steps required to effect reinstatement.

- Prohibits invalidation of an officer's, agent's, or employee's exercise or attempted exercise of any right, privilege, or franchise on behalf of a corporation whose articles

of incorporation were canceled from between the time of cancellation and reinstatement if certain conditions are met.

- Specifies that the affidavit that may be filed with a certificate of dissolution of a corporation, in lieu of a receipt, certificate, or other evidence, must be in a form prescribed by the Secretary of State.

Miscellaneous Federal Grants Fund

- Creates the Miscellaneous Federal Grants Fund to be credited with grants the Secretary of State receives from federal sources for which continuing law does not designate a fund.

- Requires the Secretary of State to use the moneys credited to the fund for the purposes and activities required by the applicable federal grant agreements.

- Specifies that all investment earnings of the fund are to be credited to the fund.

Corporation law

(R.C. 317.36, 1701.86, 1701.922, 1703.29, 5703.91, 5703.92, and 5703.93)

Foreign corporation licensure

The bill requires an unlicensed foreign corporation that should have obtained a license and that has not previously been licensed to do business in Ohio, or whose license has been surrendered, to file a certificate from the Tax Commissioner that the corporation has paid all state taxes and penalties before the Secretary of State issues the corporation a license certificate. Current law requires such a certificate to only address franchise taxes and penalties. Continuing law requires such a foreign corporation to also file an application for a license certificate and pay a filing fee to the Secretary of State in order to receive licensure.

Canceled charters

Notification of charter dissolution and outstanding liabilities

The bill establishes a procedure for notification of state agencies when a corporation voluntarily dissolves in accordance with continuing law. The Secretary of State is required to notify all state agencies, in a manner agreed to by the agencies, when the corporation that is voluntary dissolving files a certificate of dissolution and the required accompanying documents. The bill also requires the Secretary to directly

notify the Department of Taxation, the Bureau of Workers' Compensation, and the Department of Job and Family Services of such filings on a weekly basis. The bill requires state agencies, within 30 days from the receipt of the notification of a filing of dissolution from the Secretary of State, to notify the Secretary whether the corporation has any outstanding liabilities.

The bill directs a corporation to be dissolved upon the later of 30 days after the state agencies received notification of the filing or verification by the applicable state agencies that the corporation has no outstanding liabilities, or, as provided by continuing law, a later date specified in the certificate that is not more than 90 days after the filing. The bill removes existing law's provision that a corporation must be dissolved at the time of the filing of the certificate of dissolution and accompanying documents.

Form of affidavit required for dissolution

Continuing law requires certain receipts, certificates, or other specified evidence to accompany a corporation's certificate of dissolution that is filed with the Secretary of State, or in lieu of the receipts, certificates, or other evidence, an affidavit of one or more persons executing the certificate or an officer of the corporation containing a statement of the date upon which the particular department, agency, or authority was advised in writing of the scheduled effective date of the dissolution and acknowledgement by the corporation of the applicability of provisions of the liability for unlawful loans, dividends, and distribution of assets laws. The bill specifies that the affidavit must be in a form prescribed by the Secretary.

Cancellation of articles of incorporation or certificate of authority of for-profit or foreign corporations

The bill requires the Tax Commissioner to certify with the Secretary of State any corporation organized as a for-profit under Ohio law, or organized as a foreign corporation for-profit doing business in Ohio or owning or issuing a part or all of its capital or property in Ohio, wherever organized, that fails to file a required report or return or to pay any required tax or fee for 90 days after the time prescribed for filing or payment.

The bill requires the Secretary, after receiving certification of the corporation's failure to file the report or return or to pay the tax or fee, to either (1) cancel, by appropriate entry, the articles of incorporation of the corporation upon the margin of the relevant record or (2) if the corporation is a foreign corporation, cancel, by proper entry, the certificate of authority to do business in Ohio of the foreign corporation. Subject to continuing law regarding the winding up or obtaining reinstatement of a corporation, upon cancellation of the articles or certificate of a corporation, all the power, privileges, and franchises conferred on the corporation will cease.

The bill prohibits a person from exercising or attempting to exercise any power, privileges, or franchises under cancelled articles of incorporation or a certificate of authority for failure to file the report or return or to pay the tax or fee. The bill provides a penalty of $100 for each day a violation occurs, up to a maximum of $5,000.

According to the bill, the Secretary, upon canceling a corporation's articles of incorporation or certificate of authority, must immediately notify the effected corporation of the cancellation action and must forward for filing a certificate of the action to the county recorder of the county in which the corporation's principal place of business in Ohio is located. The recorder is prohibited from charging a filing fee for the certificate.

Reinstatement of canceled articles of incorporation or license certificate of for-profit or foreign corporations

The bill requires the Secretary of State to (1) reinstate a corporation's articles of incorporation or license certificate that were canceled as described above (see **Cancellation of articles of incorporation or certificate of authority of for-profit or foreign corporations**), (2) entitle the corporation to exercise its rights, privileges, and franchises in Ohio, and (3) cancel the entry of cancellation to exercise its rights, privileges, and franchises if the corporation (a) pays any additional required fees and penalties to the Secretary, (b) files a certificate with the Secretary from the Tax Commissioner affirming compliance with all the requirements of tax law as to all the taxes administered by the Commissioner and payment of all taxes, fees, or penalties due for every year of delinquency, (c) pays an additional fee of $25, and (d) in certain cases as described below, changes its name. Any officer, shareholder, creditor, or receiver of the corporation may at any time take all steps required by the reinstatement provisions to effect such reinstatement.

As a condition prerequisite to reinstatement of canceled articles or certificates, the Secretary must require an applicant for reinstatement to change its name if (1) the reinstatement is not made within one year from the date of the cancellation of its articles or license to do business, (2) it appears that the applicant's articles or certificate has been issued to another entity and is not distinguishable upon the record from the name of the applicant, (3) it appears the articles of organization of a limited liability company, registration of a foreign limited liability company, certificate of limited partnership, registration of a foreign limited partnership, registration of a domestic or foreign limited liability partnership, or registration of a trade name has been issued, the name of which is not distinguishable upon the record from the name of the applicant.

The bill provides that a certificate of reinstatement may be filed in the recorder's office of any Ohio county. The recorder must charge and collect a base fee of $3 for services and a Low- and Moderate-Income Housing Trust Fund fee of $3.

Upon reinstatement of a corporation's articles of incorporation as described above, and notwithstanding the bill's prohibition against a person exercising or attempting to exercise any power, privileges, or franchises under the articles of incorporation or certificate of authority of a corporation after the articles or certificate have been canceled, both of the following apply to the exercise or attempt to exercise any rights, privileges, or franchises, including entering into or performing any contracts, on behalf of the corporation by an officer, agent, or employee of the corporation, after cancellation and prior to reinstatement of the articles of incorporation:

(1) The exercise or attempt to exercise any rights, privileges, or franchises on behalf of the corporation has the same force and effect that the exercise would have had if the corporation's articles had not been canceled;

(2) The corporation is liable exclusively for franchises on behalf of the corporation or association by an officer, agent, or employee of the corporation or association.

However, both (1) and (2) above are subject to the following conditions: (a) the exercise or attempt to exercise the right, privilege, or franchise was within the scope of the corporation's articles of incorporation that existed prior to cancellation and (b) the officer, agent, or employee had no knowledge that the corporation's articles had been canceled.

Additionally, the bill specifies that the provisions of the bill stating that all the powers, privileges, and franchises conferred on the corporation by articles of incorporation or a certificate of authority shall cease upon cancelation of articles or certificate cannot invalidate the exercise or attempt to exercise any right, privilege, or franchise on behalf of the corporation by an officer, agent, or employee of the corporation after cancellation and prior to reinstatement of its articles or certificate if both (a) and (b) above are met.

Miscellaneous Federal Grants Fund

(R.C. 111.28)

The bill creates the Miscellaneous Federal Grants Fund in the state treasury. The fund is to be credited with grants the Secretary of State receives from federal sources that are not otherwise designated for crediting to a particular fund. Continuing law

designates specific funds to receive moneys from the U.S. Election Assistance Commission and the U.S. Department of Health and Human Services.

The bill requires the Secretary to use the moneys credited to the fund for the purposes and activities required by the applicable federal grant agreements. All investment earnings of the fund are to be credited to the fund.

BOARD OF TAX APPEALS

- Creates a small claims division of the Ohio Board of Tax Appeals (BTA) with the authority to hear certain appeals involving nonbusiness real property or where the amount in controversy is less than $10,000 and all parties give written consent.
- Allows for parties to file notice of appeal to the BTA by fax or e-mail.
- Requires the BTA to establish a case management schedule for appeals.
- Requires the BTA to adopt rules that establish a mediation program and provide guidelines for the conduct of mediations.
- Requires the BTA to adopt rules requiring that, when a decision is appealed to the BTA, the county board of revision, municipal board of appeal, county auditor, Tax Commissioner, Director of Development Services, or Director of Job and Family Services that made the decision must file the transcript of the proceeding electronically.

Small claims division

(R.C. 5703.02, 5703.021, 5717.01, 5717.011, 5717.02, and 5717.04)

The Board of Tax Appeals (BTA), as established in existing law, is a separate, quasi-judicial, administrative agency that acts as the state's administrative tax court. The BTA consists of three members appointed by the Governor who provide taxpayers, corporate entities, and government entities with a forum in which to resolve tax disputes. The BTA resolves appeals from decisions and orders of the Tax Commissioner, the Director of Development Services, the Director of Job and Family Services, county boards of revision, county budget commissions, and municipal boards of tax appeal. Decisions of the BTA are recorded in a journal maintained by the secretary of the BTA and can be appealed to district courts of appeals or the Supreme Court of Ohio.

The bill creates a small claims division of the BTA. The small claims division would have the authority to hear appeals from county boards of revision involving nonbusiness real property, municipal income tax appeals from municipal boards of appeal where the amount in controversy is less than $10,000, and appeals from final determinations of the Tax Commissioner, the Director of Development Services, and the Director of Job and Family Services if the amount in controversy is less than $10,000. The BTA has authority to modify, by rule, this jurisdictional dollar threshold. Written

consent of all the involved parties is required in order for any appeal to be heard by the small claims division.

Under the bill, appeals within the above jurisdictional limits may be filed in the small claims division at the election of the appellant or reassigned there by the BTA. The BTA must reassign an appeal docketed in the small claims division to the regular docket in all of the following circumstances: (1) a party to the appeal requests reassignment, (2) the appeal presents a constitutional issue, (3) the appeal presents an issue of great public or general interest, or (4) the BTA determines that the appeal is outside the jurisdiction of the small claims division.

The operation and procedures of the small claims division are intended to be informal and will be prescribed by rules adopted by the BTA. Subject to these rules, it is permissible for appeals assigned to the small claims division to be heard over the telephone. The bill provides that parties are permitted, but not required, to have an attorney appear on their behalf. Entities that are not natural persons are permitted to participate in appeals before the small claims division as a taxpayer or claimant. These entities may appear through an attorney, a bona fide officer, partner, member, trustee, or salaried employee. Unless the entity is represented by an attorney, however, its representative may not engage in cross-examination, argument, or other acts of advocacy.

Decisions and orders of the small claims division must be recorded in the journal maintained by the secretary of the BTA. The journal is held open for public inspection. Unlike the BTA decisions, however, decisions and orders of the small claims division do not have precedential value for any other case and are not subject to appeal.

Facsimile and e-mail filing to the Board

Under current law, an appeal from a decision of the county board of revision must be filed by sending a notice of appeal to the county board of revision and the BTA within 30 days after notice of the decision is mailed. An appeal from a decision of a municipal board of appeal must be filed by sending a notice of appeal to the municipal board of appeal, the opposing party, and either the BTA or the court of common pleas (depending on where the taxpayer or tax administrator elects to seek appellate review) within 60 days after the day the appellant receives notice of the decision. An appeal from a final determination or action of the Tax Commissioner, a county auditor, the Director of Development Services, or the Director of Job and Family Services must be filed by sending a notice of appeal to the BTA and the official whose final determination or action is the subject of the appeal within 60 days after service of the notice of the final determination or action is completed.

In all such appeals, current law permits the appellant to file the notice of appeal in person, by certified mail, by express mail, or by authorized delivery service. If the notice is filed in person, the date of delivery is treated as the date of filing. If notice is filed by certified mail or express mail, the date of the U.S. postmark on the sender's receipt is treated as the date of filing. If notice is filed by authorized delivery service, the date of receipt recorded by the delivery service is treated as the date of filing.

The bill allows for parties, in addition to the methods that already exist, to file a notice of appeal to the Board of Tax Appeals by fax or e-mail. When these methods are used, the date of transmission is treated as the date of filing.

Electronic filing of transcripts

Once an appeal is certified to the BTA, the county board of revision, municipal board of appeal, county auditor, Tax Commissioner, Director of Development Services, or Director of Job and Family Services must certify a copy of the transcript of the proceeding before the board, auditor, Commissioner, or Director to the BTA. The bill requires that the BTA adopt rules requiring, and establishing procedures for, the electronic filing of such transcripts.

Case management schedule

The bill creates a new requirement that the BTA institute procedures to control and manage appeals of decisions of the Tax Commissioner, county auditors, the Director of Development Services, and the Director of Job and Family Services. These procedures must include the establishment of a case management schedule by the attorney examiners of the BTA in consultation with the parties and their counsel. Current law does not explicitly require the BTA to establish a case management schedule.

Mediation programs

The bill requires the BTA to adopt rules governing the creation and implementation of a mediation program. The rules must include procedures for requesting, requiring participation in, objecting to, and conducting mediations.

