OHIO LEGISLATIVE SERVICE COMMISSION

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Office of Research and Drafting

Legislative Budget Office

H.B. 33
135th General Assembly

Bill Analysis

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Version: As Passed by the Senate

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SUMMARY

This analysis is arranged by state agency 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.

Separate segments at the end address items affecting local government, revisions to adjudication procedures under the Administrative Procedure Act (R.C. Chapter 119), which apply across state government, and authority for state agencies to make electronic notifications and conduct meetings by electronic means.

The analysis concludes with a note on effective dates, expiration, and other administrative matters.

Within each agency and category, a summary of the items appears first (in the form of dot points) followed by a more detailed discussion.

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ACCOUNTANCY BOARD

Certified Public Accountant Education Assistance Fund

- Eliminates the Certified Public Accountant Education Assistance Program.
- Expands the uses of the Certified Public Accountant Education Assistance Fund, requires the Accountancy Board to contract with a private organization to use the fund for specified purposes, and requires the organization to apply to the Educational Assistance Committee to receive money from the fund.
- Requires the Board to ensure that, of the amount of money disbursed from the fund in each FY for approved expenditures, at least ½ of that amount is expended on workforce development and attraction programs.
- Codifies the $30 surcharge the Board assesses on Ohio permit and registration fees, allows the Board to prorate the surcharge for permits or registrations issued for less than three years, and eliminates the range of surcharge fees the Board may charge based on the number of years for which the permit or registration is issued.

Certified public accountant residency requirement

- Eliminates the requirement that an applicant for a certified public accountant certificate either be an Ohio resident, have a place of business in Ohio, or be regularly employed in Ohio to receive the certificate.

Electronic register of public accountants

- Requires the Accountancy Board to switch its register of licensed accountants from a printed to an electronic format, requires the electronic version to be publicly available and searchable, and modifies the information that must be included in the register.

Certified Public Accountant Education Assistance Fund

(R.C. 4701.10 and 4701.26)

The bill eliminates the Certified Public Accountant Education Assistance Program administered by the Accountancy Board. However, it retains and expands the uses of the existing Certified Public Accountant Education Assistance Fund. The bill requires the Board to contract with an Ohio-based statewide membership organization representing CPAs in Ohio to use the fund.

Under continuing law, the fund is used to provide scholarships to students enrolled in accounting education programs at Ohio colleges or universities.[1] The bill expands the uses of the fund to include, subject to approval as described below, any of the following purposes:

[1] Ohio Administrative Code (O.A.C.) 4701-17-01 and 4701-17-02.

- For efforts to increase the number of CPAs in Ohio, including efforts to engage with high school and college students, nontraditional students, and minority group members;
- To create and implement workforce development and attraction programs;
- To provide financial assistance to individuals who meet the educational requirements to obtain a CPA certificate for the costs associated with obtaining a CPA certificate, including study materials for, or fees to take, the CPA examination or a reexamination;
- To defray administrative costs incurred in carrying out the purposes described above.

Application and disbursement

The bill statutorily requires the Board to adopt rules to create the Education Assistance Committee. The Committee must meet at least once each calendar quarter. Before expending funds for any of the purposes listed above, an organization with which the Board has contracted must apply to the Committee. The organization must identify in the application for which purpose the funds are to be used and the amount allocated for each purpose. The Committee must approve or deny the application. If the Committee approves an application, the Board may disburse money from the fund to the organization to be expended only for the purposes listed above. The Committee, as a condition of approving an application, cannot require the organization to expend money for the purposes for which the organization is applying before the organization applies for or receives money from the fund.

Currently, the Educational Assistance Committee, created in Board rule, advises the Board on matters relating to the Education Assistance Program. The Committee consists of three members, and the Board chair may appoint additional members.[2]

Fund allocation

Of the amount of money disbursed from the fund in each FY for expenditures the Board approves, the Board must ensure at least ½ of that amount is expended for workforce development and attraction programs. The Board, to the extent practicable, must ensure all money appropriated in each FY to the fund is expended for the purposes listed above.

Ohio permit and registration surcharges

Continuing law requires the Board to assess a surcharge on Ohio permit and registration fees that is used to fund the Certified Public Accountant Education Assistance Fund. The bill sets the surcharge at $30 and eliminates the range of surcharge amounts (currently capped at $30) the Board may charge based on the number of years for which the permit or registration is issued. The Board may prorate the surcharge for permits or registrations issued for less than three years.

[2] O.A.C. 4701-1-10.

Under continuing law, money collected from the surcharge is paid into the Occupational Licensing and Regulatory Fund. Each quarter, the Director of Budget and Management must transfer that money to the Certified Public Accountant Education Assistance Fund.[3]

Certified public accountant residency requirement

(R.C. 4701.06, with a conforming change in R.C. 4701.17)

The bill modifies eligibility requirements for an applicant to obtain a certified public accountant (CPA) certificate. It eliminates the requirement that the applicant be an Ohio resident, have a place of business in Ohio, or be regularly employed in Ohio. It also eliminates the Board's authority to determine by rule circumstances under which that residency requirement may be waived. Continuing law requires an applicant to pay a fee, be at least 18 years old, meet certain education and experience requirements, pass an examination, and comply with a criminal records check to receive the certificate.[4]

Electronic register of public accountants

(R.C. 4701.13)

The bill modifies the format of and information the Board must include in the register of public accountants that the Board must publish under continuing law. It requires the Board to maintain a publicly available and searchable electronic register rather than an annual printed one as currently required. The bill expands the information the Board must include in the register to include, in addition to the names as under current law, the license numbers, license types, license status, and disciplinary history of all licensed public accountants as of the date the register is accessed. The bill eliminates the requirement that each certified public accountant's or public accountant's business address be included in the register.

[3] R.C. 4743.05, not in the bill.

[4] R.C. 4701.08, not in the bill.

ADJUTANT GENERAL

- Expressly requires the Adjutant General to manage the recruitment of individuals for service in the Ohio Organized Militia.
- Establishes a death benefit entitlement, currently only available to Ohio National Guard member beneficiaries, to the beneficiaries of all members of the Ohio Organized Militia.
- Clarifies the Adjutant General's authority with respect to administration of the Ohio Cyber Reserve.

Ohio Organized Militia recruitment

(R.C. 5913.01)

The bill expressly requires the Adjutant General to manage the recruitment of individuals for service in the Ohio Organized Militia, which consists of the Ohio National Guard, the Ohio Naval Militia, the Ohio Military Reserve, and the Ohio Cyber Reserve.[5] Under continuing law, the Adjutant General is the commander and administrative head of the Ohio Organized Militia.

Ohio Organized Militia death benefit

(R.C. 5923.12)

The bill requires the Adjutant General to pay a death benefit of $100,000, to the beneficiary or beneficiaries of a member of the Ohio Naval Militia, the Ohio Military Reserve, or the Ohio Cyber Reserve, who was ordered to state active duty by proclamation of the Governor, and who died while performing that duty. In order to be eligible, a beneficiary or beneficiaries must have been designated in writing on a form prescribed by the Adjutant General. Under current law, a state active duty death benefit is available to beneficiaries of Ohio National Guard members.[6] The bill expands the benefit to all members of the Ohio Organized Militia.

The Ohio Military Reserve and the Ohio Naval Militia are military and naval forces that the Governor, under law, is required to organize and maintain. The forces are trained to defend the state whenever the Ohio National Guard, or a part thereof, is employed out of state. It is not subject to induction into federal service.[7]

The Ohio Cyber Reserve is a civilian cyber security reserve force that the Governor is required by law to organize and maintain. It must be capable of being expanded and trained to educate and protect state, county, and local government entities, critical infrastructure, including election systems, businesses, and citizens of Ohio from cyber attacks.[8]

[5] R.C. 5923.01, not in the bill.

[6] R.C. 5919.33, not in the bill.

[7] R.C. 5920.01, 5921.01, and 5921.12, not in the bill.

[8] R.C. 5922.01.

Ohio Cyber Reserve administration

(R.C. 5922.01)

The bill expressly authorizes the Adjutant General to provide appropriate training to current and potential members of the Ohio Cyber Reserve. Under continuing law, reserve members serve in an unpaid volunteer status while performing any drill or training. The bill clarifies that this applies to both current and potential reserve members.

The bill clarifies that the Adjutant General is authorized to establish rates of pay for members of the Ohio Cyber Reserve.

Further, the bill expressly authorizes the Adjutant General to pay from funds appropriated by the General Assembly the actual and necessary expenses incurred by the Ohio Cyber Reserve for its administration, training, or deployment. The bill specifies that expenses for administration, training, and deployment may include permanent or temporary state employees or contractual internal or external administrative staff, travel and subsistence expenses, the purchase or rental of equipment, hardware, and local operational support.

DEPARTMENT OF ADMINISTRATIVE SERVICES

Ban certain applications on state networks and devices

- Prohibits the download, installation, or use of TikTok, WeChat, or other Chinese-owned applications on state computers, networks, and devices.

DAS and state agency purchasing

- Makes changes and clarifications to state procurement law.

Opening of competitive bids

- Requires DAS to open competitive sealed bids and competitive sealed proposals in the standardized system of electronic procurement rather than publicly opened in the DAS office.
- Removes the requirement that a representative of the Auditor of State be present at and certify the opening of certain bids and proposals.

Competitive sealed proposals

- Clarifies DAS authority to award a contract to multiple offerors whose competitive sealed proposals are determined to be most advantageous to the state.

State agency direct purchasing authority

- Clarifies state agency direct purchasing authority.

Electronic procurement system

- Specifies that a purchase, by DAS or a state agency through the electronic procurement system established by DAS, constitutes a competitive selection procedure, if the contract for the supplies or services being procured was selected for inclusion in the electronic procurement system using one of the competitive selection methods defined in current law.
- Removes an outdated provision that required DAS to implement relevant recommendations regarding electronic procurement from the "2000 Management Improvement Commission Report to the Governor."

Ohio-based personal protective equipment manufacturers' procurement program

- Establishes the Ohio-based personal protective equipment manufacturers program and requires a state agency to make certain qualifying purchases from an Ohio-based manufacturer.

