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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
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Office

H.B. 2*
135th General Assembly

Bill Analysis

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Version: As Passed by the House

Primary Sponsors: Reps. Cutrona and Upchurch

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SUMMARY

Capital appropriations

- Makes capital appropriations for the biennium ending June 30, 2026.

Local Jail Facility Funding Program

- Creates the Local Jail Facility Funding Program in the Department of Rehabilitation and Correction (DRC).
- Requires DRC, each year as money is available, to designate projects involving the construction and renovation of county jails, using a funding formula by which the Department of Taxation (TAX) ranks counties by the county's total property value and taxable retail sales.
- Requires DRC to adopt application guidelines and conduct a needs assessment before determining which counties receive funding.
- Provides that a county's portion of the basic project cost is a percentage equal to the county's percentile ranking pursuant to the funding formula, except that the state must pay at least 25% of the basic project cost.

Large Local Jail Facility Funding Program

- Creates the Large Local Jail Facility Funding Program in DRC.

* This analysis does not address appropriations, fund transfers, and similar provisions in detail. See the Legislative Service Commission's Fiscal Note for H.B. 2 for an analysis of those provisions.

- Requires DRC, each year as money is available, to designate projects involving the construction and renovation of county jails, using a funding formula by which TAX ranks counties by their property tax and sales tax revenues.
- Within 45 days of DRC publishing TAX's financial need ranking, a county or counties may apply for assistance if the county's or counties' share of the basic project cost, as calculated under the bill, would be 75%.
- Requires DRC to adopt application guidelines and conduct a needs assessment before determining which counties receive funding.

DETAILED ANALYSIS

Capital appropriations

One Time Strategic Community Investments

The bill appropriates \$350 million to the Office of Budget and Management¹ to fund projects from the One Time Strategic Community Investments Fund, which was created in 2023 in H.B. 33 of the 135th General Assembly, the main appropriations act.² The bill funds capital projects across communities in the state.

Other appropriations

The bill appropriates \$1.65 billion to the following entities:

- \$397 million to state-supported and state-assisted institutions of higher education;³
- \$150 million to the Department of Rehabilitation and Correction, to support the Local Jail Facility Funding programs, plus \$100 million for the Large Local Jail Facility Funding Program (see below);⁴
- \$600 million to the Ohio Facilities Construction Commission for the School Building Program;⁵
- \$400 million to the Ohio Public Works Commission for the State Capital Improvement and Local Public Infrastructure programs.⁶

¹ Sections 250.10 and 250.20.

² Section 513.10, H.B. 33, 135th General Assembly.

³ Sections 207.20 through 207.450.

⁴ Sections 229.10 and 229.20.

⁵ Sections 237.10 and 237.30.

⁶ Sections 243.10 and 243.20.

Local Jail Facility Funding Program

The bill creates the Local Jail Facility Funding Program in the Department of Rehabilitation and Correction (DRC). Each year, as money is available, DRC must designate projects involving the construction and renovation of county jails using a funding formula to determine which projects are eligible to receive funding. A similar program was created in 2023, also in H.B. 33, and is set to expire on July 1, 2024.⁷ The bill appropriates \$150 million to DRC for the FY 2025-FY 2026 capital biennium for the program.⁸

Funding formula

DRC must choose which projects to fund using a funding formula that ranks counties based on sales tax and property tax revenue. The Department of Taxation (TAX) conducts the ranking. The ranking formula is as follows:

- First, TAX takes the total value of all property in the county listed and assessed for taxation on the tax list in the preceding tax year, and lists each county in order of total value, ascending, so that the county with the lowest value is number one on the list – its property tax ranking.
- Second, TAX ranks each county based on the estimate of the gross amount of taxable retail sales sourced to the county as reported by TAX for the preceding fiscal year, computed by dividing the total amount of tax revenue the county received during that period from sales taxes and use taxes by the aggregate sales tax rate currently levied by the county. TAX lists each county in order of total value, ascending, so that the county with the lowest value is number one on the list – its sales tax ranking. Any county that does not currently levy sales taxes is automatically ranked at number 88 on the list.
- Then, for each county, TAX adds the numbered rank for property values to the numbered rank for sales tax, and orders the counties according to the sum of the two ranks, the county with the lowest sum being number one on the list. The percentile ranking is determined by dividing the county's ranking on this final list by 88, and multiplying it by 100. This percentile ranking not only is used to help determine which counties to invite to apply for assistance, but also to determine the county's basic share of the project cost.

For this final ranking, if two or more counties are tied, the county with the lowest population receives the lowest final ranking. The final ranking for the counties should be numbers 1 through 88.

⁷ Section 383.10, H.B. 33, 135th General Assembly.

⁸ Sections 229.10 and 229.20.