DEPARTMENT OF TAXATION

Income tax

- Reduces income tax rates in all brackets over three years by a total of 20% beginning with taxable years that begin in 2013; compared to 2012 rates, the reduction in each of the first two years is 7.5% and the third year's reduction is 5%.

- Creates a new income tax deduction for individuals receiving business income as a sole proprietor or through a pass-through entity whereby 50% of such income is deductible, with the deduction limited to $375,000 (or $187,500 for each spouse if spouses file separately), beginning with taxable years that begin in 2013.

- Prohibits an individual income taxpayer from claiming a personal exemption or a personal exemption credit for a taxable year if another taxpayer may claim the individual as a dependent.

- Repeals the income tax deduction for wagering losses.

- Specifies that any investor in a pass-through entity on whose behalf the entity files a composite return and pays tax may file an individual return and claim the refundable credit for taxes the entity paid on the investor's behalf.

- Clarifies that nonresident taxpayers receive an income tax credit equal to the amount of tax otherwise due on the portion of adjusted gross income not allocable or apportionable to Ohio.

- Reconciles a timing issue related to the annual inflation indexing adjustment of income tax brackets and personal exemption amounts.

- Requires nonresident taxpayers and pass-through entities petitioning the Tax Commissioner for alternative apportionment of Ohio-sourced income to submit the request with a return or amended return filed on or before the due date.

- Clarifies that taxpayers and pass-through entities may request another method to effectuate an equitable allocation and apportionment of business in the state.

State sales and use tax

- Lowers the rate of the state sales and use tax from 5.5% to 5% beginning September 1, 2013.

- Subjects the sale or use of services to state and county sales and use taxation beginning September 1, 2013, unless the sale or use is expressly exempt under the bill or continuing law.

- Expressly exempts from taxation the sale or use of medical services, educational services, construction services, residential leases and rentals, day care services, social assistance services, residential trash pick-up services, funeral services, services used directly in the production of tangible personal property by mining, and the purchase of insurance by a consumer; also exempts personal services an employee provides to his or her employer.

- Repeals an existing exemption for the sale or use of magazine subscriptions beginning September 1, 2013.

- Subjects the sale or use of intangible property and electronically transferred digital audio products, audiovisual products, and books to sales and use taxation beginning September 1, 2013.

County and transit authority sales and use taxes

- Reduces existing sales and use tax rates for each county and transit authority beginning September 1, 2013, which coincides with the date the sales and use tax base is expanded to include most services.

- Suspends authority for counties and transit authorities to change their sales and use tax rates after July 1, 2013, and until July 2016.

- Prescribes increases in sales and use tax distributions to each county and transit authority of at least 10% from December 2013 through November 2014 and of at least 15.5% from December 2014 through June 2015; if the actual increase in local collections (as affected by the reduced rates) exceeds the prescribed increase, the county or transit authority receives the actual collection increase.

- If a county or transit authority experienced annual growth in its actual collections greater than 10% in the three years before the rate is reduced (i.e., taxes levied between October 2010 to September 2013, which are distributed between December 2010 and November 2013), distributions from December 2013 through November 2014 are increased by that percentage instead of 10%.

- If annual percentage growth in actual collections in those three years, plus 5.5%, exceeds 15.5%, distributions from December 2014 through June 2015 are increased by the sum of 5.5% plus the three-year average growth in actual collections, instead of 15.5%.

- Computation of the base revenue to which the growth percentages are applied will disregard revenue increases resulting from a county or transit authority that increases its tax rate on July 1, 2013.

- Recalibrates the rates in April of 2015 and 2016 to reflect the effect of the base expansion on actual tax collections after incorporating the prescribed revenue increase percentages.

- Beginning July 2016, when local authority to increase local sales and use tax resumes, the maximum authorized county and transit tax rate (each currently 1.5%) will be reduced by the percentage by which the county experiencing the least reduction was reduced (including the two recalibrations) between September 2013 and June 2016.

- Reduces the minimum tax rate increment from the current ¼ of 1% (0.25%) to 1/20 of 1% (0.05%).

- Consolidates the two existing statutory authorizations for county sales and use taxes into a single set of Revised Code sections.

Severance and other oil and gas-related taxes

- Adjusts the rate of severance tax on gas from non-horizontal wells from the current 2½¢ per 1,000 cubic feet (MCF) to the lesser of 3¢ per MCF or 1% of spot market value.

- Raises the tax rate on severance of oil from non-horizontal wells from 10¢ per barrel to 20¢ per barrel (and eliminates the 10¢ per barrel regulatory cost recovery assessment).

- Levies a severance tax at a rate of 4% of the spot market value of oil and condensate produced by horizontal wells after the first five quarters in which a well produces, and a reduced 1½% rate for the first five quarters.

- Levies a severance tax at a rate of 1% of the spot market value of gas on gas measuring 1,050 British Thermal Units (BTU) or less produced by horizontal wells.

- Levies a severance tax on gas measuring more than 1,050 BTU at a rate that varies according to the BTU of the gas and the spot price of gas and natural gas liquids (NGLs), with a base rate for gas of 1% and for NGLs of 4% after the first five quarters in which a well produces and 1½% for the first five quarters.

- Distributes revenue from severance taxes on horizontal well extractions to the General Revenue Fund.

- Exempts from severance tax gas produced by a non-horizontal well that produces fewer than 10 MCF of gas per day in a calendar quarter.

- Repeals regulatory cost recovery assessment imposed on well owners for severance of oil and gas at a general rate of 10¢ per barrel or ½¢ per MCF, respectively.

- Requires severance tax payments to be remitted electronically and authorizes the Tax Commissioner to require severance tax returns to be filed electronically.

- Specifies that payment for severance tax refunds be derived from the proceeds of the same severance tax against which the refund is claimed.

- Authorizes the Department of Natural Resources to publicly disclose otherwise confidential tax information furnished by the Department of Taxation to enforce oil and gas regulatory laws.

- Requires a horizontal well owner to pay a $25,000 fee to the county in which the well is located, distributes the fees to taxing units affected by the well's operation, and requires the taxing units to repay the fee to owners over subsequent years.

- For the purpose of property tax valuation, calculates the true value of gas reserves based on the BTU of the gas extracted and the true value of condensate reserves similar to how oil reserves are currently valued for that purpose.

Excise taxes

- Exempts from "gross casino revenue," for the purpose of calculating the casino tax, bad debts from receipts on the basis of which the Gross Casino Revenue Tax was paid in a prior tax period.

- Extends through June 30, 2015, the extra 2¢ per-gallon earmark of wine tax revenue that is credited to the Ohio Grape Industries Fund.

- Requires all wholesale dealers of cigarettes who purchase cigarette tax stamps on credit to post a surety bond guaranteeing payment for the stamps, thereby expanding a similar current law requirement applicable to dealers with bad credit.

- Allows the Tax Commissioner to deny the license application of a cigarette dealer, manufacturer, or importer license if the applicant has not submitted tax returns, payments, or information that, to the Commissioner's knowledge, are due at the time of the license application.

- Requires a motor fuel dealer that sells or discontinues the dealer's business to notify the Tax Commissioner that the business has been sold or discontinued and of the purchaser's contact information.

Local Government Fund and other revenue distributions

- Requires that, for fiscal year 2014 and thereafter, distributions to each county from the Local Government Fund must be at least $750,000 or the amount distributed to the county in FY 2013, whichever is less.

- Authorizes the Director of Budget and Management (OBM) to use commercial activity tax (CAT) revenue derived from receipts from the sale of motor fuel to compensate the GRF for GRF-sourced debt service on state-issued bonds whose proceeds the Ohio Public Works Commission (OPWC) awarded to fund local infrastructure projects that are highway-related.

- Requires the Director of OBM to transfer to the Highway Operating Fund CAT revenue derived from receipts from the sale of motor fuel remaining after the GRF is compensated for that debt service.

- Imposes a quarterly deadline on the Ohio State Racing Commission for distributing casino tax revenue deposited to the Ohio State Racing Commission Fund.

- Permits the Commission to retain up to 5% of the share of casino tax revenue transferred to the fund for operating expenses necessary for the administration of the fund.

- Requires that any payment the Tax Commissioner makes to a political subdivision or political party be made electronically.

- Changes the date by which the Tax Commissioner must certify to county auditors the estimated amount each county is to receive from the Public Library Fund.

- Postpones the due date for November tangible personal property tax "replacement payments" to school districts to the last day of the month.

Tax administration and compliance

- Provides general authorization for the Tax Commissioner to issue an assessment for unpaid taxes, penalties, and interest against any person liable for the unpaid amount.

- Requires the Tax Commissioner to calculate interest charged after an assessment has been issued, but before the assessment has been certified to the Attorney General for collection, based on tax liability only.

- Requires the Tax Commissioner to deliver a tax notice to a person by ordinary mail, instead of by certified mail or personal or delivery service, if the person does not timely access the notice electronically.

- Requires annual taxpayers of the CAT, like quarterly taxpayers, to pay the tax electronically and, if required by the Tax Commissioner, file electronic returns.

- Prescribes minimum penalties for the failure to submit an electronic CAT return or payment, equal to $25 for each of the first two violations and $50 for each subsequent violation, that apply if the current law penalties of 5% or 10% of the tax due, respectively, do not exceed those amounts.

- Expressly authorizes the Tax Commissioner to adopt rules governing the electronic payment of, and filing of returns for, the CAT and financial institutions tax.

- Excuses the Tax Commissioner from issuing any tax refund if the amount of the refund is $1 or less, and excuses taxpayers from paying a tax if the total amount due with the taxpayer's return is $1 or less.

- Provides a single rule for the accrual of interest on income tax refunds, and removes two provisions of current law that provide separate rules for the accrual of interest on refunds arising from overpayments under certain circumstances.

- Authorizes the Tax Commissioner, until 2023, to shorten or extend the reappraisal or reassessment cycle for real property in a county for the purpose of equalizing and regionalizing real property assessment cycles.

- Specifies that mobile and manufactured homes taxed like real property are part of the same appraisal and assessment cycle as real property in the same county for the purpose of determining true value for the manufactured and mobile home tax.

- Eliminates the Discovery Project Fund, which currently finances the Department of Taxation's implementation and operation of the Tax Discovery Data System, which is devoted to identifying noncompliant taxpayers and analyzing revenue.

- Eliminates the requirement that tax refunds be paid from sales tax receipts if current receipts from another tax do not exceed refunds required to be paid against that tax.

- Includes estate taxes among other taxes for which refunds are paid from the Tax Refund Fund and derived from the receipts of the same tax.

- Beginning in 2014, applies the interest on an assessment for wireless 9-1-1 charges to only the portion of the assessment that consists of wireless 9-1-1 charges due.

- Removes provisions specifying how the interest on an assessment for wireless 9-1-1 charges and assessments are to be remitted.

- Revises the definition of "related entity" as it relates to the CAT, income tax, and corporation franchise tax.

- Renames the fund receiving income tax contribution (refund "check-off") funds the "Income Tax Contribution Fund."

Income tax

The bill reduces income tax rates, creates a new deduction for business income, eliminates existing law's deduction for wagering losses, bars the same person from claiming more than one personal exemption or credit, revises filing requirements for some pass-through entity investors, clarifies computation of the nonresident tax credit, and corrects the timing of inflation indexing adjustments.

Currently, the income tax is levied on individuals, estates, and some trusts. The tax base for individuals is federal adjusted gross income after several deductions and a few additions; for estates and trusts, the base is federal taxable income after several additions and deductions. An $88 credit is granted for individuals filing a return (joint or individual) showing tax due, after personal and dependent exemptions, of $10,000 or less; the effect of the credit is to exempt such filers from the income tax. The tax applies to residents, and to nonresidents who have income that is attributable to Ohio under statutory attribution rules. For residents who have income taxable by another state with an income tax, a credit is available to offset the tax paid to other states; for nonresidents who have income attributable to Ohio and another state, a credit is allowed to the extent the income is not attributable to Ohio.

Rate reductions

(R.C. 5747.02(A); Section 803.80)

The bill reduces income tax rates in all brackets over three years by a total of 20% beginning with taxable years that begin in 2013. In comparison with 2012 rates, the

reduction in each of the first two years is 7.5% and the third year's reduction is 5%. The number of brackets is unchanged.

Under current law, the income tax is levied at rates (for 2012) ranging from 0.587% for taxable income up to $5,200 to 5.925% for taxable income above $208,500. There are nine income brackets with increasingly greater rates assigned to higher income brackets.

Business income deduction

(R.C. 5747.01(A)(31), 5747.22, and 5748.01; Section 803.80)

The bill creates a new state income tax deduction for individuals receiving business income as a sole proprietor or as an owner of a pass-through entity. The deduction equals 50% of business income included in a taxpayer's federal adjusted gross income and not otherwise deducted in computing Ohio taxable income, and to the extent apportioned to Ohio. The amount of the deduction is limited to $375,000 per taxpayer per year, except for spouses who file separately and who each report business income; in that case, each spouse's separate deduction is limited to $187,500. The deduction may first be applied to taxable years that begin in 2013. The deduction is not available to estates or trusts subject to the income tax, and is not available to pass-through entities as such.

The deduction does not affect the school district income tax base. Any taxpayer making the deduction for state income tax purposes must add the deducted amount back into the taxpayer's school district taxable income if the school district's income tax base is based on state taxable income.

Under ongoing law, "business income" is income from the regular conduct of a trade or business, including gains or losses, and includes gains or losses from liquidating a business or from selling goodwill.

Limits on personal exemptions and $20 credit

(R.C. 5747.022 and 5747.025; Section 803.80)

Continuing law allows an income taxpayer to claim a personal exemption for the taxpayer, the taxpayer's spouse (if filing a joint return), and the taxpayer's dependents. The personal exemption amount is adjusted each year; for 2012, the amount is $1,700. In addition, the taxpayer may claim a $20 credit for each personal exemption claimed (e.g., a taxpayer who claims three personal exemptions may claim a credit equal to $60).