State job classification plan

- Codifies an administrative rule governing the state job classification plan established by the DAS Director under continuing law related to stating qualifications in terms of

experience, training, specific coursework, or other terms, rather than in terms of academic degrees.

- Prohibits an appointing authority from requesting a minimum qualification that differs from the Director's classification specification if it is stated solely in terms of academic degrees.

Increased parental leave benefits

- Increases parental leave benefits for certain state employees by replacing the current six-week leave period, which includes a 14-day unpaid waiting period, with eight weeks of paid leave.
- Requires an eligible employee to be paid at 100% of the employee's base rate of pay for the first two weeks of the parental leave period.
- For the remaining six weeks of the parental leave period, requires the employee to be paid at the current rate (i.e., 70% of the employee's base rate), which may be supplemented under continuing law with other forms of leave to equal 100% of the employee's base rate of pay.

Bereavement leave

- Specifies that a permanent employee paid by OBM warrant must begin bereavement leave granted under continuing law not more than five days after the death of the family member that forms the basis for the leave, or not more than five days before or after the funeral of the person whose death formed the basis for the leave.
- Allows an employee to take bereavement leave on the basis of a miscarriage or the stillbirth of a child by providing appropriate medical documentation (in the case of a miscarriage) or a fetal death certificate (in the case of a stillbirth).
- Specifies that an employee who takes bereavement leave on the basis of a stillbirth is ineligible to take parental leave or benefits granted under continuing law based on the same stillbirth.

DAS reports regarding public works

- Repeals a requirement that the DAS Director make an annual report to the Governor related to public works expenses under the Director's supervision.
- Repeals law requiring the Director make other reports, upon the Governor's request, regarding the condition and welfare of public works and related drainage, leaseholds, and water powers.

Professions Licensing System Fund

- Eliminates the Professions Licensing System Fund and deposits transaction fees from the electronic issuance of licenses to the Occupational Licensing and Regulatory Fund instead.

MARCS Steering Committee

- Modifies the membership of the Multi-Agency Radio Communications System (MARCS) Steering Committee.
- Repeals the uncodified law that originally created and modified the Committee in the 120th and 121st General Assemblies, clarifying that the most recent uncodified law governs the Committee's membership, name, purpose, and responsibilities.

Ban certain applications on state networks and devices

(R.C. 125.183)

In January 2023, Governor DeWine issued an executive order that prohibits the download and use of any social media application, channel, and platform that is owned by an entity in China on devices and networks that are owned or leased by the state.[9] Similarly, the bill prohibits the download, installation, and use of covered applications on state agency computers, networks, and devices. A "covered application" is defined as:

- The TikTok application, or any successor application or service developed or provided by ByteDance;
- The WeChat application and service, or any successor application or service developed or provided by Tencent Holdings; or
- Any application or service owned by an entity located in China, including QQ International (QQi), Qzone, Weibo, Xiao, HongShu, Zhihu, Meituan, Toutiao, Alipay, Xiami Music, Tiantian Music, DingTalk Ding, Douban, RenRen, Youku/Tudou, Little Red Book, and Zhihu.[10]

The bill's prohibition is effectuated by rules adopted by the State Chief Information Officer, in accordance with the Administrative Procedure Act. The rules must require state agencies to remove any covered applications from equipment owned or leased by the state and take necessary measures to prevent the download, installation, and use of covered applications on state computers, networks, and devices. A "state agency" is defined as every organized body, office, or agency established by the state for the exercise of any function of state government. The General Assembly, any legislative agency, and the Capitol Square Review and Advisory Board

[9] "Executive Order 2023-03D," Governor Mike DeWine, which may be accessed on the Governor's website: governor.ohio.gov, under the "Media" tab by clicking "Executive Orders" and then searching for "2023-03D."

[10] R.C. 125.183(A)(1).

are included in this definition. The definition excludes any state-supported institution of higher education, the courts, or any judicial agency.[11]

Exceptions

The bill includes an exception that allows qualified individuals to download, install, and use a covered application for law enforcement or information technology security purposes. To do so, appropriate measures must be taken to mitigate security risks.[12]

DAS and state agency purchasing

(R.C. 125.01, 125.09, 125.11, 153.54, 307.87, 307.90, and 3345.10; repealed R.C. 505.103 and 717.21)

The bill eliminates the following provisions of current state purchasing law:

- A requirement that "insurance" is a type of supply expressly subject to certain state purchasing laws. Under continuing law, DAS generally must purchase any policy of insurance covering offices or employees of a state agency for which the annual premium is more than $1,000.[13]
- A provision that DAS may require each bidder or offeror to provide sufficient information about the energy efficiency or energy usage of the bidder's or offeror's product, supply, or service.
- A requirement, regarding contracts for certain meat and poultry products, that DAS only accept bids from vendors under inspection of the U.S. Department of Agriculture or who are licensed by the Ohio Department of Agriculture. Under current federal law, all meat sold commercially must be inspected for safety.
- A requirement that DAS award certain contracts to qualified nonprofit agencies under the Office of Procurement from Community Rehabilitation Programs. Continuing law requires state agencies to purchase supplies or services that are on the procurement list maintained by that Office.
- A requirement that the DAS Director publish a model act for use by political subdivisions in establishing a system of preferences for purchasing Buy Ohio products, and eliminates the authority for a board of county commissioners, a board of township trustees, or the legislative authority of a municipality to adopt the model system of preferences.

[11] R.C. 125.183(A)(2) and (B).

[12] R.C. 125.183(C).

[13] R.C. 125.02(G), not in the bill.

Opening of competitive bids

(R.C. 125.10)

The bill requires DAS to open competitive sealed bids and competitive sealed proposals in the standardized system of electronic procurement rather than publicly opened in the DAS office. Continuing law requires that a sealed copy of each competitive sealed bid or competitive sealed proposal be filed with DAS before the time specified in the notice for opening of the bids or proposals. The bill removes the requirement in current law that a representative of the Auditor of State be present at and certify the opening of all such bids and proposals.

Competitive sealed proposals

(R.C. 125.071)

Under continuing law, the DAS Director may make purchases by competitive sealed proposal whenever the Director determines that using competitive sealed bidding is not possible or not advantageous to the state. The bill clarifies DAS authority to award a contract to multiple offerors whose proposals are determined to be the most advantageous to the state. Continuing law requires the contract file to contain the basis on which the award is made.

State agency direct purchasing authority

(R.C. 125.01, 125.05, and 127.16)

The bill clarifies that a state agency's direct purchasing authority under existing law, which authorizes the agency to make a purchase without competitive selection, requires the agency to use a selection process that complies with all applicable laws, rules, or regulations of DAS.

Electronic procurement system

(R.C. 125.01, 125.035, 125.05, and 125.073)

The bill specifies that a purchase, by DAS or a state agency through the electronic procurement system established by DAS, constitutes a competitive selection procedure, if the contract for the supplies or services being procured was selected for inclusion in the electronic procurement system using one of the competitive selection methods defined in current law. Under continuing law, competitive selection also includes purchases under the procedures outlined in procurement law for competitive sealed bidding, competitive sealed proposals, and reverse auctions.

The bill specifically authorizes a state agency that has been granted a release and permit from DAS to make the purchase by utilizing the electronic procurement system.

The bill also removes an outdated law that requires DAS to implement recommendations concerning electronic procurement from the "2000 Management Improvement Commission Report to the Governor."

Ohio-based personal protective equipment manufacturers' procurement program

(R.C. 125.035 and 125.036)

The bill requires the DAS Director to establish and maintain an Ohio-based personal protective equipment (PPE) manufacturers program. Under the program, the Director must establish and maintain a list of manufacturers qualified to fulfill purchase requests as a first requisite procurement program.

The bill requires a state agency to make certain qualifying purchases from an Ohio-based PPE manufacturer if an Ohio-based PPE manufacturer on the Director's list is able to fulfill the purchase request, but allows the Director to issue a release and permit for a foreign manufacturer, if purchasing from an Ohio-based PPE manufacture would result in the state agency paying a price that is 120% or higher than the price that is available from the foreign supplier.

Under the bill, "Ohio-based personal protective equipment manufacturer" means a manufacturer, at least two-thirds of the beneficial ownership of which is vested in residents of Ohio, that produces PPE in Ohio; and "personal protective equipment" means equipment worn to minimize exposure to hazards that cause workplace injuries and illnesses.

State job classification plan

(R.C. 124.14)

The bill codifies an administrative rule governing the state job classification plan established by the DAS Director under continuing law that does the following:

- Requires the Director to include in each classification specification a statement of the essential character of the work of the classification and the essential knowledge, abilities, skills, and qualifications required for a person to fill the position;
- Requires the Director to state qualifications in terms of experience, training, specific coursework, or other terms;
- Prohibits the Director from stating qualifications in terms of academic degrees unless the degrees are required by a specific statute or rule;
- Allows an appointing authority to request that the Director approve position-specific minimum qualifications that differ from those established by the Director.[14]

Additionally, an appointing authority is prohibited from requesting a minimum qualification that differs from the Director's classification specification if it is stated solely in terms of academic degrees.

Governor Mike DeWine signed Executive Order 2023-10D on May 15, 2023, to require DAS to develop a statewide policy on skills-based hiring that includes ensuring that all state

[14] O.A.C. 123:1-7-04.

agencies, departments, boards, and commissions are complying with the administrative rule codified by the bill. Additionally, the Executive Order requires DAS to review the use of both position-specific minimum qualifications and preferred qualifications in hiring practices and ensure that the qualifications are not stated in terms of academic degrees.

Increased parental leave benefits

(R.C. 124.136)

The bill increases parental leave benefits for certain state employees. Current law provides six weeks of parental leave for those employees, including a 14-day unpaid waiting period followed by four consecutive weeks of leave paid at 70% of the employee's base rate of pay. The bill increases the benefits to a total of eight consecutive weeks of paid parental leave. It does so in part by eliminating the 14-day waiting period and by instead requiring an eligible employee to be paid during the first two weeks of the leave period at 100% of the employee's base rate of pay. During the remaining six weeks of the leave period, the bill requires the employee to be paid at the current law rate of 70% of the employee's base rate, which the employee, under continuing law, may supplement with other forms of leave to equal 100% of the base rate of pay.