Application process and needs assessment

Upon receiving the final rankings, DRC must select a number of the lowest ranking counties and invite them to apply for assistance. Two or more counties may apply jointly as long as at least one was invited to apply.

DRC must adopt guidelines to accept and review applications and designate projects, including guidelines requiring counties to justify the need for the project.

Upon a county's application, DRC must conduct a needs assessment for that county, to determine the following:

- The county's need for additional jail facilities, or for renovations or improvements to existing jail facilities, based on whether and to what extent existing facilities comply with safety and construction standards, including their age and condition;
- The number of jail facilities to be included in a project;
- The estimated annual, monthly, or daily cost of operating the facility once it is operational, as reported and certified by the county auditor;
- The estimated basic project cost of constructing, acquiring, reconstructing, or making additions to each facility; and
- Whether the county has recently received a grant from the state to construct or renovate jail facilities.

Following the needs assessment, DRC may approve constructing, acquiring, reconstructing, or making additions to a jail facility only upon evidence that the proposed project conforms to existing construction and renovation standards, and that it keeps with the needs of the county or counties as determined by the needs assessment. Exceptions are authorized only in those areas where topography, sparsity of population, and other factors make larger jail facilities impracticable.

Basic project cost

The county's portion of the basic project cost equals its percentile ranking. The state's portion is the remainder, except that the state's portion is always at least 25%. If the county's portion is calculated to exceed 75%, the county's portion must be 75%. For multicounty jail facilities, if the sum of the counties' portions of the total basic project cost are calculated to exceed 75%, the counties' portions are determined pro rata, so that the sum of their portions is 75%.⁹

Large Local Jail Facility Funding Program

Additionally, the bill creates the Large Local Jail Facility Funding Program in DRC, in which higher ranking counties – counties that would have a basic project cost of 75% – may

⁹ R.C. 5120.12.

apply. Each year, as money is available, DRC must designate projects involving the construction and renovation of county jails using a funding formula to determine eligibility. The bill appropriates \$100 million to DRC for the FY 2025-FY 2026 capital biennium for the program.¹⁰

Application process and needs assessment

Within 45 days of DRC publishing TAX's financial need ranking as described above, a county or counties may apply for assistance if the county's or counties' share of the basic project cost, as calculated above would be 75%.

DRC must adopt guidelines to accept and review applications and designate projects, including guidelines requiring counties to justify the need for the project. The application must include the following:

- A project proposal for the construction or renovation of jail facilities, with a reasonable estimate of what the basic cost would be, as well as the daily, monthly, or annual cost of operating the facility once it is complete;
- Evidence that the county will be able to generate adequate revenue to fund the county portion of the basic project cost and the operations and maintenance of the proposed jail facility or facilities;
- The signatures of each member of the board of county commissioners, as well as the county auditor, or in the case of a charter county, the signature of the executive or president of the legislative or taxing authority of the county, as well as the county auditor.

Upon receiving a county's application, DRC must choose the lowest ranking county that applied, whether or not the county is applying jointly with other counties. If satisfied that the application meets all the requirements discussed above, DRC must then conduct a needs assessment. If DRC is not satisfied that the application meets all of the requirements, DRC must choose the next lowest ranking county that applied, and for which it is satisfied that the requirements of the application are met, and invite that county to apply. When conducting the needs assessment, DRC will request that the county or counties submit an updated application for assistance, which will have the same requirements as the original application, discussed above, except that the application must state the basic project cost and operating and maintenance costs as determined by DRC under the needs assessment and must contain evidence that the county will be able to generate adequate revenue to fund the county portion of the basic project cost and the operations and maintenance of the proposed jail facility or facilities.

Following the updated application, DRC may approve constructing, acquiring, reconstructing, or making additions to a jail facility only upon evidence that the application complies with update application requirements, that the proposed project conforms to existing

¹⁰ Sections 229.10 and 229.20.

construction and renovation standards, that it keeps with the needs of the county or counties as determined by the needs assessment, and that the county or counties will generate adequate revenue to fund the county portion of the basic project cost and the operations and maintenance of the proposed jail facility or facilities. Exceptions are authorized only in those areas where topography, sparsity of population, and other factors make larger jail facilities impracticable.

If DRC does not make a determination in favor of a project, it must invite the next eligible county to apply for assistance and proceed with the process.

Under this program, beginning with the lowest ranking county or counties that are determined to be eligible and proceeding from the lowest to the highest ranked eligible county or counties, the state must pay 25% of the county's or counties' basic project cost or, if the remaining amount of appropriated funds is less than 25%, the remaining amount of appropriated funds. If DRC awards less than 25% of the basic project cost to a county or counties, DRC must give priority to that county or those counties when it awards funding in the next subsequent year.¹¹

HISTORY

Action	Date
Introduced	02-15-23
Reported, H. Finance	02-07-24
Passed House (75-19)	02-07-24

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¹¹ R.C. 5120.121.