Under current law, individuals who are claimed as a dependent on another taxpayer's return may also claim a personal exemption and exemption credit for

themselves on their own tax return. The bill eliminates this option, and instead specifies that, beginning with taxable years beginning in or after 2013, only one taxpayer – the taxpayer who may claim an individual as a dependent – may receive the personal exemption and exemption credit for that individual.

The limitation applies to taxable years beginning in 2013 or thereafter.

Wagering loss deduction

(R.C. 5747.01(A)(29); Section 803.80)

The bill eliminates the existing deduction for wagering losses. The deduction currently is allowed for any loss from wagering transactions that is allowed as an itemized wagering losses deduction under Internal Revenue Code sec. 165. That section permits losses to be deducted to the extent of the gains from such transactions.

The elimination of the deduction applies to taxable years ending on or after the bill's effective date. The existing deduction is first allowed for "tax year 2013," presumably referring to taxable years beginning in or after 2013.[130] Therefore, if the bill's elimination of the deduction takes effect in 2013, the existing deduction would not be available to any taxpayer.

Composite returns of pass-through entities

(R.C. 5747.08(D); Section 803.80)

The bill specifies that any investor in a pass-through entity on whose behalf the entity files a composite return and pays tax may file an individual return and claim the refundable credit for taxes the entity paid on the investor's behalf. This apparently includes nonresident investors with no other Ohio-source income who currently are not permitted to file an individual return if the entity includes them in a composite return. The provision applies to taxable years beginning in or after 2013.

Currently, investors who are Ohio residents or who are nonresidents with other Ohio-source income, and on whose behalf the pass-through entity files a composite return (IT 4708), may file an individual return and claim the credit, but nonresident investors with no other Ohio-source income may not unless the Tax Commissioner allows. When a composite return is filed, all the income of investors included in the return is taxed at the highest marginal tax rate (5.925%) and the investors are not allowed the personal and dependent exemptions or the $20 exemption credit; the only credits available to them are business-related credits (which do not include the

[130] See Section 4 of H.B. 519 of the 128th General Assembly.

nonresident credit). Also, net operating loss carryforwards are not reflected in the composite return, as they are on an individual investor's return. By filing an individual return, an investor is able to claim the personal and dependent exemptions (or $20 credit), claim any nonbusiness credits otherwise available to the investor, reflect NOL carryforwards in Ohio taxable income, and pay tax on the basis of a lower net effective tax rate because not all the investor's taxable income is taxed at the highest rate as it is in the composite return. When the individual return is filed, the investor also may claim a refundable credit for the investor's share of the tax the entity paid with the composite return which yields a refund to the extent the investor's share of the composite tax exceeds the investor's tax computed on an individualized basis.

Nonresident credit computation

(R.C. 5747.05(A); Section 803.80)

The bill clarifies that nonresident taxpayers receive an income tax credit equal to the amount of tax otherwise due on the portion of adjusted gross income not allocable or apportionable to Ohio. Current law uses the term "allocable," but not "apportionable," even though it refers to the sections of law governing both the apportionment and allocation of income for the purpose of computing the credit. The clarification applies to taxable years beginning in or after 2013.

Under continuing law, the nonresident credit is allowed for nonresident individuals who have income assignable to Ohio under the allocation and apportionment statutes. Under these statutes, income from carrying on a business ("business income") is apportioned under a formula that assigns 60% of the income according to the proportion of sales are made in Ohio, 20% according to the proportion of property in Ohio, and 20% according to the proportion of payroll (with adjustments if any factor is absent). Any of a nonresident's other income ("nonbusiness income," such as a gain from selling an asset used in business operations when the business is not regularly selling such an asset as part of its business) is allocated under a different set of rules that generally assign all income either to Ohio or elsewhere according to where the asset is located or used. Nonresidents are required to report all of their federal adjusted gross income from wherever it may be sourced and compute Ohio tax as do residents, but they receive a credit equal to the Ohio tax that otherwise is due on the portion of their income that is not assigned to Ohio.

Inflation indexing adjustment

(R.C. 5747.02 and 5747.025; Section 803.80)

The bill reconciles a timing issue related to the annual inflation indexing adjustment of income tax brackets and personal exemption amounts. The bill requires

the Tax Commissioner to adjust both items, and calculate the factor used to make the adjustments, in August. The provision applies to taxable years beginning in or after 2013.

Current law requires the Tax Commissioner to adjust the tax brackets each July, but does not require the Tax Commissioner to compute the adjustment factor (the percentage by which the federal gross domestic product deflator increased during a calendar year), or to adjust personal exemption amounts, until September.

Requests for alternative apportionment of income

(R.C. 5747.21)

Under continuing law, nonresidents who have Ohio-source income may claim a tax credit equal to the Ohio tax on any income that is not allocated or apportioned to Ohio under statutory guidelines. Generally, business income is apportioned to Ohio on the basis of three factors: (1) property used in business in Ohio, (2) payroll paid in Ohio, and (3) sales made in Ohio. Each of these factors is used as an indication, for tax purposes, of a taxpayer's business activity in Ohio as compared to business activity everywhere. The factors are weighted such that property used in Ohio and payroll paid in Ohio each account for 20% of the taxpayer's business activity in Ohio and sales made by the taxpayer in Ohio accounts for the remaining 60% of the taxpayer's activity. Nonbusiness income generally is allocated to Ohio on the basis of where the property or activity giving rise to the income is located.

The Tax Commissioner may adopt rules providing for alternative methods of computing business and nonbusiness income applicable to all taxpayers and pass-through entities, to classes of taxpayers and pass-through entities, or only to taxpayers and pass-through entities within a certain industry. Furthermore, nonresident taxpayers and pass-through entities are permitted to petition the Tax Commissioner for alternative apportionment if the method of apportionment prescribed by law or by rule does not fairly represent the extent of Ohio business activity of the taxpayer or pass-through entity.

The bill requires nonresident taxpayers and pass-through entities petitioning the Tax Commissioner for alternative apportionment to submit the request with a return or amended return filed by the due date. Current law does not expressly mandate that the return or amended return be filed by the due date. The bill also clarifies that taxpayers and pass-through entities may request another method to effectuate an equitable apportionment of business in the state. Current law references only equitable allocation.

State sales and use tax

(R.C. 122.175, 351.12, 3951.01, 4719.01, 5727.01, 5739.01, 5739.011, 5739.02, 5739.027, 5739.029, 5739.03, 5739.033, 5739.051, 5739.071, 5741.01, and 5741.02; Sections 803.70 and 812.20)

The bill makes several changes to the state sales and use tax, all of which take effect on September 1, 2013. Among other changes, the bill lowers the rate of the state tax from 5.5% to 5%, while expanding the state and county tax base to include most sales of services. The bill also subjects the sale or use of certain intangible property to taxation and repeals an exemption for sales of magazine subscriptions.

Taxation of service transactions

(R.C. 5739.01(B), (X), and (KKK) to (PPP))

Current law generally exempts from taxation the sale or use of services, unless the sale of a particular service is expressly subject to the tax.[131] The bill reverses this general rule and instead requires the taxation of all sales of services unless the sale is specifically exempted. A "service" includes any act performed for another person for a fee, retainer, commission, or other consideration, including a fee charged for the use of a physical fitness facility or similar sports club. It does not include any of the following services, which remain exempt from taxation:

(1) Medical and health care services, which are defined to include all services provided by a professionally trained and licensed medical practitioner or other provider who plays an active role in the diagnosis, treatment, or care of patients. The bill specifically provides that pharmacists dispensing medication, nursing home staff providing care in a nursing home, and individuals providing in-home care or companionship to an individual with diminished physical or mental capacity are providing "medical and health care services."

[131] Under continuing law, sales of the following services are taxed: (1) repair and installation services, (2) washing, waxing, polishing, and painting of a motor vehicle, (3) laundry and dry cleaning services, (4) automatic data processing, computer services, electronic information, and electronic publishing services used in business, (5) telecommunications services, (6) landscaping services, (7) private investigation and security services, (8) building maintenance and janitorial services, (9) employment services, (10) exterminating services, (11) physical fitness and recreation facility services, (12) mobile telecommunications and satellite broadcasting services, (13) personal care services, (14) transportation of persons by motor vehicle or aircraft within the state, (15) motor vehicle towing services, (16) snow removal services, (17) transactions by which a warranty, maintenance, or service contract is, or is to be, provided, (18) storage services, and (19) the provision of "guaranteed auto protection."

(2) Educational and tutoring services. The bill defines "educational services" by reference to the U.S. Office of Management and Budget's North American Industry Classification Manual, which classifies entities that provide educational services.

(3) Real property construction services.

(4) The lease or rental of a residential dwelling, if the lessee occupies the dwelling for at least 30 days and the dwelling is the lessee's primary residence.

(5) Transactions by which a consumer obtains insurance.

(6) Adult and child day care services that involve attending to the needs of children or adults who require assistance with daily life activities. This category includes services provided by a relative of the child or adult.

(7) Social assistance services, which are defined as welfare activities organized by a private individual or entity to improve the well-being or quality of life of an individual, group, or community. Such activities include teaching, adoption services, foster care placement services, services provided to the elderly or to disabled individuals, clinical psychological and psychiatric counseling, substance abuse counseling, vocational rehabilitation services, crisis intervention, and the collection, distribution, and delivery of free or reduced-cost goods to the needy or to disaster victims.

(8) Services used directly in the production of tangible personal property by mining.

(9) Residential trash pick-up and disposal, but only when such services are provided at single-family, two-family, or three-family dwellings.

(10) Services that an employee renders to his or her employer within the employment relationship.

(11) Funeral services "as described in" a section of law governing the licensing of funeral directors, embalmers, and crematories (R.C. 4717.01). This exemption does not extend to otherwise taxable sales by a funeral services provider (e.g., the sale of tangible personal property) and does not affect the taxable status of a funeral services provider as a consumer of property or services that are not resold.

In addition, if current law already specifically exempts the sale or use of a service, that sale or use remains exempt under the bill. Examples of such exemptions include sales of services to the state or to a non-profit organization, sales of agricultural

land tile or portable grain bin installation services to farmers, and sales of aircraft repair or maintenance services.

Continuing law left unchanged by the bill will govern where a service is deemed to be provided for the purpose of determining whether it is taxable by Ohio and in which county it is taxable. Under the existing law (R.C. 5739.033(C)), a service generally is taxable in Ohio and in a particular county if it is provided in Ohio and in that county. If a service is provided at the seller's place of business, it is deemed to be taxable at that place of business. If the service is rendered at a particular location other than the seller's place of business, it is taxable where the service is provided. In situations when the seller is not certain where the service is provided, the law permits sellers to use a customer's address as indicated in the seller's records, on a payment instrument (e.g., check, credit card) or invoice, or, failing those, the location from which the service was provided.

Application of primary use exemption

(R.C. 5739.011)

Continuing law exempts the sale of a good or service if the purchaser will use the good or service primarily in a manufacturing operation to produce goods for sale. This exemption, known as the "primary use exemption," does not apply to the sale or use of certain items, including items used to (1) perform administrative, personnel, security, inventory control, record-keeping, ordering, billing, or similar functions, (2) store raw materials or parts before the manufacturing operation begins, (3) handle or store scrap or waste intended for disposal or sale, (4) clean, repair, or maintain the manufacturing facility, and (5) provide for the protection and safety of workers.

The bill adds that the primary use exemption similarly does not apply to the sale of services to perform any of the activities listed above.

Sales of intangible property and digital products

(R.C. 5739.01(JJJ), (QQQ), and (RRR))

The bill expands the sales and use tax base to include the sale or use of intangible property and electronically transferred digital audio products, audiovisual products, and books. "Digital audio" products include ringtones and other sound files downloaded onto an electronic device. Examples of intangible property include trademarks, copyrights, patents, franchises, and licenses. Under the bill, interest, gains, or dividends from the sale of financial instruments like stocks, bonds, or certificates of deposit are not taxable intangible property.

Sales of magazine subscriptions

(R.C. 5739.02(B)(4))

The bill removes a current law exemption for sales of magazine subscriptions. Consequently, the sale or use of such subscriptions will be subject to sales and use taxation beginning September 1, 2013. Two related exemptions, for sales of newspapers and of magazines distributed as controlled circulation publications, are retained under the bill. A magazine is distributed as a "controlled circulation publication" if the magazine if free to the recipient, has at least 24 pages, consists of at least 25% editorial content, is issued at regular intervals four or more times a year, and is not owned or controlled by an entity that distributes the magazine as a means to advance the entity's business interests.

County and transit authority sales and use tax rates

The bill reduces county and transit authority sales and use tax rates to specified levels on and after September 1, 2013, coincident with the expansion of the sales and use tax base. It suspends their authority to change their sales and use tax rates until July 2016 and prescribes minimum growth in the sales and use tax revenue distributed to them through June 2015. In April of 2015 and 2016, new rates are levied that reflect the actual effects of the base expansion on local collections. The bill also reduces the smallest increment in which sales and use taxes may be levied from 0.25% to 0.05%, and it consolidates two sections of law authorizing county sales taxes into a single section.