Continuing law provides that parental leave benefits may be granted to eligible state employees who satisfy either of the following criteria:

- They are the parent of a newly born or stillborn child and are listed as such on the birth certificate or fetal death certificate;
- They are the legal guardian of a newly adopted child who resides in their household, and they have not elected to receive the $5,000 lump sum for adoption expenses in lieu of the parental leave benefits.

To be eligible for parental leave benefits under continuing law, a state employee must fall into a category described below:

- A full- or part-time employee paid in accordance with the exempt salary schedule (generally, those who are subject to the state job classification plan but are exempt from collective bargaining);[15]
- Unclassified employees of the Office of the Secretary of State, Auditor of State, Treasurer of State, or Attorney General who are exempt from collective bargaining;
- Legislative employees and employees of the Legislative Service Commission, the Supreme Court, and the Office of the Governor;
- Employees of the Bureau of Workers' Compensation whose compensation is established by the Administrator of Workers' Compensation; and

[15] R.C. 124.152, not in the bill.

- Employees who hold a position for which the authority to determine compensation is given by law to an individual entity other than the DAS Director.

Under continuing law, the paid parental leave must be taken within one year of the birth, stillbirth, or placement for adoption of a child.

Bereavement leave

(R.C. 124.387)

Under continuing law, each full-time permanent and part-time permanent employee paid by warrant of the OBM Director is entitled to three days of paid bereavement leave due to the death of an immediate family member. The bill requires an employee to begin the leave during one of the following time periods:

- Not more than five days after the death of the family member that forms the basis for the leave;
- Not more than five days before or five days after the funeral of the person whose death formed the basis for the leave.

The bill also allows an employee entitled to bereavement leave to use the leave on the basis of a miscarriage or the stillbirth of a child. The employee must produce appropriate medical documentation (in the case of a miscarriage) or a fetal death certificate (in the case of a stillbirth). If an employee who is eligible for parental leave (which includes leave for a stillbirth) takes bereavement leave on the basis of a stillbirth, under the bill the employee is ineligible for parental leave based on the same stillbirth.

DAS reports regarding public works

(Repealed R.C. 123.14)

The bill repeals a requirement that the DAS Director make an annual report to the Governor "containing a statement of the expenses of the public works under the director's supervision during the preceding year, setting forth an account of moneys expended on each of the public works during the year, and such other information and records as the director deems proper." The report also must contain "a statement of the moneys received from all sources and an estimate of the appropriations necessary to maintain the public works and keep them in repair," as well as "a list of all persons regularly employed, together with the salary, compensation, or allowance paid each."

This information generally may now be found at checkbook.ohio.gov (see R.C. 113.71, not in the bill).

The bill repeals additional law requiring the DAS Director to make "such other reports as are proper, touching on the general condition and welfare of the public works and the drainage, leaseholds, and water powers incident thereto" when the DAS Director deems it necessary, or when called upon by the Governor.

Professions Licensing System Fund

(R.C. 125.18)

The bill eliminates the Professions Licensing System Fund, which currently receives transaction fees from the electronic issuance of a license or registration. Instead, those fees are to be deposited into the existing Occupational Licensing and Regulatory Fund.

MARCS Steering Committee

(Sections 610.10 and 610.20)

The bill modifies the membership of the Multi-Agency Radio Communications System (MARCS) Steering Committee. Specifically, it authorizes either the Directors of DAS, DPS, DNR, ODOT, DRC, and OBM, or their designees, to serve as members. Current law authorizes only the Directors' designees to serve, rather than the Directors themselves (with the exception of the State Fire Marshal).

Additionally, the bill adds the following members appointed by the Governor:

1. A representative of the Ohio Chapter of the Association of Public Safety Communications Officials;

2. A representative of the Buckeye State Sheriff's Association;

3. A representative of the Ohio Chiefs of Police Association;

4. A representative of the Ohio Fire Chiefs Association.

Finally, the bill repeals the uncodified sections that originally created and modified the Committee in the 120th and 121st General Assemblies (1993-1996).[16] Doing so the bill clarifies that the most recent uncodified law that continues the Committee's existence governs its membership, name (it was once renamed a "Council"), purpose, responsibilities, and use of funding.

[16] Section 21 of H.B. 790 of the 120th General Assembly, as amended by Section 11 of H.B. 670 of the 121st General Assembly.

DEPARTMENT OF AGING

Board of Executives of Long-Term Services and Supports

- Expands eligibility for the consumer member of the Board of Executives of a Long-Term Services and Supports (BELTSS) to include the representative of a consumer in a long-term services and supports setting.
- Adds an exception to the prohibition that complaints made to BELTSS are confidential and not subject to discovery in any civil action, permitting BELTSS to use the information in administrative hearings and admission in court pursuant to the Rules of Evidence.

Nursing home quality initiative projects

- Requires the Department to provide infection prevention and control services as a quality initiative improvement project.

Residential care facility shared bathrooms

- Prohibits the Department from denying certification to a residential care facility seeking to participate in the assisted living program on the basis that the facility permits two residents to share a bathroom, so long as the shared bathroom arrangement meets specified requirements.

Performance-based PASSPORT reimbursement

- Authorizes the Department to design a payment method for PASSPORT administrative agency operation that includes a pay-for-performance incentive component.

HHA and PCA training

- Prohibits the Department from requiring more hours of pre-service training and annual in-service training than required by federal law for home health aides (HHAs) providing services under the PASSPORT Program.
- Prohibits the Department from requiring more than 30 hours of pre-service training and six hours of annual in-service training for personal care aides (PCAs) providing services under the PASSPORT Program.
- Permits a registered nurse or licensed practical nurse to supervise an HHA or PCA providing services under the PASSPORT Program.

Long-term Care Ombudsman representative training

- Reduces training requirements for nonvolunteer representatives of the Office of the State Long-term Care Ombudsman.

Ohio Advisory Council for the Aging

- Specifies a new purpose for the Ohio Advisory Council for the Aging – to advise the Department as directed by the Governor and on the objectives of the federal Older Americans Act.

- Eliminates obsolete provisions regarding the date by which certain members must have been first appointed.

Golden Buckeye Card program

- Expands the formats possible for the Golden Buckeye Card to include physical or electronic cards, as well as endorsements on cards for one or more programs.

Board of Executives of Long-Term Services and Supports

Membership

(R.C. 4751.02)

Regarding the Board of Executives of Long-Term Services and Supports (BELTSS), the bill expands eligibility criteria for one member of the 11-member board. Continuing law requires one member to be a consumer of services offered in a long-term services and supports setting. Under the bill, a person who represents such a consumer is also eligible for the consumer-member role.

Confidentiality of complaints

(R.C. 4751.30)

Ohio law prohibits complaints made to BELTSS from being subject to discovery in any civil action. The bill deems such complaints as confidential, but establishes an exception to the confidentiality – it permits the complaints to be used by BELTSS in administrative hearings. Any entity that receives a complaint pursuant to an administrative hearing must maintain the complaint's confidentiality in the same manner as BELTSS. The bill also permits confidential complaints to be admitted in a judicial proceeding, but only in accordance with the Rules of Evidence of the court, and requires the court to take precautionary measures to ensure the confidentiality of any identifying information in the records.

Nursing home quality initiative projects

(R.C. 173.60)

Regarding the nursing home quality initiative program to promote person-centered care in nursing homes, the bill requires the Department to include infection prevention and control efforts as a component of the program. The bill requires the quality initiative program component to include facility technical assistance including services, programs, and content expertise, subject to the availability of funds. The infection prevention and control component must be included in a list of quality improvement projects that may be used by nursing homes to meet nursing home inspection and licensure requirements.

Residential care facility shared bathrooms

(R.C. 173.394 (primary), 173.39, and 173.391)

The bill prohibits the Department from denying certification to a residential care facility seeking to participate in the assisted living program on the basis that the facility permits two residents to share a bathroom that includes a toilet, sink, and shower or bathtub. To be eligible

for certification to participate in the assisted living program, a residential care facility that permits two residents to share a bathroom must satisfy the following requirements:

- The shared full bathroom must be accessible from the living quarters of each resident's unit, not require one resident to pass through the living quarters of another resident, and allow each resident to lock both bathroom doors to prevent access to the bathroom while it is in use;
- In addition to the shared bathroom, the residential care facility must also offer the use of at least one other full bathroom to its residents that is accessible from a single door directly off of the hallway and not connected to any resident's individual unit;
- The bathrooms described above must satisfy the accessibility requirements of the federal Americans with Disabilities Act;
- The residential care facility must inform residents of the shared bathroom arrangement prior to their admission to the facility and each resident must sign a written consent form acknowledging the arrangement.

Performance-based PASSPORT reimbursement

(Section 209.20)

In order to improve health outcomes among populations served by PASSPORT administrative agencies, the bill authorizes the Department to design a payment method for PASSPORT administrative agency operation that includes a pay-for-performance incentive component earned by a PASSPORT administrative agency when defined consumer and policy outcomes are achieved.

If the Department opts to implement the payment method, it must do so through rules adopted in accordance with the Administrative Procedure Act (R.C. Chapter 119). Before filing a proposed rule with a pay-for-performance incentive component with the Joint Committee on Agency Rule Review, the Department must submit a report to the Joint Medicaid Oversight Committee outlining the payment method.

HHA and PCA training

(R.C. 173.525)

The bill prohibits the Department from requiring PCAs providing services under the PASSPORT Program to receive more than 30 hours of pre-service training and six hours of annual in-service training. The Department determines what training is acceptable. The Department may not require HHAs providing services under the PASSPORT Program to receive more pre-service training and annual training than required by federal law. The bill also permits a registered nurse or a licensed practical nurse to supervise an HHA or PCA.

Under federal regulations, HHAs providing services through Medicare or Medicaid are required to receive 75 hours of pre-service training and 12 hours of annual in-service training. Additionally, federal regulations require that an HHA providing Medicare or Medicaid services be

supervised by a registered nurse or other appropriate professional (such as a physical therapist, speech-language pathologist, or occupational therapist).[17]

Long-term Care Ombudsman representative training

(R.C. 173.21)

The bill reduces the number of specified training hours required for a nonvolunteer representative of the Office of the State Long-term Care Ombudsman. The reduction is accomplished as follows:

- Reducing hours of basic instruction required before the representative can handle cases without supervision, from 40 to 36;
- Eliminating a requirement that an additional 60 hours of instruction must be completed within the first 15 months of employment;
- Eliminating an internship of 20 hours that includes instruction and observation of basic nursing care and long-term care procedures;
- Eliminating observation of either a Department certification survey of a nursing facility or a licensing inspection of a residential facility by the Ohio Department of Mental Health and Addiction Services.

Instead, the bill gives the Department of Aging the option to create rules regarding additional training, which may include an internship, in-service training, or continuing education. Under existing law, continuing education must be established by the Department.

The bill also eliminates law providing a training exemption for persons serving as an ombudsman for at least six months prior to June 11, 1990.

Ohio Advisory Council for the Aging

(R.C. 173.03)

The bill revises the law governing the Ohio Advisory Council for the Aging in two ways. First, it specifies that the Council's purpose is to advise the Department on the objectives of the Older Americans Act of 1965 and as directed by the Governor, rather than requiring the Council, as under current law, to carry out its role as defined under the Older Americans Act. Second, it eliminates obsolete provisions regarding the deadline for the Governor to appoint the first members.

Golden Buckeye Card program

(R.C. 173.06)

Regarding the Golden Buckeye Card program, the bill authorizes new formats beyond the current physical card. The Department may provide Golden Buckeye cards as physical or electronic cards, and the cards can be an endorsement on a card that includes one or more

[17] 42 Code of Federal Regulations (C.F.R.) 484.80.

programs. Related to this change, the bill eliminates a requirement that a card must contain the card holder's signature.

DEPARTMENT OF AGRICULTURE

Amusement ride reinspections

- Adds to the reasons why an amusement ride owner must pay a reinspection fee by requiring the owner to pay the fee if rules adopted by the Director of Agriculture require reinspections for the ride's safe operation.
- Allows the Department of Agriculture to charge a fee for a supplemental reinspection of a temporary amusement ride when the inspection is required by rules governing a ride's safe operation.

Agricultural commodity handlers

- Revises several of the circumstances under which claims may be reimbursed at 100% from the Agricultural Commodity Depositors Fund when an agricultural commodity handler fails to pay an agricultural commodity depositor.
- If a commodity depositor's loss involves circumstances other than when 100% payment for the loss is required, decreases the fund's liability to 75% of the loss, rather than 100% of the first $10,000 of losses and 80% of the remaining dollar value of losses under current law.

Internet sales exemption from auction laws

- Revises an exemption from the auction law so that a person who sells any real or personal property via an auction mediation company on the internet is exempt, provided the company provides fraud protection or a money-back guarantee to the buyer, rather than exempting only certain sellers that sell below $10,000 of items annually as in current law.

Legume inoculators

- Eliminates the legume inoculator's annual license ($5 fee), which authorizes a person to apply legume inoculants to seed for sale.

Amusement ride reinspections

(R.C. 993.04)

The bill adds to the list of reasons why an amusement ride owner must pay a reinspection fee by requiring the owner to pay the fee if rules adopted by the Director of Agriculture require reinspections for the safe operation of the ride. Under current law, the Director may require an amusement ride owner to pay a reinspection fee only if:

1. The reinspection was conducted at the owner's request;

2. The reinspection is required because of an accident; or

3. The reinspection is required because it is unsafe and in violation of the law governing safe operations of rides.

Also under current law, the Director is not authorized to charge a fee for a reinspection when the reinspection is conducted in accordance with rules governing the safe operation of the ride. These reinspections are required based on the size, complexity, nature of the ride, and the number of days the ride is in operation during the year. Reinspection fees range from $5 to $1,200 depending on the ride being inspecting.

The bill also allows the Department of Agriculture to charge a fee for a supplemental reinspection of a temporary amusement ride when the inspection is required by rules governing the safe operation of a ride.

Agricultural commodity handlers

(R.C. 926.18)

Background

The law governing agricultural commodities provides for the licensure and regulation of agricultural commodity handlers (commonly known as grain elevators) in Ohio. All licensed handlers must remit fees established by the Director on each bushel of an agricultural commodity deposited with the handler. The Director must deposit these fees in the Agricultural Commodities Fund. The fund is used to pay claims made by agricultural commodity depositors when the handler, for a variety of reasons, is unable to pay the depositor for the deposited commodity. Under current law, an agricultural commodity is corn, soybeans, or wheat, and the Director may add additional commodities by rule.[18]

Claims

The bill revises several of the circumstances under which claims must be paid from the fund to a depositor who has not received payment from an agricultural commodity handler. Current law establishes circumstances under which a depositor receives 100% of the depositor's loss from the fund. Losses incurred outside of those circumstances are paid at 100% of the first $10,000 of loss and 80% of the remaining dollar value of that loss.

The bill first revises the circumstances under which a depositor is paid 100% of the depositor's loss by doing the following:

1. If the commodity handler's license is suspended and the handler failed to pay for the commodities by the date on which the suspension occurred, increasing the number of days by which the commodities had to be priced prior to the suspension from 30 days to 45 days;

2. If the commodity handler's license is suspended and there is a deferred payment agreement between the depositor and the commodity handler, doing all of the following:

[18] R.C. 926.01, 926.16, and 926.17, not in the bill. According to the Department of Agriculture, licensed agricultural commodity handlers must meet certain net worth requirements that are verified by financial statements annually submitted to the Department. Licensed agricultural commodity handlers also must have insurance coverage equal to full-market value on grain in their facilities to protect all or part of their losses in case of fire or other disasters. See R.C. Chapter 926.

a. Increasing the number of days by which the commodities had to be priced prior to the suspension from 90 days to 365 days;

b. Increasing the number of days by which payment for the commodity must be made pursuant to the deferred payment agreement from 90 days to 365 days following the date of delivery; and

c. Requiring that the deferred payment agreement between the handler and depositor be signed.

3. Adding a new circumstance that requires payment of 100% of the depositor's loss when the commodities were delivered and marketed under a delayed price agreement up to two years prior to the commodity handler's license suspension. The delivery date as marked on the receipt tickets are used to determine the two-year period. The bill stipulates that the fund has no liability if the delayed price agreement was entered into more than two years prior to the commodity handler's license suspension.

The bill retains two additional circumstances in which a depositor is required to receive 100% of the depositor's loss from the fund. The first circumstance is when the commodities deposited by the depositor were stored under a bailment agreement. The second circumstance is when payment for the commodities was tendered, but the payment was subsequently denied (e.g., a check written on an account with insufficient funds).

If a commodity depositor's loss involves circumstances other than those when 100% payment for the loss is required, the bill decreases the fund's liability to 75% of the loss, rather than 100% of the first $10,000 of the loss and 80% of the remaining dollar value of that loss as provided in current law.

Internet sales exemption from auction laws

(R.C. 4707.02)

The bill revises an exemption from the auction law for internet auction sales made via an auction mediation company by doing all of the following:

1. Eliminating the $10,000 annual sales cap that applies to a person's sales of personal property via the auction mediation company;

2. Eliminating the requirement that the person is either selling the property of another and does not receive any compensation for that sale, or the person is selling the person's own personal property; and

3. Applying the exemption to real property in addition to personal property as under current law.

Thus, as a result of the changes, the bill exempts a person from the auction law when selling any real or personal property via an auction mediation company, provided the company provides fraud protection or a money-back guarantee to the buyer.

Legume inoculators

(R.C. 907.27 and 907.32; repealed R.C. 907.30)

The bill eliminates the legume inoculator's annual license, which authorizes a person to apply legume inoculants to seed for sale. Current law requires an applicant for a license to include specified information with an application (along with a $5 application fee), including the brand name of the legume inoculant to be used.

AIR QUALITY DEVELOPMENT AUTHORITY

- Authorizes the Ohio Air Quality Development Authority to enter into an arrangement with a municipality, township, or special improvement district to fund commercial or industrial energy or energy efficiency projects (often referred to as a PACE or "property assessed clean energy" project).
- Authorizes the municipality, township, or special improvement district to impose and remit to AIR special assessments on property benefitting from the PACE.

Property assessed clean energy project financing

(R.C. 503.59, 727.01, 1710.06, 3706.01, 3706.051, and 3706.12; Section 803.20)

The bill authorizes the Ohio Air Quality Development Authority (AIR) to enter into an agreement with a local partner, either a municipal corporation, township, or special improvement district (SID), to fund a privately owned commercial or industrial "special energy improvement" that reduces air pollution, i.e., a solar, geothermal, or customer-generated energy facility or energy efficiency improvement. Pursuant to this agreement, AIR will issue bonds and remit the proceeds to either the local partner or the private owner. The local partner will levy a special assessment against the project property, and remit the proceeds of that assessment to AIR to service the project bonds. This type of financing arrangement is commonly referred to as a PACE, or "property assessed clean energy," project.

Under continuing law and pursuant to its existing bonding authority, AIR may use its bond proceeds to fund commercial and industrial special energy improvement projects directly. AIR may also enter into agreements with local governments to fund such projects owned by the local government. The bill authorizes two separate PACE funding models. One to be used when the local partner is a SID or municipality that is a SID member acting in furtherance of the SID's objectives, the other to be used when the local partner is a township or municipality operating independently and not through a SID.

SID PACE model

Under continuing law, SIDs and both municipalities and townships that are SID members acting in accordance with SID objectives may impose special assessments on property to fund special energy improvement projects, provided the projects are approved by every property owner to be assessed. (A SID is a district formed by one or more municipalities and townships for the purpose of levying special assessments to provide certain services or develop certain improvements within the district.)