Under current law, counties and transit authorities each may levy sales and use tax at rates up to 1.5% in 0.25% increments. All transit authority levies require prior voter approval. County levies require voter approval unless the levy is for the general fund or for "criminal and administrative justice services" (courts, prosecutor, sheriff, coroner, detention facilities). Counties may levy the tax for nine other specific purposes, alone or in combination with each other or the general fund, with prior voter approval. When prior voter approval is not required, the board of county commissioners still may elect to put the levy on the ballot. All levies adopted as emergency levies and not put on the ballot may go into effect, but they are subject to repeal by initiative petition. Levies may be permanent or for a stated term. Tax rate changes may take effect only on the first day of a quarter and only if the tax resolution is adopted at least 65 days before the quarter begins (if prior voter approval is not required) or 90 days (if prior voter approval is required).

Reduction in local rates

(R.C. 5739.0211)

The bill reduces the rate of every county and transit authority sales and use tax beginning September 1, 2013, when the expansion of the tax base takes effect, thereby offsetting some or all of the revenue increase that would otherwise ensue from the base expansion. The rates will be fixed at the reduced level until April 1, 2015, when the state adjusts the rates to reflect how the base expansion affected local collections during the first year; a second such rate adjustment, reflecting effects of the second year of base expansion, takes effect April 2016. Local authority to change rates resumes July 2016. (Although the rates are fixed by the state during this period, the revenue distributed will increase, as explained below.)

The county rates that will apply from September 2013 through at least April 2015 are as follows:

County	Tax Rate		County	Tax Rate
Adams	1.35%		Licking	1.20%
Allen	0.80%		Logan	1.10%
Ashland	1.00%		Lorain	0.60%
Ashtabula	0.80%		Lucas	1.00%
Athens	1.10%		Madison	1.00%
Auglaize	1.20%		Mahoning	0.80%
Belmont	1.20%		Marion	0.80%
Brown	1.35%		Medina	0.80%
Butler	0.60%		Meigs	1.35%
Carroll	0.90%		Mercer	1.20%
Champaign	1.20%		Miami	1.00%
Clark	1.20%		Monroe	1.20%
Clermont	0.80%		Montgomery	0.75%
Clinton	1.20%		Morgan	1.35%
Columbiana	1.20%		Morrow	1.35%
Coshocton	1.20%		Muskingum	1.20%
Crawford	1.20%		Noble	1.35%
Cuyahoga	0.80%		Ottawa	1.00%
Darke	1.20%		Paulding	1.20%

County	Tax Rate		County	Tax Rate
Defiance	0.80%		Perry	1.35%
Delaware	0.80%		Pickaway	1.20%
Erie	0.65%		Pike	1.20%
Fairfield	0.80%		Portage	0.80%
Fayette	1.20%		Preble	1.20%
Franklin	0.50%		Putnam	1.20%
Fulton	1.20%		Richland	1.00%
Gallia	1.00%		Ross	1.20%
Geauga	0.75%		Sandusky	1.20%
Greene	0.80%		Scioto	1.20%
Guernsey	1.20%		Seneca	1.20%
Hamilton	0.65%		Shelby	1.10%
Hancock	0.75%		Stark	0.40%
Hardin	1.35%		Summit	0.35%
Harrison	1.35%		Trumbull	0.80%
Henry	1.20%		Tuscarawas	0.80%
Highland	1.20%		Union	1.00%
Hocking	1.10%		Van Wert	1.20%
Holmes	0.80%		Vinton	1.35%
Huron	1.20%		Warren	0.65%
Jackson	1.20%		Washington	1.20%
Jefferson	1.20%		Wayne	0.60%
Knox	0.80%		Williams	1.20%
Lake	0.75%		Wood	0.75%
Lawrence	1.35%		Wyandot	1.20%

The transit authority rates that will apply from September 2013 through at least April 2015 are as follows:

Transit Authority	Tax Rate
Greater Cleveland RTA	0.65%
Central Ohio RTA	0.30%

Transit Authority	Tax Rate
Laketran Transit	0.20%
Metro RTA	0.35%
Miami Valley RTA	0.35%
Portage Area RTA	0.20%
Stark Area RTA	0.20%
Western Reserve Transit Authority	0.20%

Interim rate adjustments

During the period in which the state sets the local tax rates, the state makes two adjustments, the first taking effect April 1, 2015, and the second April 1, 2016. The adjustments are computed to reflect how the bill's expansion of the tax base affects each county's and transit authority's tax collections. The tax rates are set accordingly to offset the local revenue effects of the base expansion but to allow the prescribed growth to be incorporated into the future rates that apply in July 2016 when local authority to change tax rates resumes.

The first adjustment is computed by the end of January 2015 based on (1) the amounts distributed to each taxing authority (including the applicable growth percentage) from November 2013 through October 2014, (2) the actual revenue attributable to the county or transit authority over that year, and (3) the state-set tax rate that applied in the county or transit during that year. By dividing (2) by (3), the local tax base during that period is determined, which shows the actual effect of the base expansion in each county and transit authority at the state-set tax rate. Then, by dividing (1) by that quotient, the new, recalibrated rate is determined, which reflects each taxing authority's share of the total sales and use tax collections on the expanded tax base after incorporating the growth percentage that applies in that county or transit authority.

A second adjustment is made in the same manner but is made by the end of January 2016 and is based on distributions, actual revenue, and tax rates over the period from November 2014 through April 2015. The second adjusted rate applies from April 2016 until a county or transit authority changes the rate once their authority to do so resumes.

Three-year suspension of new levy authority

(R.C. 5739.021, 5739.023, 5739.026, 5741.021, 5741.022, and 5741.023)

The bill suspends the authority of counties and transit authorities to change their sales and use tax rates from July 2013 through June 2016. During that period the rates will be those specified by the bill and adjusted during the interim (see above). If a county or transit authority has passed legislation to increase its rate on July 1, 2013, the increase becomes effective on that date but will be in effect only until September 1, 2013, when the state-set rates take effect.

Beginning July 2016, when local authority to change rates resumes, the maximum tax rate that will be allowed for a county or transit authority (each currently 1.5%) is fixed by the bill. The maximum rate will be reduced from the current 1.5% by the percentage by which the county or transit authority that experienced the least reduction was reduced (including the two recalibrations) between September 2013 and June 2016. The rate will be rounded to an increment of 0.05%, as compared to current law's minimum increment of 0.25%. When a county or transit authority changes its rate in or after July 2016, it will be authorized to change the rate in any increment of 0.05%, up to the maximum rate. The conditions under which voter approval will be required, either in advance of the levy or as referendum, remain the same as under current law.

Prescribed revenue growth – December 2013 through June 2015

(R.C. 5739.21)

During the period from September 2013 through June 2015, the bill prescribes increases in sales and use tax distributions to each county and transit authority of at least 10% from December 2013 through November 2014 and of at least 15.5% from December 2014 through June 2015. There are two situations in which a taxing authority will receive an increase greater than 10% or 15.5% over the respective time period:

- If the actual increase in revenue attributable to a taxing authority (as affected by the bill's state-set rates relative to the state rate and other local state-set rates) exceeds the prescribed 10% or 15.5% increase, the taxing authority receives the actual revenue increase.

- If a taxing authority experiences annual growth in revenue attributable to it greater than 10% in the three years before the rate is reduced (i.e., taxes levied between October 2010 to September 2013, which are distributed between December 2010 and November 2013), distributions from December 2013 through November 2014 are increased by that percentage instead of 10%. If annual percentage growth in local revenue in those

three years, plus 5.5%, exceeds 15.5%, distributions from December 2014 through June 2015 are increased by the sum of 5.5% plus the three-year average growth in actual collections, instead of 15.5%.

Computation of the base revenue to which the growth percentages are applied will disregard revenue increases resulting from a county or transit authority that increases its tax rate on July 1, 2013. If a tax rate changed during the three-year averaging period, the growth percentage is estimated on the basis of the tax rate in effect on April 1, 2013.

A county that levied a higher tax rate on October 1, 2012, than it did on July 1, 2012, may request that its growth percentage be calculated to reflect the amount the county would have received at the higher tax rate. This would increase its three-year average growth percentage and how it compares to the prescribed 10% and 15.5% minimum growth percentages. The alternative calculation applies only to the three-year average used to compute the October 2013-November 2013 and October 2014-November 2014 growth percentage. The request must be made to the Tax Commissioner in writing by October 31, 2013.

Consolidation of Revised Code sections

(R.C. 5739.021, 5739.026, 5741.021, and 5741.023)

The bill consolidates the two existing statutory authorizations for county sales and use taxes into a single set of Revised Code sections. Currently, R.C. 5739.021 authorizes a rate of up to 1% for the general fund, criminal and administrative justice services, or both. Voter approval is not required. R.C. 5739.026 authorizes a rate of up to 0.5% for one or more of ten specific purposes, including for the general fund. Voter approval is required unless the tax is only for the general fund. The bill consolidates the two sections, and their corresponding use tax sections 5741.021 and 5741.023, without changing the voter approval requirements or other provisions applicable to levies under either section of existing law.

Severance and other oil and gas-related taxes

Horizontal well severance taxes

(R.C. 1509.34, 5703.21, 5749.01, 5749.02, and 5749.031; Section 803.120)

Current law levies a tax on any person that severs oil or natural gas in Ohio. The tax equals 10¢ per barrel of oil and 2½¢ per MCF (1,000 cubic feet) of natural gas and is paid four times per year in quarterly tax periods. (Under current law, a separate "cost

recovery assessment" is levied in the additional amount of 10¢ per barrel of oil or ½¢ per MCF of natural gas for all oil and gas wells, except very low volume wells.[132])

The bill distinguishes between horizontal and non-horizontal wells for the purposes of imposing different severance tax rates on oil and gas produced from each type of well and earmarks the revenue from oil or gas produced from each type for different purposes. The bill also adjusts the current tax rate on gas and oil produced from non-horizontal wells by adding a spot price value basis, imposes a severance tax specifically on condensate if produced from a horizontal well, and exempts gas produced from wells that consistently produce fewer than 10 MCF of gas per day.

Horizontal versus non-horizontal wells

The bill distinguishes between "horizontal" wells and "non-horizontal" wells for severance tax purposes. Horizontal wells are wells drilled to produce oil or gas with a wellbore that reaches a horizontal or near horizontal position in the Point Pleasant, Utica, or Marcellus formation and that is stimulated to produce. (Stimulation is defined as a "process of enhancing well productivity, including hydraulic fracturing operations.")

Taxable resources

The bill applies the severance tax to "gas" (as compared to the current "natural gas"), which is defined as hydrocarbons in a gaseous state at normal temperature and pressure. It is not clear if gas differs from the natural gas that currently is measured for severance tax purposes because natural gas is not specifically defined for purposes of the severance tax. But the bill also taxes condensates as a separate category of taxable natural resource if severed by a horizontal well. Condensate is defined as liquid hydrocarbons that were originally in the gaseous phase in the reservoir. The principal distinction between condensate and gas appears to be that condensate in its extracted form is liquid that is measured in barrels while gas in its extracted form is gaseous and measured in MCF.

Non-horizontal well oil and gas severance tax rates

The bill raises the tax rate on the severance of oil from non-horizontal wells from 10¢ per barrel to 20¢ per barrel. (The total rate of excise on oil remains the same, however, as the 10¢-per-barrel cost recovery assessment is eliminated.) The bill also adjusts the tax on gas extracted from non-horizontal wells from the current 2½¢ per MCF rate to the lesser of 3¢ per MCF or 1% of the metered volume of the gas in the

[132] R.C. 1509.50. The bill repeals the cost recovery assessment (see "**Cost recovery assessment**" below).

quarter multiplied by the average of the daily closing spot prices for that quarter listed on the New York Mercantile Exchange.

Horizontal well severance tax rates

Beginning October 1, 2013, the severance of oil, gas, or condensate from a horizontal well is to be taxed at special rates. For the first year of a horizontal well's production, the bill levies the tax on oil and condensate extracted from a horizontal well at a rate of 1½% of the spot market value – i.e. the metered value of the oil or condensate in the quarter multiplied by the average of the daily closing oil and condensate spot "West Texas Intermediate" prices for that quarter listed on the New York Mercantile Exchange. Beginning in the sixth quarter that follows the first day of the well's production, the rate increases to 4% of spot market value. The first day of a well's production is the first day the well produces oil, gas, or condensate, excluding any gas flared for testing the well.

The rate of the tax on gas extracted from a horizontal well varies according to the BTU value of the gas extracted. (BTU is a per cubic foot measurement of the amount of heat energy required to raise the temperature of one pound of water by one degree Fahrenheit.) If the BTU of gas measures less than or equal to 1,050 BTU, the rate equals 1% of the metered value of such gas in the quarter multiplied by the average of the daily closing gas spot prices for that quarter. If the gas exceeds 1,050 BTU, then the gas is taxed according to the following formulas, the result of which is multiplied by the quantity of each BTU category of gas extracted by the well for that quarter. The spot price for natural gas liquids (NGLs) is the average daily spot price for the quarter reported on the "Mont Belvieu NGL" index.[133]

BTU Measurement / Duration Rate Applies	Rate Formula
>1050-1200 BTU/ First five quarters of well's production	(Gas Spot Price × 1% × 0.9329) + (NGL Spot Price × 1½% × 2½)
>1050-1200 BTU/ Beginning sixth quarter after well begins production	(Gas Spot Price × 1% × 0.9329) + (NGL Spot Price × 4% × 2½)

[133] NGL is not defined in the bill, but is defined elsewhere in the Revised Code as hydrocarbons contained in natural gas that are generally extracted in a gas processing plant and liquefied, and include mixtures of ethane, propane, and butane. See R.C. 4906.01.