Under the bill, a SID, or a member municipality or township, may enter into an agreement with AIR whereby AIR remits bond proceeds to the SID, municipality, or township, which then remits those funds to a private property owner to fund special energy improvement projects. It also allows AIR to remit those funds directly to the private property owner. In turn, the SID, municipality, or township imposes a special assessment on the benefitted property and assigns and remits the assessment proceeds to AIR, which uses them to service project bonds.

This bill prohibits this model from being construed to apply to any AIR bonds or SID special assessments issued or levied before the bill's 90-day effective date.

Municipal and township PACE model

While SIDs and municipalities that SID members have existing authority to levy special assessments to fund special energy improvement projects, municipalities acting outside of a SID and townships do not have that authority.

The bill grants specific authority for these municipalities and townships to levy special assessments to fund special energy improvement projects. However, they may only be levied if the property owner proposing the project petitions for them and the municipality or township enters into an agreement with AIR. Pursuant to this agreement, AIR will remit bond proceeds to the property owner to fund the project, and the municipality or township will pledge and remit the special assessments to AIR to service those bonds. (In contrast, the bond proceeds in the SID model are remitted to the local partner, and not the property owner.)

The bill also requires a municipal corporation or township that is part of a SID that develops and implements plans for special energy improvement projects to notify the SID of both of the following:

1. The agreement between AIR and the municipal corporation or township; and

2. The air quality facility that is to be funded with property assessments.

ARCHITECTS BOARD

- Amends the structure of the Architects Board to include a public member and reduces the required years of architect licensure experience required for service on the Board.

Architects Board membership

(R.C. 4703.01; Section 747.10)

The bill amends the structure of the Architects Board to include a public member and reduces the required years of architect licensure experience required for service on the Board. The bill specifies that the Board must be composed of four architects and one member of the general public who is not an architect. The bill also reduces from ten to five the number of years of active architect practice required for service on the Board. Under current law, the Board is composed of five architects who have been in active practice in Ohio for at least ten years.

Current Board members may continue to hold office until their terms expire, unless removed under law. The bill requires the Governor to appoint an individual who is a member of the general public upon the next vacancy on the Board.

ATTORNEY GENERAL

State involvement in legal actions

- Specifies that the General Assembly and each chamber may intervene as a matter of right at any time in any civil action or proceeding in state or federal court that involves a challenge to the validity, applicability, or constitutionality of the Ohio Constitution or the laws of Ohio.
- Creates exceptions to the law that requires the Attorney General to represent a state agency in any legal action.
- Allows the Speaker of the House and the Senate President to retain their own legal counsel to represent the House, the Senate, or the General Assembly.
- Allows the Governor to retain separate legal counsel in any matter, action, or proceeding the Governor deems to be necessary and proper to protect the interests of the Office of the Governor.

Large Settlements and Awards Fund

- Creates a Large Settlements and Awards Fund and directs the proceeds of any court order, judgment, settlement, or compromise exceeding $2 million to the fund.
- Requires the Attorney General to send a report to the Senate President and House Speaker if the Attorney General cannot cover legal costs from money received from an order, judgment, settlement, or compromise, or from an available appropriation.

Parental notification by social media operators

- Requires operators of certain online websites, services, and products that target children, or are reasonably anticipated to be accessed by children, to obtain consent from a parent or legal guardian before entering a contract with a person under age 16 years.
- Describes the methods by which an operator may obtain parental consent and requires the operator to subsequently confirm it with the child's parent or legal guardian.
- Requires an operator to provide the parent or legal guardian with a list of features of the website, service, or product related to censoring and moderating content.
- Gives the Attorney General exclusive authority to enforce the requirements and specifies civil penalties for violations.
- Requires the Attorney General to give operators in "substantial compliance" with the bill's requirements notice of alleged violations and an opportunity to cure such violations before commencing a civil action.
- Prohibits a private cause of action for any violation of the bill's requirements.

Trauma recovery center grants

- Permits the Attorney General to create a grant program to support trauma recovery centers.
- Prohibits the Attorney General from using more than 5% of the money appropriated to the program for administration costs, and requires the Attorney General to use at least 95% of the appropriated amount for grants.
- Permits the Attorney General to adopt rules to establish grant application procedures, if the Attorney General opts to establish the grant program.

Victims of Human Trafficking Fund administration

- Transfers administration of Ohio's Victims of Human Trafficking Fund from the Department of Job and Family Services to the Attorney General's Office.

State involvement in legal actions

(R.C. 101.55, 107.13, and 109.02)

Intervention by the General Assembly or the Governor

The bill specifies that the General Assembly, the House of Representatives and the Senate individually, and the Governor may intervene as a matter of right (that is, become a party to a court case) at any time in any civil action or proceeding that involves a challenge to the Ohio Constitution or the laws of Ohio and that is an important matter of statewide concern. However, continuing law prohibits any public official from entering into a legal agreement that nullifies, suspends, enjoins, alters, or conflicts with any provision of the Revised Code.

In intervening in such a case, the Speaker of the House of Representatives may act on behalf of the House; the Senate President may act on behalf of the Senate; and the Speaker and the President, acting jointly, may act on behalf of the General Assembly. Intervention must be in accordance with the Ohio Rules of Civil Procedure or the Federal Rules of Civil Procedure, as applicable.[19]

Special counsel

The bill also creates exceptions to the law that requires the Attorney General to represent a state agency in any legal action, either through the Attorney General's office or by appointing special counsel, and that prohibits agencies from obtaining other counsel.

[19] See R.C. 9.58, not in the bill; Rule 24 of the Ohio Rules of Civil Procedure (PDF), available at supremecourt.ohio.gov under "Ohio Rules of Court"; and Rule 24 of the Federal Rules of Civil Procedure (PDF), available at uscourts.gov under "Rules & Policies."

General Assembly

First, the bill allows the Speaker of the House and the Senate President to retain their own legal counsel, other than from the Attorney General, to intervene in a judicial proceeding, as described above, on behalf of the House, the Senate, or the General Assembly, as applicable. The Speaker and the President, individually or jointly, also may retain attorneys to provide advice and counsel to them on matters that affect the official business of the General Assembly. The House and the Senate may do so only in a civil proceeding, not in any criminal proceeding.

The Speaker and the President, as applicable, must approve all terms of representation and authorize payment for all financial costs incurred. Payment must be from the House's or Senate's operating expenses appropriation line item or from a separate appropriation made for those costs. But, the House, the Senate, or the General Assembly, as applicable, may rescind the retention of a particular legal counsel in a particular matter by adopting a resolution by a simple majority vote.

The provisions described above do not limit any authority of the General Assembly or its members that is granted under the Ohio Constitution or other provisions of the Revised Code. The bill also specifies that the provisions described above do not constitute a waiver of the legislative immunity or legislative privilege of the Speaker, the President, or any member, officer, or staff of either house of the General Assembly.

The concepts of legislative privilege and immunity come from the Speech and Debate Clause of the Ohio Constitution, which provides that, "for any speech, or debate, in either House, . . . [Senators and Representatives] shall not be questioned elsewhere." The courts have interpreted this clause to mean that members of the General Assembly, and to some extent their staff, may not be prosecuted or sued for their legitimate legislative activities and that members of the General Assembly and sometimes their staff enjoy an evidentiary privilege that prevents certain legislative activities from being used in court as evidence against them.[20]

Governor

Similarly, the bill allows the Governor to retain legal counsel, other than from the Attorney General, to intervene in a judicial proceeding, as described above, or to provide advice and counsel to the Governor on matters that affect the official business of the Office of the Governor. The Governor may do so only in a civil proceeding, not in any criminal proceeding.

The Governor must approve all terms of representation and authorize payment for all financial costs incurred from the Governor's operating expenses appropriation line item or from a separate appropriation made for those costs. A representation agreement entered into under the bill is not subject to continuing-law requirements that agencies follow DAS contracting

[20] Ohio Constitution, Article II, Section 12. See also *Hicksville v. Blakeslee*, 103 Ohio St. 508 (1921) and *Dublin v. State of Ohio*, 138 Ohio App.3d 753 (10th Dist. Ct. App. 2000).

procedures and receive Controlling Board approval before awarding a contract worth $50,000 or more without competitive bidding.[21]

The provisions described above do not limit any authority of the Governor that is granted under the Ohio Constitution or other provisions of the Revised Code. Finally, the bill specifies that it does not constitute a waiver of any executive privilege of the Governor or any executive officer or staff. Although the Ohio Constitution and the Revised Code do not mention executive privilege, the Ohio Supreme Court has recognized that a limited executive privilege applies under the common law. Under certain circumstances, executive privilege protects the confidentiality of communications between the Governor and executive agencies, and might also protect the confidentiality of documents and other materials related to the deliberative process by which the Governor formulates policies and makes decisions.[22]

Large Settlements and Awards Fund

(R.C. 109.11, 109.111, 109.112, and 109.113; Section 812.12)

Beginning in 2024, the bill modifies the disbursements of settlement and award funds received by the state. Settlements or awards under $2 million are deposited into the Attorney General Court Order and Settlement Fund (currently called the Attorney General Court Order Fund) and then disbursed by the Attorney General to a fund determined by the OBM Director. For settlements or awards of $2 million or more, the Attorney General must transfer the funds to the Large Settlements and Awards Fund, which the bill creates in the state treasury. Under continuing law, all amounts the Attorney General receives as reimbursement for legal services and other services, or as reimbursement for costs and fees associated with representation, are paid into the Attorney General Reimbursement Fund.

Also beginning in 2024, the bill requires the Attorney General, when seeking an order or judgment of a court or when entering into a settlement agreement or other compromise of claims on behalf of the state, to seek to secure payment of all costs, expenses, and contractual obligations related to the legal services and other services provided, unless those items are to be paid with available funds. If the Attorney General is unable to secure payment of those items, the Attorney General must file a report with the Senate President and the House Speaker detailing the costs, expenses, and obligations incurred and the efforts made to secure payment, including a description of any cost sharing arrangements with other state attorneys general.

Parental notification by social media operators

(R.C. 1349.09)

The bill establishes several new requirements for operators of online websites, services, or products that target children, or are reasonably anticipated to be accessed by children. The bill defines "child" as any consumer under 16 who is not emancipated. The bill requires the Attorney General to investigate alleged noncompliance with the bill's requirements, and

[21] See R.C. 125.05 and 127.16.