BTU Measurement / Duration Rate Applies	Rate Formula
>1200-1350 BTU/ First five quarters of well's production	(Gas Spot Price × 1% × 0.8232) + (NGL Spot Price × 1½% × 5½)
>1200-1350 BTU/ Beginning sixth quarter after well begins production	(Gas Spot Price × 1% × 0.8232) + (NGL Spot Price × 4% × 5½)
>1350 BTU/ First five quarters of well's production	(Gas Spot Price × 1% × 0.7366) + (NGL Spot Price × 1½% × 8½)
>1350 BTU/ Beginning sixth quarter after well begins production	(Gas Spot Price × 1% × 0.7366) + (NGL Spot Price × 4% × 8½)

The Tax Commissioner is required to post quarterly spot prices for oil, gas, condensate, and NGLs and the quarterly tax rate for gas extracted from horizontal wells on the Department of Taxation's web site no later than 15 days after the end of each calendar quarter.

Horizontal well severance tax proceeds

All severance tax revenue collected from severers using horizontal wells to extract oil, gas, or condensate is credited to the General Revenue Fund (GRF). Currently, 90% of revenue from oil and gas severance is credited to the Oil and Gas Well Fund to pay for regulation of oil and gas well and related functions, and 10% is credited to the Geological Mapping Fund to pay for mapping energy and mineral resources.

Small, non-horizontal well exemption

The bill exempts from the severance tax the severance of gas from a non-horizontal well that produces less than an average of 10 MCF of gas per day in a quarterly tax period. However, the severer is still required to file a severance tax return for the well to report the severance of such gas.

Cost recovery assessment

(R.C. 1509.02, 1509.34, 1509.50, 5703.052, 5703.21, 5749.03, 5749.06, 5749.07, 5749.08, 5749.10, 5749.12, 5749.13, 5749.14, 5749.15, and 5749.17)

Current law imposes a regulatory cost recovery assessment on an owner of a well that extracts oil or gas. The owner must pay the assessment in the same manner as a severer that is required to file a severance tax return. All money collected from the assessment is deposited in the Oil and Gas Well Fund. The assessment is levied to ensure that even low-producing well pay a minimum amount to fund the state's regulatory activities. Specifically, the assessment assures that when it is added to the severance tax (10¢ per barrel of oil and 2½¢ per MCF of gas), each well owner's wells generate at least $15 on average. It is in addition to severance taxes levied on oil and gas.

The bill, beginning January 1, 2014, repeals the cost recovery assessment and removes related cross-references.

Electronic filing and payment of severance tax, related penalties, and refunds

(R.C. 113.061 and 5749.06; Section 803.120)

The bill makes several changes related to the reporting and payment of severance taxes. Under continuing law, a severer is required to file returns four times per year on a quarterly basis. The four calendar quarters run from January-March, April-June, July-September, and October-December. The Tax Commissioner may prescribe a different schedule for a taxpayer. Severers are required to file returns for each quarter by the 45th day after the last day in each quarter. The bill imposes a specific penalty for the failure to file or timely file a complete return or pay the full amount of tax due, up to the greater of $50 or 10% of the tax due for the quarter. Current law allows the Commissioner to extend the due date of filing a return for good cause. The bill limits the duration of any extension to 30 days.

Additionally, beginning January 1, 2014, the bill requires severance tax payments to be remitted electronically and authorizes the Tax Commissioner to require severance tax returns to be filed electronically, either through the Ohio Business Gateway or another means prescribed by the Tax Commissioner. The Tax Commissioner may excuse a severer from the obligation to remit payments electronically for good cause. If a severer fails to remit payments or file returns electronically, the Tax Commissioner may impose a penalty on the severer equal to the greater of $25 or 5% of the amount due for the first two offenses or the greater of $50 or 10% of the amount due for every offense thereafter. Any penalty the Tax Commissioner imposes under the bill may be

collected in the manner of an assessment, together with applicable penalties and interest, or waived by the Tax Commissioner.

Severance tax refunds

Current law requires that any severance tax refunds must be certified and paid from the Tax Refund Fund, but does not specify how severance tax revenue is credited to that fund. Beginning October 1, 2013, the bill specifies that all severance tax revenue is initially credited to the Severance Tax Receipts Fund, which is created by the bill. The Director of Budget and Management (OBM) must transfer from that fund to the Tax Refund Fund an amount equal to any refund certified by the Tax Commissioner to provide for the payment of that refund. Any amount so transferred must be derived from receipts of the same natural resource severance tax from which the refund arose.

After making this transfer, but not later than the 15th day of the month after the end of each calendar quarter, the Tax Commissioner must certify to the Director the amount remaining in the Severance Tax Receipts Fund, grouped according to the amount attributable to each natural resource subject to a severance tax, so the Director can credit remaining severance tax revenue to the respective funds as otherwise required under current law.

Disclosure of tax information

(R.C. 5749.17; Section 803.120(A))

Current law prohibits any otherwise confidential tax information provided to the Department of Natural Resources (DNR) from the Department of Taxation from being publically disclosed, except that DNR may share the information with the Attorney General for unspecified law enforcement purposes. The bill allows DNR, beginning October 1, 2013, to publically disclose, to the Attorney General or another party, otherwise confidential information submitted by the Department of Taxation specifically for the purpose of enforcing oil and gas regulatory laws.

Horizontal well impact loan and repayment plan

Impact fee

(R.C. 321.49, 1509.01, and 1509.06(L); Section 803.130)

Beginning January 1, 2014, the bill requires the owner of a horizontal drilling well seeking to operate the well to pay a $25,000 fee for each such well, with the fee divided among local taxing units according to their demonstrated costs associated with the well, or to the county and townships under a "default" formula. Then, the taxing

units that receive fee revenue must repay the amount received to the well owner over one or more years.

The fee is payable to the treasurer of the county in which the well is or will be located, and the well owner also must notify the treasurer of the well's parcel number. The fee must be paid and parcel number notification given before the owner begins construction of the "well pad" – defined as the area of land cleared and prepared for drilling. However, if the well is to be located on an existing well pad, the fee must be paid and parcel number notification given before drilling operations begin for the well. The $25,000 fee is due for each well on a well pad.

Distribution

(R.C. 5705.27, 5705.32(G), and 5705.37)

The treasurer must deposit received fees in a fund in the county treasury called the Oil and Gas Escrow Fund and notify the county auditor each time a fee deposit is made. The county auditor, within ten days after receiving the notice, must schedule a hearing of the county budget commission to consider how to distribute the fee revenue. If fees from multiple wells in the same taxing district are deposited in the fund, the commission may consider and disburse all such fees at the same hearing. The hearing must be scheduled to take place no later than 40 days after the deposit of fees in the fund.

At least 30 days before the hearing, the auditor must give notice of the hearing to the taxing authority of each taxing unit that levies a property tax in the taxing district where the well is located. A representative of the taxing unit may appear and testify at the hearing to demonstrate the unit's need to receive a portion of the fee revenue to defray the taxing unit's costs associated with the presence of the well. A taxing authority must respond within 15 days after receiving the county auditor's notice to inform the auditor that a representative will attend and give testimony or evidence. If no taxing authority responds within the 15-day period, the commission may cancel the hearing, and the auditor must notify the treasurer, who must distribute the money under a default formula under which the county receives 60% of the revenue and the township in which the well is located receives the remaining 40%.

If the scheduled hearing occurs, a representative from any taxing unit whose taxing authority received notice of the hearing may testify and give evidence of the unit's need for money from the fund to defray costs associated with the presence of the well, regardless of whether the taxing authority of that unit notified the auditor that its representative would appear and give evidence or testimony.

After the budget commission concludes its hearing, the bill authorizes the commission to either issue an order distributing money in the Oil and Gas Escrow Fund to one or more taxing units in the proportion and amount decided by the commission. Alternatively, the commission could use a default formula to distribute the money (see below). If the commission issues an order distributing the money to one or more taxing units, the commission must distribute such funds "on the basis of the relationship of each taxing unit's request to the overall impact of the horizontal well or wells on the taxing unit and the estimate of the cost to defray that impact." The commission must state in its order the particular funds of the taxing unit to which the money is to be credited and the amount to be credited to each fund. An order may be appealed to the Board of Tax Appeals (BTA) not later than 30 days after the commission issues the order in a manner similar to how other decisions of the county budget commission are appealed to the BTA.[134] The BTA may amend the commission's order as deemed necessary. After this 30-day appeal period ends, the county treasurer must distribute the money to taxing units in accordance with the commission's order.

If the commission instead decides to apply the default formula to distribute the fee revenue, the county auditor must so notify the county treasurer, who must distribute 60% of the money to the county and the remaining 40% to the township in which the well will be or is located. The county and township may deposit money received as a result of the default formula to any county or township fund of the respective taxing authority's choosing.

Repayment

(R.C. 5705.52)

The fiscal officer of a taxing unit that receives money from the county's Oil and Gas Escrow Fund is required to pay back the entire amount received, with no interest, to the owner or owners of the horizontal wells who originally paid the fees. The fiscal officer makes payments to each such owner once per year, beginning in the tax year following the year the taxing unit received money from the fund. The amount of each payment is equal to 50% of the "current taxes" paid by the horizontal well owner for taxable oil and gas reserves for the tax year attributable to that taxing unit. Current taxes are defined as property taxes charged on the tax list for a tax year that have not previously been charged (i.e., delinquent and unpaid taxes from a prior year are not "current taxes"), and do not include any penalties or interest or special assessments.

[134] The bill does not state specifically who is authorized to make an appeal, but presumably the affected taxing units could appeal.

The taxing unit is required to make such annual payments until the full amount received by the taxing unit for a well is repaid. However, if, in a tax year, a well owner does not pay current taxes on the well's oil and gas reserves, the taxing unit may not make a payment to the owner for that year.

The taxing unit must make its payments from the same fund or funds to which the money from the Oil and Gas Escrow Fund was initially credited in proportion to the amount credited to each fund. If there is insufficient money in any fund such that the amount required to be drawn from that fund cannot be fully paid from the fund, any deficiency must be paid from the general fund of the taxing unit.

Property tax value of condensate and gas reserves

(R.C. 5713.05 and 5713.051; Section 803.140)

Beginning in tax year 2014, the bill prescribes the method to be used to determine the value, for real property tax purposes, of condensate reserves and changes the method used to value gas reserves. Under current law, oil and gas reserves are valued, for real property tax purposes, under a form of net income capitalization valuation. Generally, the gross value of production is computed on the basis of the five-year average price of oil and gas from Ohio wells, and the gross production value is discounted over a ten-year period to determine the net present value of the oil or gas. Production volume is adjusted for "flush" production and production forced by using various secondary recovery methods, and an annual rate of decline in production is stipulated. Gross value is adjusted by netting out royalty expenses, capital recovery expenses, and operating expenses. The unit of production for oil is a barrel; the unit for gas is MCF. No per-well average of production is employed, and extractions from wells that share the same meter must be apportioned according to each well.

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

it by 365, or the number of days during the year since the well began extracting oil or gas.

The gross revenue from a well's stabilized production amount is determined by multiplying the production amount by the unweighted five-year average unit price of oil and gas produced and sold from Ohio wells during the most recent five-year period leading up to the tax lien date (January 1), as reported by DNR. Gross revenue per unit of production reflects a stipulated rate of decline in production of 13% per year cumulatively for a ten-year discount period, so that gross revenue per unit in the second year after flush production ends is stipulated to be 87% of gross revenue per unit for the first year after flush production ended, and so on until the tenth year after flush production ended, when it is stipulated to be 28.6% of gross revenue per unit for the first year after flush production ended. Gross revenue per unit is computed for each year of the ten-year discount period.

Once the per-unit gross revenue from a well's oil or gas is computed for each year of the ten-year period, it is adjusted by subtracting the annual royalty expense (stipulated to be 15% of per-unit annual gross revenue), annual operating expense (stipulated to be 40% of annual per-unit gross revenue), and annual capital recovery expense (stipulated to be 30% of annual per-unit gross revenue), amounting to total per-unit expense deductions of 85% of annual gross per-unit revenue. The resulting amount for each year (i.e., 15% of that year's gross revenue per unit) is the per-unit "net income" for that year, which is then discounted at a rate of 13% per year plus the annual rate of interest owed on unpaid state taxes (3% for 2013). The discounted net income per unit for each year is totaled for the ten-year period. If a well produces an average of at least one unit of production per day in the year preceding the tax lien date (i.e., eight MCF of gas or one barrel of oil), the net present value per unit equals the total discounted net income per unit multiplied by 365. If a well produces less than an average of one unit per day, the net present value per unit of oil (i.e., one barrel) equals 60% of the net present value per unit of a well producing at least one unit per day; the net present value per unit of gas (i.e., eight MCF) equals 50% of the net present value per unit of a well producing at least one unit per day.

Under the bill, the valuation method prescribed for condensate reserves is identical to the method used to value oil reserves.

The bill adjusts the valuation method for gas that exceeds 1,050 BTU. "Gas" is defined similarly to how gas is defined for severance tax purposes, as hydrocarbons that are in a gaseous state at standard temperature and pressure. Current law defines gas as all forms of natural gas. Instead of using an unweighted five-year average unit price of gas produced and sold from Ohio wells during the most recent five-year period for the purpose of calculating gross revenue per unit of production, the bill establishes

the price of higher-BTU gas according to one of the following three formulas, each of which accounts for the presence of higher-BTU NGLs within the gas:

BTU Measurement	Rate Formula
>1050-1200 BTU	(Gas Price × 0.9329) + (NGL Price × 2½)
>1200-1350 BTU	(Gas Price × 0.8232) + (NGL Price × 5½)
>1350 BTU	(Gas Price × 0.7366) + (NGL Price × 8½)

The price per MCF of gas is the same unweighted five-year price used for gas of 1,050 BTU or less. The price per gallon of NGL is averaged over a one-year period and is the sum of the spot prices of NGLs established for each of the four calendar quarters in the preceding year determined by the Tax Commissioner for establishing the rate of the horizontal well severance tax on gas, divided by four (see "**Horizontal well severance tax rates**," above).