[22] *State ex rel. Dann v. Taft,* 109 Ohio St.3d 364 (2006).

authorizes a civil action by which a court may impose a temporary restraining order, preliminary or permanent injunction, civil penalty, or other appropriate remedy upon a noncompliant operator.

Scope

The bill applies only to operators of online websites, services, or products that (1) have users in Ohio, (2) target children or are reasonably anticipated to be accessed by children, and (3) allow users to do all of the following:

- Interact socially with other users;
- Construct a public or semipublic profile;
- Populate a list of other users with whom the user shares a social connection;
- Create or post content viewable by other users (including on message boards, video channels, and chats).

The bill lists several factors that may be considered as evidence that the online service targets children or is reasonably anticipated to be accessed by a child. These include subject matter, language, visual and audio content, design elements, use of animated characters or child-oriented activities and incentives, age of models, presence of child celebrities or celebrities who appeal to children, advertisements, empirical evidence of audience composition, and evidence regarding the operator's intended audience.

The bill's requirements do not apply to e-commerce reviews, comments on news stories, cloud storage or computing services, broadband internet access services, or search engine services.

Parental consent

The operator of an online website, service, or product subject to the bill's requirements must obtain verifiable consent from a parent or legal guardian before entering a contract with a child, including terms of service to register, sign up, or otherwise create a unique username to access the website, service, or product. The operator may obtain such consent by requiring a parent or legal guardian to do any of the following:

- Sign and return a form consenting to the terms of service by postal mail, fax, or email;
- Use, in connection with a monetary transaction, a credit card, debit card, or other online payment system that provides notification of each discrete transaction to the primary account holder;
- Call a toll-free telephone number implemented by the operator and staffed by trained personnel;
- Connect to the operator's trained personnel via videoconference;
- Submit a form of government-issued identification that the operator must check against databases of such information.

If an operator obtains consent through submission of government-issued identification, the bill requires the operator to delete the parent's identification from its records promptly after verification is complete.

Content moderation features

In addition to obtaining verifiable consent, the operator must provide the child's parent or guardian with a list of features of the online website, service, or product related to censoring or moderating content, including features that can be disabled for a particular profile. The operator must also provide the parent or guardian a website link that may be used to access and review the list of features at another time.

Confirmation

After obtaining verified parental or legal guardian consent, the operator must send written confirmation of the consent to the parent or legal guardian via email, postal mail, or fax. If the online operator made every reasonable effort but cannot secure the necessary contact information to send the written confirmation, the operator may instead verify consent via telephone.

Termination of access

If the parent or legal guardian fails to give consent or refuses to give consent to the terms of service, the bill operator must deny access or use of the online website, service, or product services to the child. If the parent or legal guardian receives confirmation of consent but determines the consent was given in error, or chooses to withdraw consent, the parent or guardian may notify the operator and the operator must terminate the child's use of, or access to the online website, service, or product within 30 days of receiving the notification.

Enforcement

Enforcement of the bill's provisions is exclusively under the authority of the Attorney General. The bill does not allow for a private right of action. The bill requires the Attorney General to investigate an operator's noncompliance in the same manner, by the same means, and with the same jurisdiction, powers, and duties that apply to investigations of alleged violations of security breach disclosure requirements under continuing law.

The bill authorizes the Attorney General to bring a civil action against a noncompliant operator for appropriate relief, including a temporary restraining order, preliminary or permanent injunction, and civil penalties. If a court finds that an online operator entered into a contract with a child without parental or legal guardian consent, the operator is liable to the Attorney General for the Attorney General's costs in conducting an investigation and bringing an action. In addition, the court must impose a civil penalty up to $1,000 for each day the operator failed to comply with the bill's provisions. If the violation continues past 60 days, the court must impose a civil penalty up to $5,000 for each day starting on the 61st day of the continued violation. If the violation continues past 90 days, the court must impose a civil penalty up to $10,000 for each day starting on the 91st day that the violation continues. The civil penalties must be deposited to the Consumer Protection Enforcement Fund, the proceeds of which are used, under

continuing law, to pay for expenses incurred by the Consumer Protection Section of the Attorney General's Office.

If an operator is in substantial compliance with the bill's requirements, the Attorney General must provide written notice to the operator before initiating a civil action. The notice must identify the alleged violations. If, within 90 days after the notice is sent, the operator cures the alleged violation and provides the Attorney General written documentation that the alleged violations have been cured, and sufficient measures have been taken to prevent future violations, the Attorney General is prohibited from commencing a civil action against the operator and a court is prohibited from imposing a civil penalty for any cured violation.

Trauma recovery center grants

(R.C. 109.461)

Under the bill, the Attorney General may develop a grant program to support trauma recovery centers. Additionally, the Attorney General must adopt administrative rules to establish procedures for trauma recovery centers to apply for the grant, if the Attorney General opts to establish the grant program. The bill defines a "trauma recovery center" as a treatment center with a multidisciplinary staff of clinicians that provides at least the following resources, treatments, and recovery services to victims of crime, including the family members of victims of homicide:

- Mental health services;
- Assertive community-based outreach and clinical care and case management;
- Coordination of care among medical and mental health providers, other social services, and government agencies as needed by the client.

The Attorney General must use at least 95% of the money appropriated to the grant program for providing grants to trauma recovery centers, and is prohibited from using more than 5% of the appropriated money to pay costs associated with administering the program.

Victims of Human Trafficking Fund administration

(R.C. 5101.87)

The bill transfers administration of the Victims of Human Trafficking Fund from the Department of Job and Family Services to the Attorney General's Office.

AUDITOR OF STATE

Fraud-reporting system and training

- Requires the Auditor of State to promptly notify the prosecuting attorney, director of law, village solicitor, or similar chief legal officer of a municipal corporation if a report received under the fraud-reporting system involves probable theft or fraud by any public office or public official, unless the attorney, director, solicitor, or chief legal officer is the perpetrator.
- Requires the Auditor to create training material detailing Ohio's fraud-reporting system and the means of reporting fraud, waste, and abuse.
- Requires the Department of Administrative Services to administer the training material to each state employee, statewide elected official, and General Assembly member in a manner prescribed by the Auditor.
- Requires the Auditor to administer the training material to elected officials and employees of a political subdivision.
- Specifies certain persons required to make a timely report on the fraud-reporting system after becoming aware of fraud, theft in office, or misuse or misappropriation of public money.
- Specifies that a prosecuting attorney, director of law, village solicitor, or similar chief legal officer of a municipal corporation, or employees of those, is not required, and does not have an express statutory duty, to report a violation to the Auditor's fraud-reporting system.
- Exempts a person who serves as legal counsel, or who is employed as legal counsel, for a public office from being required to report fraud, theft in office, or misuse or misappropriation of public money if it concerns any communication received from a client in an attorney-client relationship.
- Permits the Office of Internal Audit to consult with the Auditor regarding any written report the office receives regarding those violations and to share those reports with the Auditor upon request.

Audit records

- Permits the Auditor to refer a public records request to an originating public office when the record was provided to the Auditor for purposes of an audit, and the original public office has asserted to the Auditor that the record is not a public record.

Auditor's Innovation Fund

- Replaces the Leverage for Efficiency, Accountability, and Performance (LEAP) Fund with the Auditor's Innovation Fund.

- Authorizes the Auditor's Innovation Fund to be used for innovative audit, accounting, or local government assistance services that improve the quality or increase the range of services offered to local governments and school districts.
- Removes law describing the uses of the LEAP funds, including (1) making loans to certain state and local entities for performance audits and (2) paying the costs of performance audits and feasibility studies.

Auditor feasibility study

- Permits the Auditor of State to conduct a feasibility study requested by a state agency or local public office at the Auditor's discretion, rather than as LEAP funds are allowed and available.

Cause of action by Auditor of State

- Specifies that, when there is a cause of action set forth from a report of the Auditor, the amount payable from that action is a final and certified claim, under the continuing law regarding collecting amounts due to the state, upon submission to the Attorney General.
- Specifies that the amount payable may be satisfied under a continuing law process, which allows a person's tax refund to be applied to a debt to the state or a political subdivision of the state.

Performance audits

- Modifies the timeframe for a state agency or institution to implement the recommendations of a performance audit and the related reporting requirement.
- Modifies the content and submission date of the Auditor's annual report.
- Removes the cost limitations on performance audits of state universities.

Access to public records

- Requires state agencies and institutions of higher education that are subject to a performance audit to give the Auditor access to the agency's or institution's employees, books, accounts, reports, vouchers, correspondence files, contracts, money, property, electronic data, and other records.
- Allows the Auditor to examine the records upon request.
- Requires the agency or institution to provide records to the Auditor in the format the Auditor requested.
- Requires the Auditor to maintain the confidential nature of a document, data, or information.
- Requires the Auditor to provide a data sharing agreement to govern the use of restricted data if the Auditor determines it necessary.

School district fiscal distress performance audits

- Removes the Office of Budget and Management from the performance audit consultation process for school districts under fiscal caution, in a state of fiscal watch, or in fiscal emergency.
- Removes the requirement that the Auditor prioritize performance audits of school districts in fiscal distress.

ODJFS audit

- Permits the Auditor of State to conduct audits of the Department of Job and Family Services (ODJFS) and any program it administers, and to charge ODJFS for the cost of an audit.

Department of Medicaid audit

- Requires the Auditor of State to conduct audits of the Department of Medicaid and the programs it administers and to periodically report the results of these audits to the Joint Medicaid Oversight Committee.
- Permits the Auditor of State to charge the Department for the cost of an audit.
- Specifies that the Auditor may determine the subject and scope of these audits, which may include specified topics.

Fraud-reporting system and training

(R.C. 117.103)

Fraud-reporting system

The bill requires the Auditor of State to promptly notify the prosecuting attorney, director of law, village solicitor, or similar chief legal officer of a municipal corporation if a report received under the fraud-reporting system involves probable theft or fraud, including misuse or misappropriation of public money by any public office or public official, unless the attorney, director, solicitor, or chief legal officer is the perpetrator.