Excise taxes

Gross Casino Revenue Tax exemption for bad debts

(R.C. 5753.01)

A casino operator is required to pay a tax of 33% of the operator's gross casino revenue received at a casino. Under the bill, "gross casino revenue" does not include bad debts from receipts on the basis of which the Gross Casino Revenue Tax was paid in a prior tax period to the extent not previously excluded. "Bad debts" are any debts that have become worthless or uncollectible in a prior tax period, have been uncollected for at least six months, and may be claimed as an itemized deduction for wholly worthless or partially worthless debt under federal income tax law, or could be claimed as such if the taxpayer kept its accounts on the accrual basis. "Bad debts" do not include repossessed property, uncollectible amounts on property that remains in the possession of the casino operator until the full purchase price is paid, or expenses in attempting to collect any account receivable or for any portion of the debt recovered.

Wine tax diversion to Ohio Grape Industries Fund

(R.C. 4301.43)

The bill extends through June 30, 2015, the extra 2¢ per-gallon earmark of wine tax revenue that is credited to the Ohio Grape Industries Fund. Continuing law imposes a tax on the distribution of wine, vermouth, and sparkling and carbonated wine and champagne at rates ranging from 30¢ per gallon to $1.48 per gallon. From the taxes paid, a portion is credited to the Fund for the encouragement of the state's grape and

wine industry, and the remainder is credited to the General Revenue Fund (GRF). The amount credited to the Ohio Grape Industries Fund is scheduled to decrease from 3¢ to 1¢ per gallon on July 1, 2013.

Cigarette wholesale dealer surety bonds

(R.C. 5743.05; Section 812.10)

Continuing law imposes a state cigarette tax of $1.25 per pack. The tax is generally paid by wholesale dealers through the purchase of tax stamps. Dealers purchase the stamps from the Treasurer of State and affix the stamps to packages of cigarettes.

The Treasurer may sell stamps to dealers on credit. Under current law, any dealer who purchases stamps on credit, but who has not been in good credit standing with the state for the five years preceding the purchase, must file a surety bond with the Tax Commissioner guaranteeing payment for the stamps. A dealer "in good credit standing" is not required to file a bond, but typically may only purchase stamps worth up to 110% of the dealer's average monthly purchase during the preceding year. Either dealer must pay for the stamps within 30 days of the purchase.

The bill instead requires that, effective July 1, 2014, all dealers who purchase stamps on credit file a surety bond. The amount of stamps purchased may not exceed the amount of the bond. The bill also provides that the Treasurer may refuse to sell stamps to a dealer who fails to maintain a required bond, while continuing a similar provision that allows the Treasurer to refuse to sell bonds to dealers who do not make payment within 30 days.

Cigarette license approval

(R.C. 5743.15)

Under continuing law, cigarette manufacturers, dealers, and importers must obtain a license to operate in the state. Before issuing such a license, the Tax Commissioner must verify that the applicant is in compliance with Ohio's tax laws. The bill specifically requires the Tax Commissioner to confirm that the applicant has filed any tax returns, paid any outstanding taxes or fees, and submitted any required information that, to the Tax Commissioner's knowledge, are due at the time of application.

Notice of fuel dealer sale or closing

(R.C. 5735.34)

Continuing law requires a motor fuel dealer that sells or discontinues the dealer's entire business to file a final motor fuel tax return within 15 days after the sale or discontinuance. The bill additionally requires the dealer, within that time period, to notify the Tax Commissioner in writing that the dealer's business has been sold or discontinued and, if the business was sold, of the contact information of the purchaser.

Local Government Fund and other revenue distributions

Local Government Fund

(R.C. 5747.501; Section 757.10)

Continuing law requires that monthly allocations to the Local Government Fund (LGF) be made from any or all GRF tax sources. Beginning with FY 2014, the percentage of GRF tax revenue allocated to the LGF is whatever percentage of those revenues are required to freeze the allocation at the FY 2013 levels (including the amount of the minimum distributions to county undivided LGF's receiving guaranteed minimum distributions). For example, if the total FY 2013 LGF allocation is 1.7% of the total FY 2013 GRF revenue, 1.7% of monthly FY 2014 GRF revenue is to be credited each month of FY 2014 to the LGF (*see* R.C. 131.51).

Continuing law provides that LGF funds are distributed to the county undivided LGFs of every county. Local governments in each county agree on how money in the county LGF is allocated among the various political subdivisions within each county. (In the several counties where an allocation formula has not been agreed on, a default statutory formula determines the allocation.) The amounts disbursed are to be used for the current operating expenses of the subdivisions. In addition, more than 500 municipal corporations receive direct distributions from the LGF. Such distributions are made to a municipal corporation's general fund.

During FY 2013, LGF distributions were reduced by 50% compared to FY 2011 amounts for almost all counties and for all municipal corporations receiving direct distributions. But the proportionate share of the reduced LGF received by these counties and municipal corporations was held at the FY 2011 level. A few counties that received relatively little in LGF distributions in FY 2011 were guaranteed a minimum distribution: if the county LGF was less than $750,000, that county's distribution was not reduced; if the 50% reduction would reduce a county's LGF below $750,000, the county received $750,000.

Minimum distributions

The bill permanently extends the FY 2013 minimum distribution for county LGFs that received the minimum in FY 2013. If necessary, the proportionate shares of other counties may be adjusted to produce the funds needed to meet the minimum distribution requirement. The minimum distribution levels do not apply to direct municipal corporation distributions. Counties not receiving a minimum guaranteed distribution would receive their respective proportionate shares of the LGF (based on FY 2011 shares and accounting for any adjustments because of minimum distributions), as would municipal corporations receiving direct distributions. For the July 2013 distribution, each county undivided LGF and each municipal corporation receiving direct LGF distributions will receive the same amount as it received in July 2012.

Use of commercial activity tax (CAT) revenue related to motor fuel receipts

(R.C. 5751.20; Section 757.20)

The bill authorizes the Director of OBM to use CAT revenue derived from taxable gross receipts attributable to the sale of motor fuel ("CAT motor fuel revenue") to compensate the GRF for debt service paid from the GRF for state-issued bonds whose proceeds are used by the Ohio Public Works Commission (OPWC) to fund local infrastructure projects that are highway-related. A recently issued Ohio Supreme Court decision held that spending CAT motor fuel revenue on nonhighway purposes violates the constitutional provision prohibiting money derived from excises relating to motor vehicle fuel from being spent on nonhighway purposes (Ohio Constitution, Article XII, Section 5a).[135]

The bill requires the Director of OPWC to certify for fiscal years 2013 and 2014 the amount of debt service paid from the GRF for bonds issued to finance or assist in the financing of local subdivision public infrastructure capital improvement projects that were used for highway purposes – i.e. the construction or repair of public highways and bridges. The infrastructure bonds are or have been issued under Sections 2k, 2m, and 2p of Article VIII, Ohio Constitution.[136] The OPWC is required to categorize the amount of such debt service according to the section of the Ohio Constitution under which the particular bond was issued.

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[135] *Beaver Excavating Co. v. Testa*, Slip Opinion No. 2012-Ohio-5776.

[136] Section 5a requires revenue from taxes relating to motor vehicle fuels to be used solely for highway purposes. Since the OPWC uses proceeds from Section 2k, 2m, and 2p bonds to fund some infrastructure projects that are not highway-related, such as water and sewer system improvements, presumably only the portion of bonds that fund infrastructure projects related to highways may be serviced by CAT motor fuel revenue.

The bill authorizes the Director of OBM, on or before the last day of fiscal year 2014 or 2015, to transfer the amount so certified from the Commercial Activity Tax Motor Fuel Receipts Fund to the GRF, presumably compensating the GRF for GRF money that had been used to service such bonds.[137]

The Commercial Activity Tax Motor Fuel Receipts Fund is a new fund created by the bill. The bill does not provide for how or if any money is to be credited to the fund. However, under the transportation appropriations bill, a fund by the same name is created to receive and hold CAT motor fuel revenue.

The OBM Director must, on or before the end of each applicable fiscal year, credit any money remaining in the Commercial Activity Tax Motor Fuel Receipts Fund to the Highway Operating Fund after making the GRF transfer described above. Under continuing law, money in the Highway Operating Fund supports the operations of the Department of Transportation and may be used solely for highway purposes.

Quarterly distributions of Ohio State Racing Commission Fund revenue

(R.C. 5753.03)

The bill imposes a quarterly deadline on the Ohio State Racing Commission for distributing casino tax revenue deposited to the Ohio State Racing Commission Fund. Continuing law imposes a 33% tax on gross casino revenue. Article XV, Section 6 of the Ohio Constitution includes specific directives as to how the proceeds of the casino tax must be distributed. One such directive is that the Ohio State Racing Commission Fund must receive 3% of casino tax revenue "to support purses, breeding programs, and operations at all existing commercial horse racetracks permitted as of January 1, 2009."

Current law does not expressly require the Ohio State Racing Commission to distribute the money in the Ohio State Racing Commission Fund directly to the qualifying commercial horse race tracks nor is there a deadline for when such a distribution must occur. However, the current practice of the Commission is to distribute the revenue directly to the qualifying commercial horse race tracks according to a formula developed by the Commission. The bill codifies a requirement that all revenue in the fund be distributed at the end of each quarterly period. The Commission retains discretion as to the formula utilized for distribution of the revenue.

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[137] The bill authorizes the OBM Director to use CAT motor fuel revenue to service Section 2p bonds. However, Section 2p expressly prohibits Section 5a revenue from being used to service bonds issued under the authority of that section: "Moneys referred to in Section 5a of Article XII of the Ohio Constitution may not be . . . used for the payment of debt service on those obligations." Section 2p(C), Article VIII, Ohio Constitution.

The bill also specifies that the Ohio State Racing Commission may retain up to 5% of the share of casino tax revenue transferred to the Ohio State Racing Commission Fund for operating expenses necessary for the administration of the fund. Current law does not expressly authorize or limit the use of casino tax revenue for this purpose.

Electronic payments to local governments and political parties

(R.C. 5703.76)

The bill requires that any payment the Tax Commissioner makes to a political subdivision or political party be made electronically. Under continuing law, the Commissioner makes various payments to local governments, including distributions of county sales tax revenue, payments from the LGF, and reimbursements for the 10% rollback, 2.5% rollback, and homestead exemption. The Commissioner makes payments to political parties from the Ohio Political Party Fund, which is comprised of $1 donations that some individuals make to the Fund on their income tax returns.

Public Library Fund certification date

(R.C. 5747.47)

Under continuing law, the Tax Commissioner is required to annually certify to county auditors the estimated amount each county is to receive from the Public Library Fund in the following year. The bill changes the date by which the Commissioner must make this certification from July 20 to July 25.

Due date for tangible personal property tax replacement payments to school districts

(R.C. 5751.21(C)(12) and (E)(1))

The bill postpones the due date for November tangible personal property tax "replacement payments" to school districts to the last day of the month. From 2005 to 2011, state law phased out taxes levied by school districts and other local taxing units on business personal property. To compensate the taxing units for the resulting property tax losses, state law established a schedule of "replacement" payments. The replacement payments are reduced each year on a schedule scaled according to the taxing unit's reliance on the reimbursements as a percentage of the taxing unit's total budget. Under current law, replacement payments for both fixed-rate and fixed-sum levies are due annually on May 31 and November 20.

Tax administration and compliance

General authority to issue tax assessments

(R.C. 5703.90, 5726.20, and 5751.014)

The bill provides general authorization for the Tax Commissioner to issue an assessment for unpaid taxes, penalties, and interest against any person liable for the unpaid amount. This authority expressly extends to assessments against persons that are jointly and severally liable for an income tax, school district income tax, commercial activity tax, or financial institutions tax liability; the partners in a partnership; and the directors, shareholders, and officers of a corporation that has dissolved or had its articles of incorporation cancelled. The Tax Commissioner must issue the assessment in accordance with the same requirements and procedures applicable to assessments for the tax for which the person is liable.

Calculation of post-assessment interest

(R.C. 3734.907(E), 3769.088(C), 4305.131(C), 5726.20(D)(3), 5727.26(C), 5727.89(C), 5728.10(C), 5733.11(C), 5735.12(C), 5739.13(C), 5743.081(C), 5743.56(E), 5745.12(C), 5747.13(C), 5749.07(C), 5751.09(C)(3), and 5753.07(A)(5))

Continuing law authorizes the Tax Commissioner to make assessments on taxpayers for failure to pay various taxes and the penalties and interest thereon. Unless the taxpayer files a petition for reassessment within 60 days after notice of the assessment is served, the amount due on the assessment becomes final and is due and payable from the taxpayer to the Treasurer of State. Under current law, any portion of the assessment not paid within 60 days after the assessment was issued, including interest and penalty, bears interest at the statutory rate for unpaid taxes (currently 3%) until the assessment is paid in its entirety.

The bill requires the Tax Commissioner to calculate interest charged after an assessment has been issued based on tax liability only; penalties and interest are not included. If an assessment is certified to the Attorney General for collection, the interest calculation reverts to current law and the entire unpaid portion of the assessment is included.

Service of tax notices and orders

(R.C. 5703.37)

Continuing law authorizes the Tax Commissioner, with the recipient's consent, to serve a tax notice or order upon a person through secure electronic means. Under current law, if a person does not access the electronic notice or order within ten business

days after the Commissioner serves the notice or order, the Commissioner is required to serve the notice or order by certified mail, personal service, or delivery service.

The bill requires the Tax Commissioner to deliver a tax notice or order to the intended recipient by ordinary mail if the recipient does not access an electronic notice or order within ten business days after the Tax Commissioner serves the notice or order electronically a second time and the recipient does not access the notice or order within ten business days.