Fraud-reporting training

The bill requires the Auditor to create training material detailing Ohio's fraud-reporting system and the means of reporting fraud, waste, and abuse. The training material must be as concise as practicable. Under continuing law, the Auditor must establish and maintain a system for reporting fraud, including misuse and misappropriation of public money by any public office or official. The system must allow residents and employees of any public office to make anonymous complaints using a toll free telephone number, the Auditor's website, or by mail to the Auditor's office. The Auditor must review all complaints in a timely manner.

Additionally, the bill requires the Department of Administrative Services to administer the training material to each state employee, statewide elected official, and General Assembly

member. The Auditor must administer the training material to employees and elected officials of a political subdivision. Current employees and elected officials must complete the training within 90 days of a date the Auditor specifies unless there is good cause for noncompliance. Each new employee or elected official must confirm receipt of the training material on a form model provided by the Auditor within 30 days after taking office or beginning employment. The training is required every four years for each employee or elected official. Under current law, a public office is required to provide employees with information about Ohio's fraud reporting system within 30 days upon employment with a public office and is satisfied if the public office provides the information in an employee handbook and requires an employee's signature for receipt of the handbook.

Persons required to report fraud and abuse

(R.C. 4113.52)

The bill requires the following persons who, during the person's term of office or course of employment, become aware of fraud, theft in office, or misuse or misappropriation of public money to timely notify the Auditor through the fraud reporting system or other means:

- The person is elected to public office;
- The person is appointed to or within a public office;
- The person has a fiduciary duty to a public office;
- The person holds a supervisory position within a public office;
- The person is employed in the department or office responsible for processing any expenses of the public office.

The bill specifies that the duty of those persons to notify the Auditor is an express statutory duty of the officers and employees of a public office. However, a prosecuting attorney, director of law, village solicitor, or similar chief legal officer of a municipal corporation, or employees of those, is not required, and does not have an express statutory duty, to report a violation to the Auditor's fraud-reporting system.

Additionally, the bill exempts a person who serves as legal counsel, or who is employed as legal counsel, for a public office from being required to report fraud, theft in office, or misuse or misappropriation of public money if it concerns any communication received from a client in an attorney-client relationship.

Continuing law requires a person who becomes aware, in the course of the person's employment, of a violation of any state or federal statute or any ordinance or regulation of a political subdivision that the person's employer has the authority to correct, and the person reasonably believes the violation is a criminal offense that is likely to cause imminent harm or hazard to public health and safety, a felony, or improper solicitation for contribution, to orally notify the person's supervisor or other responsible officer of the violation. Additionally, the person must file a written report with that supervisor or officer that provides sufficient detail to identify and describe the violation. If the violation is not corrected within 24 hours or a reasonable and good faith effort was made to correct the violation, the person may file a written

report with the relevant prosecuting attorney, a peace officer, the inspector general if within its jurisdiction, the fraud-reporting system, or any other appropriate public official or agency.

The bill also specifies that nothing in the bill should be construed to limit the authority of an auditor, including the Auditor of State, to make inquiries or interview state or local government employees or officials or otherwise perform audit procedures related to fraud during the course of an audit or attestation engagement.

Office of Internal Audit

(R.C. 126.47)

Additionally, the bill permits the Office of Internal Audit (within the Office of Budget and Management) to consult with the Auditor of State regarding any written report the office receives. The Office may share the written reports with the Auditor upon request and those reports are not a public record under Ohio's Public Records Law. Continuing law permits an employee of the classified or unclassified civil service to file a written report identifying violations of state or federal statutes, rules, or regulations, or misuse of public resources with the employee's Office of Internal Audit, in addition to or instead of with the employee's supervisor or appointing authority or the fraud-reporting system. The Office directs internal audits of state agencies or divisions of state agencies to improve their operations in areas of risk management, internal controls, and governance.[23]

Audit records

(R.C. 149.43)

The bill modifies Public Records Law to authorize the Auditor, in the following circumstance, to direct a public records requestor to another public office. Under the bill, when the Auditor receives a request to inspect or to make a copy of a record that was provided to the Auditor for purposes of an audit, but the original public office has asserted to the Auditor that the record is not a public record, the Auditor may handle the request by directing the requestor to the original public office that provided the record to the Auditor.

Auditor's Innovation Fund

(R.C. 117.47, with conforming changes in R.C. 117.46; repealed R.C. 117.471 and 117.472)

The bill eliminates the Leverage for Efficiency, Accountability, and Performance (LEAP) Fund, and creates the Auditor's Innovation Fund.

The bill permits the Auditor of State to use the Auditor's Innovation Fund for "innovative audit, accounting, or local government assistance services that improve the quality or increase the range of services offered to local governments and school districts." The fund consists of money appropriated to it.

The bill repeals law permitting loans to be made with LEAP funds. Under current law, the Auditor of State must use LEAP funds to make loans to state agencies, local public offices, and

[23] R.C. 149.43; R.C. 124.341 and 126.45, not in the bill.

state institutions of higher education for conducting performance audits if the Auditor approves their applications. The amount loaned is charged by the Auditor for a performance audit. In addition, LEAP funds are used for conducting feasibility studies requested by state agencies or local public offices. Under current law, 50% of the money in the LEAP Fund must be used for loans and paying the costs of performance audits, and 50% for feasibility studies.

The bill repeals law containing the terms and conditions of LEAP Fund loans to entities that receive them, and provisions describing the consequences of defaulting on those loans.

Under current law, the LEAP Fund consists of appropriated money, plus repayments of principal and interest made on LEAP Fund loans.

Auditor feasibility study

(R.C. 117.473)

The bill permits the Auditor to conduct a feasibility study at the Auditor's discretion, rather than require the Auditor to conduct feasibility studies as LEAP funds are allowed and available.

Continuing law permits a state agency or local public office to request that the Auditor conduct a feasibility study to determine if greater efficiency or cost savings could be realized by the state agency or local public office by sharing services or facilities with other state agencies or local public offices.

Under current law, the Auditor must conduct the requested feasibility studies as funds are allowed and available from the LEAP Fund, no more than 50% of which may be used to conduct these feasibility studies.

Cause of action by Auditor of State

(R.C. 117.34)

The bill specifies that, when there is a cause of action set forth from a report of the Auditor, the amount payable from that action is a final and certified claim, under the continuing law[24] regarding collecting amounts due to the state, upon submission to the Attorney General. Under continuing law, if an amount owed to the state is not paid within 45 days after payment is due, the officer responsible for collecting it must certify the amount due to the Attorney General, who must give immediate notice to the party indebted of the nature and amount of the indebtedness. The Attorney General and the officer must agree on the time a payment is due, which may be an appropriate time determined by them based on statutory requirements or ordinary business processes. The law requires the AG to follow this process on behalf of state agencies, and also on behalf of state institutions of higher education and of political subdivisions.

[24] See R.C. 113.02, not in the bill.

Additionally, the bill specifies that the amount payable may be satisfied under a continuing law process,[25] which allows a person's tax refund to be applied to a debt to the state or a political subdivision of the state.

Performance audits

(R.C. 117.462 and 117.463; repealed R.C. 117.464 and 117.465; Section 701.50)

Timeframe for implementation

Continuing law requires the Auditor to conduct at least four performance audits each biennium; at the conclusion of each audit, the Auditor must give recommendations to the audited state agency or state institution of higher education. Currently, an agency or institution that has not begun implementing the recommendations within three months must: (1) file a report explaining the agency's or institution's failure to do so with the Governor, Auditor, President and Minority Leader of the Senate, and Speaker and Minority Leader of the House, and (2) provide testimony to the appropriate Senate and House committees. The bill makes three changes. First, the bill requires each agency or institution to develop an "implementation plan" within two months. Second, the bill extends the amount of time an agency or institution has to begin implementing the recommendations – from three months to four months. Finally, the agency or institution must "request an opportunity to provide" testimony to the Senate and House committees, instead of requiring the provision of testimony.

Currently and under the bill, an agency or institution that fails to implement every recommendation within a year must file a report justifying why the recommendation has not or will not be implemented. Currently, the report is filed with the Governor, Auditor, President and Minority Leader of the Senate, and Speaker and Minority Leader of the House. Under the bill, the report is filed with the Auditor and the Governor or governing authority of the agency or institution. Then, after considering the report, the agency director or the governing authority must submit a letter in writing to the Auditor, President and Minority Leader of the Senate, and Speaker and Minority Leader of the House outlining the status and plan for implementing the recommendations.

Annual report

Under continuing law, the Auditor is required to submit an annual report to the Governor, President and Minority Leader of the Senate, and Speaker and Minority Leader of the House. Instead of requiring information about whether agencies and institutions implemented the Auditor's recommendations, the bill requires information about the progress agencies and institutions have made in implementing the recommendations. And, the bill requires the report to include information about other operational and programmatic improvements or efficiencies that have been achieved as a result of implementation. Finally, the bill changes the submission date from March 30 to November 1.

[25] See R.C. 5747.12, not in the bill.

Cost limitations

The bill removes the cost limitations on performance audits of state universities and removes a related provision that allows the Auditor and a university to agree to exceed that limitation.

Access to public records

(R.C. 117.092)

The bill gives the Auditor and the Auditor's authorized representatives access to all employees, books, accounts, reports, vouchers, correspondence files, contracts, money, property, or other records of a state agency or institution of higher education subject to a performance audit, including access to all electronic data. Every officer or employee of an agency or institution having the records or property under their control must permit access to and examination of those records upon request. All information requested by the Auditor for the purposes of an audit must be promptly provided in the format prescribed by the Auditor, along with all items necessary to interpret the requested information, including data. The Auditor must comply with all restrictions imposed by law on documents, data, or information deemed confidential or otherwise restricted. The Auditor must provide a data sharing agreement to govern the use of restricted data if the Auditor determines an agreement is necessary to ensure compliance with restrictions imposed by law.