Electronic payment and filing requirements

(R.C. 113.061 and 5703.059; Section 803.90)

Under continuing law, quarterly taxpayers of the CAT must pay the tax electronically and, if the Tax Commissioner requires, file electronic returns. The bill extends this requirement to annual taxpayers. Annual taxpayers are those whose taxable gross receipts are $1 million or less; all other taxpayers must file and pay the tax quarterly.

In addition, the bill expressly authorizes the Tax Commissioner to adopt rules governing the electronic payment of, and the filing of returns for, both the CAT and the financial institutions tax (FIT). The electronic payments must also comply with any applicable Treasurer of State regulations that govern such payments.

CAT electronic filing penalties

Under current law, when a taxpayer fails to submit an electronic CAT payment or return, the Tax Commissioner may assess a penalty equal to 5% of the tax due for each of the first two violations and 10% of the tax due for each subsequent violation. The bill modifies these penalties to require that the taxpayer pay the greater of $25 or 5% of the tax due for each of the first two violations and $50 or 10% of the tax due for each subsequent violation.

Tax payments and refunds: $1 minimum

(R.C. 5703.75, 5747.08, 5747.10, and 5747.11)

The bill introduces a $1 minimum payment floor for all taxes administered by the Department of Taxation. Under the bill, taxpayers are not required to a pay any such tax if the total amount due with the taxpayer's return is $1 or less. Similarly, the Tax Commissioner is not required to issue a tax refund to any taxpayer if the amount of the refund is $1 or less. Currently, these $1 minimums apply only the income tax and the pass-through entity withholding taxes.

Accrual of interest on income tax refunds

(R.C. 5747.11)

Under current law, interest accrues on a refund resulting from an income tax overpayment only if the Tax Commissioner does not refund the overpayment within 90 days after the final due date of the taxpayer's return or the date the return was actually filed, whichever is later. If interest is allowed, the interest accrues from the date of the overpayment or the final due date for the taxpayer's return, whichever is later, until the date the refund is paid. The bill removes a separate, apparently inconsistent provision of the same law that provides that such interest must accrue from 90 days after the final due date of the return until the date the refund is paid.

The bill also removes a provision of current law that provides that interest resulting from an illegal or erroneous assessment accrues from the date the taxpayer paid the illegal or erroneous assessment until the date the refund is paid. Instead, interest would accrue on such amounts according to the same rule applicable to other overpayments as described above.

Equalizing and regionalizing county appraisal cycles

(R.C. 4503.06, 5713.01, 5715.24, and 5715.33)

The bill authorizes the Tax Commissioner to shorten or extend the reappraisal or reassessment cycle for real property tax purposes in a county for the purpose of equalizing and "regionalizing" real property assessment cycles. The Tax Commissioner may not reschedule any reappraisal or reassessment after tax year 2023 for this purpose.

Current law requires tax appraisals in each county at least once every six years (although the Tax Commissioner currently may grant a one-year extension). The Tax Commissioner is required to update the value of the property, based on local property market data, three years after the appraisal.

The bill specifies that mobile and manufactured homes taxed like real property are part of the same appraisal and assessment cycle as real property in the same county for the purpose of determining true value for the manufactured and mobile home tax. Under the bill, if the Tax Commissioner shortens or extends an appraisal or assessment cycle for real property in a county, the appraisal or assessment cycle for mobile and manufactured homes taxed like real property in the same county would be shortened or extended in the same manner.

Elimination of the Tax Discovery Project Fund

(R.C. 5703.82)

The bill eliminates the Discovery Project Fund, which currently finances the Department of Taxation's implementation and operation of the Tax Discovery Data System. The Tax Discovery Data System assists the Department in revenue analysis, discovering noncompliant taxpayers, and collecting taxes from those taxpayers.

Current law requires the Tax Commissioner to request funds quarterly from the GRF to pay the costs of operating and administering the system.

Am. Sub. H.B. 153 of the 129th General Assembly appropriated about $2.4 million to the Discovery Project Fund. In FY 2011, spending was $6.2 million. During FY 2011, the Department received Controlling Board approval for appropriation increases totaling $4.5 million from the original appropriation of $2.0 million. These additional appropriations covered incentive-based payments to an outside vendor for increased tax revenue found by the project. In July 2011, the Department received Controlling Board approval for another payment to the outside vendor of $1.3 million, increasing the FY 2012 appropriation to $3.8 million.

Under the bill, the Department would remain responsible for administering the system.

Tax refund payments and estate tax refunds

(R.C. 5703.052)

Under continuing law, refunds for many taxes and fees administered by the Tax Commissioner and Superintendant of Insurance, including sales and use taxes, income tax, CAT, insurance taxes, FIT, alcoholic beverage and cigarette taxes, casino revenue tax, and public utility excise taxes are paid from the Tax Refund Fund. After the Tax Commissioner or Superintendant certifies a refund to the Treasurer of State, the Treasurer is required to credit the amount certified to the fund. The amount credited to the Tax Refund Fund must be derived from current receipts of the same tax or fee.

Under current law, if current receipts of a particular tax or fee are not sufficient to enable the Treasurer to fully credit the fund, then the Treasurer is required to transfer the amount from the current receipts of the sales tax. The bill eliminates the requirement that refunds be paid from sales tax receipts in the event receipts from the refunded tax do not exceed the amount of the required refund, but does not specify from what revenue the refund is drawn in such a situation. Refunds are still required to be paid from the Tax Refund Fund.

Additionally, the bill includes estate taxes among the other taxes for which refunds are paid from the Tax Refund Fund and derived from the receipts of the same tax. Although the estate tax is no longer in effect for individuals dying on or after January 1, 2013, refunds may continue to be due for payments for prior years.[138] The bill does not specify from what receipts the refund is drawn if current estate tax revenues are insufficient to cover the full amount of an estate tax refund.

Interest on assessments for wireless 9-1-1 charges

(R.C. 5507.46)

The bill applies the interest on an assessment, charged by the Tax Commissioner beginning in 2014 for unpaid wireless 9-1-1 charges, to only the portion of the assessment that consists of wireless 9-1-1 charges due. Under continuing law, interest may be charged on an assessment when it is 60 days past due. Wireless 9-1-1 charges are imposed on wireless subscribers in Ohio (both prepaid and nonprepaid) and, beginning in 2014, sales of prepaid wireless services.[139] The charges fund certain aspects of Ohio's 9-1-1 systems.[140] The charges are collected by wireless service providers, wireless resellers, and, beginning in 2014, sellers of prepaid wireless services.[141] The charges are to be remitted to the Tax Commissioner beginning in 2014, at which time the Tax Commissioner is also tasked with auditing the charge collectors and administering assessments for unpaid charges. The Tax Commissioner may also make assessments to collect unpaid interest on assessments.

The bill also removes provisions specifying how assessments and interest on assessments are to be remitted to the Tax Commissioner. Current law appears to require that assessments for unpaid interest and any interest due must be remitted in the same manner as the wireless 9-1-1 charges. The bill removes this provision.

Finally, the bill removes redundant language regarding the issuance of assessments for collecting interest and the rate and remittance of interest.

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[138] R.C. 5731.02 (not in the bill).

[139] R.C. 5507.42 (not in the bill).

[140] R.C. 5507.53, 5507.54, 5507.55, and 5507.57 (not in the bill).

[141] R.C. 5507.42 (not in the bill).

"Related entity"

(R.C. 5733.04(I)(12); affects other sections by cross reference)

The bill expands the definition of "related entity" to expressly include pass-through entities that are not classified as corporations and clarifies that a pass-through entity or a pass-through entity's direct or indirect owners may qualify as a related entity under the tax code. Whereas current law defines whether two or more parties are "related entities" solely in terms of ownership of corporate stock, the bill defines the relationship in terms of any form of ownership interest, which would encompass partnership interests, membership interests in a limited liability company, or equity interests in other organizational forms.

Under continuing law, "related entity" is one form of "related member," a more expansive term that is used in various contexts in the tax code to refer to one of multiple entities that are related by ownership either directly, or indirectly through other entities. For example, the term is used to preclude a business from counting payments to a related company toward the business's minimum capital investment to qualify for the job retention tax credit, and to permit taxpayers receiving a research and development loan payment credit to assign the credit to related companies. The term originally was defined for the purpose of requiring a corporation related to one or more other corporations by corporate stock ownership of 50% or more to make certain adjustments to the corporation's franchise tax net income base. The adjustments were intended to limit deductions for a corporation's payments to related corporations for such items as management fees, interest, royalties, or for the use of patents, licenses, and other intangibles. Such payments could be used to reduce the corporation's Ohio taxable net income, although they represented income to an affiliated (i.e., related) company, often one in a state with no income-based tax or with a nominal tax. With the elimination of the net income-based corporation franchise tax in 2009, such income-shifting, and the offsetting adjustments, became ineffective, but the term "related entity," insofar as it is a component of "related member," still functions in other parts of the tax code.

Rename fund receiving income tax contributions

(R.C. 5747.113)

The bill renames the "Litter Control and Natural Resource Tax Administration Fund" the "Income Tax Contribution Fund." Under continuing law, this fund is credited with a portion of the money received by four existing income tax contribution (commonly referred to as refund "check-off") funds to pay the Department of Taxation's costs for administering the income tax contribution system. Under the system, a taxpayer may voluntarily contribute a portion of the taxpayer's refund to benefit up to

four separate purposes – natural areas and preserves, nongame and endangered wildlife, military injury relief, or the Ohio Historical Society.

- Requires that copies of the annual financial reports and actuarial valuations of the five public retirement systems be submitted to the Director of Budget and Management in addition to the Ohio Retirement Study Council and the retirement committees of the General Assembly, and that the reports and valuations be submitted immediately upon their availability.

Distribution of pension system financial reports

(R.C. 145.22, 742.14, 3307.51, 3309.21, and 5505.12)

Under the bill, certain financial reports prepared annually for the five public retirement systems must be distributed by their respective boards to the Director of Budget and Management in addition to the Ohio Retirement Study Council and the retirement committees of the General Assembly as is required under current law. One of the reports provides an actuarial valuation of the pension assets, liabilities, and funding requirements of each of the systems; the other, a full accounting of the revenues and costs relating to the provision of benefits.

The bill also requires that the reports be distributed immediately upon their availability.

County hospital trustees

- Requires county hospital trustees to be representative of the areas served by the hospital.
- Removes a criterion that prohibits more than one half of the members of a board of county hospital trustees from being independents or from being members of any one political party.
- Authorizes the board of county commissioners to provide a stipend for service on the board of county hospital trustees.
- Requires a board of county hospital trustees to hold meetings at least quarterly, rather than once a month.
- Authorizes boards of county hospital trustees to adopt annual leasing policies provided through a joint purchasing arrangement sponsored by a nonprofit organization, for certain services, supplies, and equipment.
- Exempts from competitive bidding, with a unanimous vote of the board of county hospital trustees, emergency purchases that are under $100,000 or when there is actual physical damage to structures or equipment.
- Requires a board of county hospital trustees, whenever a contract of purchase, lease, or construction is exempt from competitive bidding, to solicit at least three informal estimates when the estimated cost is $50,000 or more, but less than $100,000.
- Permits the board of county hospital trustees to delegate its management and control of the county hospital to the hospital administrator through a written delegation.
- Requires the board of county hospital trustees to provide for management and control of the county hospital, in addition to providing for government of, and expeditious admissions to, the hospital.

Other provisions

- Permits a superintendent serving multiple county DD boards to appoint a designee to participate on a county's family and children first council.
- Requires the public children services agency (PCSA) of Butler County to establish and maintain a regional training center for training PCSA caseworkers and

supervisors and related functions; eliminates the Hamilton County PCSA's duty to establish and maintain such a center; and specifies that the center established by the Butler County PCSA replaces the center previously established under existing law by the Hamilton County PCSA.

County hospital trustees

(R.C. 339.02, 339.05, 339.06, and 339.07)

The bill expressly requires county hospital trustees to be representative of the areas served by the hospital.

The bill also removes criteria that prohibit more than one half of the members of a board of county hospital trustees from being independents or from being members of any one political party.

The bill authorizes, but does not require, the board of county commissioners to provide a stipend for service on the board of county hospital trustees. Under current law, county hospital trustees must serve without compensation. Continuing law, not amended by the bill, allows the trustees to be paid for the necessary and reasonable expenses incurred in the performance of their duties.

The bill requires a board of county hospital trustees to hold meetings at least quarterly. Current law requires meetings to be held at least once a month.

A board of county hospital trustees is authorized annually to adopt bidding procedures and purchasing policies for services provided through a joint purchasing arrangement sponsored by a nonprofit organization, and for supplies and equipment that are routinely used in operation of the hospital and that cost above the amount at which purchases must be competitively bid. The bill expands and restructures this provision by authorizing the annual adoption of purchasing or leasing policies provided through the joint purchasing arrangement sponsored by a nonprofit organization, for services, supplies, and equipment, that are routinely used in the operation of the hospital and that cost above the amount at which purchases must be competitively bid. If the board of county hospital trustees adopts these procedures and policies, and if the board of county commissioners approves them, the board of county hospital trustees may follow those procedures and policies rather than the competitive bidding procedures that otherwise would apply.

Under the bill, a board of county hospital trustees is exempt from competitive bidding if the board, by a unanimous vote, determines that a real and present

emergency exists and the estimated cost is less than $100,000 or there is actual physical damage to structures or equipment. The board must enter the determination of emergency and the reasons for it in the minutes of its proceedings. (For purposes of this provision, a vote is unanimous if all members of the board of county hospital trustees are present, or when not all members are present, so long as the number of members present constitutes a quorum (one half plus one).)

Whenever a contract of purchase, lease, or construction is exempted from competitive bidding because the estimated cost is less than $100,000, but is $50,000 or more, the board must solicit informal estimates before the contract is awarded from not fewer than three persons who could perform the contract. The board must maintain a record of the informal estimates, including the name of each person from whom an informal estimate was solicited, for the longer of at least one year after the contract is awarded or an amount of time required by the federal government.

The bill authorizes the board of county hospital trustees to delegate its management and control of the county hospital to the hospital administrator through a written delegation. The bill also specifies that the board must establish rules for the hospital's management and control, in addition to rules for the hospital's government and for the expedient admission of persons.

County family and children first council membership

(R.C. 121.37 and 5126.0219 (not in the bill))

County family and children first councils help families seeking government services to streamline and coordinate existing government services. Each county council is comprised of certain mandatory members, as well as other representatives invited by the board of county commissioners. One of the mandatory members is the superintendent of the county DD board.

A superintendent of a county DD board may serve as the superintendent of more than one county DD board pursuant to an agreement entered into between county DD boards. When a superintendent serves as the superintendent for multiple counties, the bill permits the superintendent to appoint a designee to participate on the county council.

Regional Training Center – Butler County PCSA

(R.C. 5103.42)

Under existing law, prior to the beginning of the fiscal biennium that first followed October 5, 2000, the public children services agencies (PCSAs) of Athens,

Cuyahoga, Franklin, Greene, Guernsey, Hamilton, Lucas, and Summit counties were each required to establish and maintain a regional training center. At any time after the beginning of the specified biennium, the Department of Job and Family Services (ODJFS), on the recommendation of the Ohio Child Welfare Training Program Steering Committee, may direct a PCSA to establish and maintain a training center to replace a center established by a PCSA under the requirement described above. There may be no more and no less than eight centers in existence at any time. ODJFS may make a grant to a PCSA that establishes and maintains one of the regional training centers for the purpose of wholly or partially subsidizing the operation of the center. ODJFS must specify in the grant all of the center's duties, including the duties described in the second succeeding paragraph.

The bill requires the Butler County PCSA, prior to the beginning of the fiscal biennium that first follows the effective date of the bill's provisions enacting the requirement, to establish and maintain a regional training center for training caseworkers and supervisors of PCSAs and related functions. It eliminates the duty of the Hamilton County PCSA to establish and maintain such a center and specifies that the center established by the Butler County PCSA replaces the center previously established under existing law by the Hamilton County PCSA.

R.C. 5103.422, not in the bill, specifies that a regional training center's responsibilities include: (1) securing facilities suitable for training provided under the Ohio Child Welfare Training Program established by ODJFS under R.C. 5103.30, (2) providing administrative services and paying administrative costs related to the training, (3) maintaining a database of the data contained in the individual training needs assessments for each PCSA caseworker and PCSA caseworker supervisor employed by a PCSA located in the center's training region, (4) analyzing training needs of PCSA caseworkers and PCSA caseworker supervisors employed by a PCSA located in the center's training region, and (5) coordinating training at the center with the Ohio Child Welfare Training Program Coordinator. R.C. 5103.41, not in the bill, required ODJFS, prior to the beginning of the fiscal biennium that first followed October 5, 2000, and in consultation with the Ohio Child Welfare Training Program Steering Committee, to designate eight training regions in the state. ODJFS and the Committee, at times they select, must review the training regions' composition. ODJFS may change the training regions' composition as it considers necessary. Each training region may contain only one regional training center.

MISCELLANEOUS

Annual report on risk management reserves

- Eliminates the requirement for an annual actuarial examination and written report for the preceding calendar year to be sent to the legislative leaders reporting on the amounts reserved and disbursements made from reserves in the state's Risk Management Reserve Fund.

Public official bonding requirements

- Eliminates the requirement for the Governor's approval and for multiple sureties to assure official public office bonds for the statewide elected officials, and requires instead that only one surety authorized to do business in Ohio assure the bond in the amount stated under current law for each officer, conditioned for the faithful discharge of the duties of the respective offices.

- Removes the requirement for the Governor to approve the surety for bonds given by cabinet-level department appointees, and removes the requirement for the Governor to fix the amount of the bond, which must be not less than $10,000.

- Allows the Department of Administrative Services to procure a schedule or blanket bond from an authorized corporate surety authorized to do business in Ohio for these appointees and any other office the Governor designates.

- Removes the current authority for the director of each department, with the Governor's approval, to require any chief of a division, or any officer or employee in the director's department, to give bond in the amount the Governor prescribes.

Retention of investment interest

- Provides that the investment earnings on the cash balance of the following funds are to be credited to the respective fund: the Job Ready Site Development Bond Service Fund, the Mental Health Facilities Improvement Fund, the Parks and Recreation Improvement Fund, the Facilities Establishment Fund, and the Coal and Research Development Fund.

Court of Claims

- Specifies, in certain actions in the Court of Claims, that there is no limitation on compensatory damages for "the actual loss of the person who is awarded the damages," and, except in wrongful death actions, limits the damages not representing that actual loss to not more than $250,000 in favor of any one person.

- In an action described in the preceding dot point, provides that recoveries against the state are to be reduced by *benefits* or other collateral recovery (existing law), defines "benefits" and "collateral recovery," and prohibits any person from bringing a civil action under a subrogation provision in an insurance or other contract against the state with respect to those benefits.

Screening tool for high-risk youth

- Requires the Office of Health Transformation to convene a team comprised of various state departments to evaluate the feasibility of implementing a trauma screening tool for high-risk youth, and permits the Department of Youth Services to receive funds for piloting the recommended tool in detention centers.

Annual report on risk management reserves

(R.C. 9.823)

Current law creates the Risk Management Reserve Fund in the state treasury to provide insurance and self-insurance for the state. The fund, consisting of contributions from each state agency or any participating state body, must be operated on an actuarially sound basis. The Director of the Office of Risk Management is authorized to procure the services of a qualified actuarial firm for the purpose of recommending the specific amount of money that would be required to maintain adequate reserves for a given period of time.

The bill removes the current requirement for an annual actuarial examination and written report to be conducted and a written report sent to the Speaker of the House of Representatives and the President of the Senate by the end of March for the preceding calendar year. The report was to provide amounts reserved and disbursements made from the reserve, together with a written report of a competent property and casualty actuary certifying the adequacy of the rates of contribution, the sufficiency of excess insurance, and whether the amounts reserved conform to the other requirements of the law, and are computed in accordance with accepted loss reserving standards, and are fairly stated in accordance with sound loss reserving principles.

Public official bonding requirements

(R.C. 109.06, 111.02, 113.02, 117.03, and 121.11)

The bill eliminates the current requirement for the Governor's approval and for multiple sureties to assure official public office bonds for the statewide elected officials

(Attorney General, Secretary of State, Treasurer of State, and Auditor of State), and requires instead that only one surety authorized to do business in Ohio assure the bond in the amount stated under current law for each officer, conditioned for the faithful discharge of the duties of the respective offices.

The bill removes the requirement for the Governor to approve the surety for bonds of cabinet-level department appointees, and removes the requirement for the Governor to fix the amount of the bond, which must be not less than $10,000. The bill retains the $10,000 threshold but does not state who determines the amount.

The bill allows the Department of Administrative Services to procure a schedule or blanket bond covering those cabinet level appointees and any other officers the Governor designates from any duly authorized corporate surety authorized to do business in Ohio.

The bill removes the authority for the director of each department, with the Governor's approval, to require any chief of a division, or any officer or employee in the director's department, to give bond in the amount the Governor prescribes.

Retention of investment interest in funds

(R.C. 151.11, 154.20, 154.22, 166.03, and 1555.15)

The bill provides that the investment earnings on the cash balance in each of the following funds are to be credited to the respective fund:

(1) Job Ready Site Development Bond Service Fund;

(2) Mental Health Facilities Improvement Fund;

(3) Parks and Recreation Improvement Fund;

(4) Facilities Establishment Fund;

(5) Coal and Research Development Fund.

Court of Claims – state waiver of immunity; recovery standards

(R.C. 2743.02)

Standards for recovery against the state

The bill provides that, notwithstanding any other provision of the Revised Code or rules of a court to the contrary, in an action against the state to recover damages for injury, death, or loss to person or property caused by an act or omission of the state

itself, of any officer or employee of the state while acting within the scope of employment or official responsibilities, or of any other person authorized to act on behalf of the state that occurred while engaged in activities at the request or direction, or for the benefit, of the state, the following apply:

(1) Punitive or exemplary damages cannot be awarded.

(2) Recoveries against the state must be reduced by the aggregate of "benefits" (the definition below includes insurance proceeds and disability awards in existing law and others added by the bill) or other "collateral recovery" (existing law and the bill defines this term) received by the claimant for the injury, death, or loss. If a claimant receives or is entitled to receive benefits or other collateral recovery, the claimant or the claimant's attorney must disclose the benefits or other collateral recovery to the court, and the court must deduct the amount of the benefits or other collateral recovery from any award against the state recovered by the claimant. No insurer or other person is entitled to bring a civil action under a subrogation provision in an insurance or other contract against the state with respect to those benefits or other collateral recovery. Nothing in this provision affects or is to be construed to limit the rights of a beneficiary under a life insurance policy or the rights of sureties under fidelity or surety bonds. The provision described in this paragraph does not apply to civil actions in the Court of Claims against a state university or college under the circumstances described in R.C. 3345.40 (damages recoverable against state university or college). The collateral benefits provisions of R.C. 3345.40(B)(2) apply under those circumstances.

(3) There cannot be any limitation on compensatory damages that represent "the actual loss of the person who is awarded the damages," as defined below. However, except in wrongful death actions, damages that arise from the same cause of action, transaction or occurrence, or series of transactions or occurrences and that do not represent the actual loss of the person who is awarded the damages must not exceed $250,000 in favor of any one person. This limitation does not apply to court costs that are awarded to a claimant, or to interest on a judgment rendered in favor of a claimant, in an action against the state.

Definitions

The bill defines the following terms:

(1) "Benefits" includes, but is not limited to, proceeds from a policy or policies of insurance, social security benefits, veterans' benefits, unemployment compensation, workers' compensation, Medicaid benefits, Medicare benefits, and disability awards.

(2) "Collateral recovery" includes, but is not limited to, any settlements with and judgments against third parties that arise out of the same operative facts involved, and

the injury, death, or loss allegedly incurred, in the action against the state, or any other source of recovery for any such injury, death, or loss.

(3) Except as described in (4), below, "the actual loss of the person who is awarded the damages" includes all of the following:

(a) All wages, salaries, or other compensation lost by the person injured as a result of the injury, including wages, salaries, or other compensation lost as of the date of a judgment and future expected lost earnings of the injured person;

(b) All expenditures of the injured person or of another person on behalf of the injured person for medical care or treatment, rehabilitation services, or other care, treatment, services, products, or accommodations that were necessary because of the injury;

(c) All expenditures to be incurred in the future, as determined by the court, by the injured person or by another person on behalf of the injured person for medical care or treatment, rehabilitation services, or other care, treatment, services, products, or accommodations that will be necessary because of the injury;

(d) All expenditures of a person whose property was injured or destroyed or of another person on behalf of the person whose property was injured or destroyed in order to repair or replace that property;

(e) All expenditures of the injured person, of the person whose property was injured or destroyed, or of another person on behalf of either of those persons in relation to the actual preparation or presentation of the claim involved;

(f) Any other expenditures of the injured person, of the person whose property was injured or destroyed, or of another person on behalf of either of those persons that the court determines represent an actual loss experienced because of the personal or property injury or property loss.

(4) "The actual loss of the person who is awarded the damages" does not include either of the following:

(a) Any fees paid or owed to an attorney for any services rendered in relation to the personal or property injury or property loss;

(b) Any damages awarded for pain and suffering, for the loss of society, consortium, companionship, care, assistance, attention, protection, advice, guidance, counsel, instruction, training, or education of the injured person, for mental anguish, or for any other intangible loss.

Screening tool for high-risk youth

(Section 501.10)

Under the bill, the Office of Health Transformation is to convene a team comprised of the Departments of Youth Services, Medicaid, Job and Family Services, Health, and Mental Heath and Addiction Services. The team is required to evaluate the feasibility of implementing a trauma screening tool for high-risk youth and issue a report that includes (1) the recommended trauma screening tool to be used to evaluate high-risk youth, (2) training in the administration of the recommended tool, (3) screening protocols, (4) the persons to whom the recommended tool should apply, and (5) the implications for treatment. The report is to be completed by December 1, 2013, and distributed to the Governor. The bill permits the Department of Youth Services to receive funds for piloting the recommended tool in detention centers.

NOTE ON EFFECTIVE DATES

(Sections 812.10 to 812.60)

Article II, Section 1d of the Ohio Constitution states that "appropriations for the current expenses of the state government and state institutions" and "[l]aws providing for tax levies" go into immediate effect and are not subject to the referendum. The bill includes a default provision stating that, except as otherwise specifically provided, the amendment, enactment, or repeal of a section in the bill is subject to the referendum and takes effect on the 91st day after the act is filed with the Secretary of State (barring the filing of a referendum petition). The bill also includes many exceptions to the default provision, some of which provide that specified provisions are not subject to the referendum and go into immediate effect.

EXPIRATION CLAUSE

(Section 809.10)

The bill includes an expiration clause that traditionally is part of a budget bill. The expiration clause states that an item that composes the whole or part of an *uncodified* section contained in the bill (other than an amending, enacting, or repealing clause) has no effect after June 30, 2015, unless its context clearly indicates otherwise.

HISTORY

ACTION	DATE
Introduced	02-12-13

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