School district fiscal distress performance audits

(R.C. 3316.042)

The bill removes the Office of Budget and Management from the performance audit consultation process for school districts under fiscal caution, in a state of fiscal watch, or in fiscal emergency. However, the Auditor must continue to consult with the Department of Education and Workforce in conducting performance audits. The bill also removes the requirement that the Auditor prioritize performance audits of school districts that are in fiscal distress.

Under law unchanged by the bill, the Auditor has discretion to conduct performance audits of school districts under a fiscal caution, in a state of fiscal watch, in a state of fiscal emergency, or in fiscal distress. These audits consist of the review of any programs or areas of operation in which the Auditor believes that greater operational efficiencies or enhanced program results can be achieved, but do not include review or evaluation of the school district's academic performance. The costs of performance audits are paid by the Auditor with funds appropriated from the General Assembly.

ODJFS audit

(Section 701.100)

The bill permits the Auditor of State to conduct an audit of the Department of Job and Family Services (ODJFS) and any program it administers. The subject and scope of an audit is determined by the Auditor and may include:

- Management and operation of ODJFS;

- Economy, efficiency, and transparency of ODJFS programs;
- Goals, outcomes, or impacts of ODJFS programs;
- Systems and processes used to determine eligibility for ODJFS program recipients and providers;
- ODJFS program integrity and payment accuracy;
- Contract management and subrecipient monitoring practices.

The Auditor is permitted to charge ODJFS with the total cost of any audit the Auditor conducts under this provision.

Department of Medicaid audit

(Section 701.110)

The bill requires the Auditor of State to conduct audits of the Department of Medicaid (ODM) and any program it administers. The subject and scope of an audit is determined by the Auditor of State, and may include:

- Management and operation of ODM;
- Economy, efficiency, and transparency of ODM programs;
- Goals, outcomes, or impacts of ODM programs;
- Systems and processes used to determine eligibility for ODM program recipients and providers;
- ODM program integrity and payment accuracy;
- Contract management and subrecipient monitoring practices.

The Auditor must periodically report findings of audits conducted to the Joint Medicaid Oversight Committee. The Auditor is permitted to charge ODM the total cost of an audit the Auditor conducts under this provision.

BOARDS AND COMMISSIONS

Abolishment of boards

- Abolishes the following boards:
  - Clean Ohio Council (abolishes the Council and the associated brownfield cleanup remediation program, and specifies that the Department of Development must assume the obligations of the Council);
  - Co-op/internship Advisory Committee;
  - Joint Committee on Sports Gaming;
  - Manufactured Homes Advisory Council;
  - Ohio Cystic Fibrosis Legislative Task Force;
  - Third Frontier Governing Board.

Board appointment deadline

- Extends, until 45 days after the commencement of the first regular session of each General Assembly, the date by which the legislative appointments to certain boards must be made.

Commission on Eastern European Affairs

- Establishes the Commission on Eastern European Affairs and specifies its membership and duties.
- Establishes the Office of Eastern European Affairs, which reports to the Commission, and specifies its duties.

New African Immigrants Commission

- Establishes the Office of New African Immigrant Affairs to assist the New African Immigrants Commission in the fulfillment of its duties.
- Creates the New African Immigrants Grant and Gift Fund in the state treasury.
- Adds four nonvoting members to the Commission to be appointed by the House Speaker and the Senate President, two of whom are General Assembly members.

Commission on Minority Health

- Expands the Commission on Minority Health to 22 members by adding the Director of Aging or the Director's designee.

General Assembly appointments

- Removes General Assembly appointments from the following boards:
  - Broadcast Educational Media Commission;
  - Child Support Guideline Advisory Council;

- Chiropractic Loan Repayment Advisory Board;
- Commission on Hispanic-Latino Affairs;
- Dentist Loan Repayment Advisory Board;
- Historical Boilers Licensing Board;
- Ohio Athletic Commission;
- Ohio Expositions Commission;
- Ohio Coal Development Technical Advisory Committee;
- Second Chance Trust Fund Advisory Committee.

- Eliminates the requirement for the House Speaker and the Senate President to recommend individuals for appointment to the New African Immigrants Commission.

Ohio Public Works Commission

- Establishes a schedule for appointments to fill vacancies on the Ohio Public Works Commission, and changes the length of terms for Commission members from three years to four years.

Abolishment of boards

The bill abolishes the following boards:

- Clean Ohio Council (see "**Clean Ohio Council**," below);
- Co-op/internship Advisory Committee (Repealed R.C. 3333.731; R.C. 3333.74);
- Joint Committee on Sports Gaming (Section 610.100, repealing Section 5 of H.B. 29, 134th General Assembly);
- Manufactured Homes Advisory Council (Repealed R.C. 4781.02);
- Ohio Cystic Fibrosis Legislative Task Force (Repealed R.C. 101.38);
- Third Frontier Governing Board (Repealed R.C. 184.03; R.C. 184.02, 184.20, and 183.19).

Clean Ohio Council

(Repealed R.C. 122.65, 122.651, 122.652, 122.653, 122.654, 122.655, 122.656, 122.657, 122.658, 122.659, 122.99, and 3745.40; conforming changes in R.C. 151.01, 151.40, 164.23, 164.24, 317.08, 725.01, 3745.015, 3746.13, 4313.02, and 5301.80; Section 525.50)

The bill abolishes the Clean Ohio Council and the associated brownfield cleanup remediation program, and specifies that the Department of Development must assume the obligations of the Council. Any business commenced, but not completed by the Council must be completed by the Department. This will require the Department to oversee to completion any remaining active projects. All records of the Council must be transferred to the Department as well as all of its other assets and liabilities.

The bill eliminates the Clean Ohio Revitalization Fund, and specifies that any obligations, which under current law must be deposited into that fund, must instead be deposited into the General Revenue Fund.

Board appointment deadline

(R.C. 101.34, 101.84, 103.51, 103.60, 103.65, 103.71, 123.20, 3379.02, 3505.061, 3701.78, and 3702.92; Section 737.40)

The bill allows 45 days after the commencement of the first regular session of a General Assembly, for an appointing authority (generally the House Speaker, the Senate President, or the Governor), to make appointments of members to the following boards:

- Joint Legislative Ethics Committee;
- Sunset Review Committee;
- Legislative Task Force on Redistricting, Reapportionment, and Demographic Research;
- Rare Disease Advisory Council;
- Ohio Health Oversight and Advisory Committee;
- Correctional Institution Inspection Committee;
- Ohio Facilities Construction Commission;
- Ohio Arts Council;
- Ohio Ballot Board;
- Commission on Minority Health.

Under current law, appointments to these boards are required to be made by an earlier date.

The bill also requires the Joint Legislative Ethics Committee to conduct is first meeting 60 days after the first day of the first regular session of each General Assembly. Under current law, the Committee must conduct its first meeting 30 days after that date.

The bill modifies the dates of appointment and schedule of terms for the Dentist Loan Repayment Advisory Board. (See "**Dentist Loan Repayment Advisory Board**," below under "**General Assembly Appointments**.")

Commission on Eastern European Affairs

Membership

(R.C. 107.22)

The bill establishes the Commission on Eastern European Affairs, which consists of the following members:

- Three members appointed by the Governor, with the advice and consent of the Senate, for a one-year term;

- Four members appointed by the Governor, with the advice and consent of the Senate, for a two-year term;
- Two members appointed by the Governor, with the advice and consent of the Senate, for a three-year term;
- One member, who is a private citizen, appointed by the House Speaker for a three-year term;
- One member, who is a private citizen, appointed by the Senate President for a three-year term;
- Two nonvoting members who are members of the General Assembly, each of whom is appointed by the head of their respective chamber.

Following the initial appointments, the term of office for each voting member will be three years. Voting members must remain in their post until a successor is appointed or until 30 days after the end of their term, whichever occurs first. The term of a nonvoting member expires when the nonvoting member is no longer a member of the General Assembly. The bill also specifies that a vacancy must be filled in the same manner in which the original appointment was made.

The Commission must meet at least six times per year. At the Commission's first meeting, the voting members must elect from amongst themselves a chairperson, vice chairperson, and other officers. The members must also prescribe rules to govern the Commission. Six voting members constitute a quorum and no action may be taken without the affirmative vote of six voting members. Finally, the bill allows voting members of the Commission to be compensated for "actual and necessary" expenses incurred and for each day that a member is engaged in the duties of the Commission, but not more than one day per month.

To be eligible to serve as a voting member of the Commission, a person must be representative of various geographical regions of Eastern European people, proportionally representative of the Eastern European composition of Ohio, and must also be at least one of the following:

- A person of Eastern European origin;
- A U.S. citizen;
- A lawful and permanent resident of Ohio.

Duties

(R.C. 107.23)

The bill specifies the duties of the Commission, which include all of the following:

- Gather and disseminate information and conduct hearings, conferences, investigations, and special studies on issues and programs concerning Eastern European people;
- Secure appropriate recognition of accomplishments and contributions of Eastern European people to Ohio;

- Promote public awareness of the issues facing Eastern European people by conducting a program of public education;
- Develop, coordinate, and assist other public and private organizations that serve Eastern European people, including conducting training programs for community leadership and service project staff;
- Advise the Governor, General Assembly, and state departments and agencies regarding the nature, magnitude, and priorities of the issues of Eastern European people;
- Advise the Governor, General Assembly, and state departments and agencies on the special needs of Eastern European people regarding education, employment, energy, health, housing, welfare, and recreation, and develop and implement policies and programs to address those needs;
- Propose new programs concerning Eastern European people to public and private agencies and evaluate any existing programs within agencies;
- Review and approve grants from federal, state, or private funds that are administered or subcontracted by the Office of Eastern European Affairs;
- Review and approve the annual report prepared by the Office;
- Coordinate and provide information regarding available state services to meet the needs of Eastern European people;
- Appoint a Director to the Office.

The bill also defines "Eastern European people" to mean a person who either (1) primarily speaks an Eastern European language or (2) identifies or is regarded in the community as being of any Eastern European origin, including all of the following: Albanian; Belarusian; Bosnian and Herzegovinian; Bulgarian; Carpatho-Rusyn; Croatian; Czech; East European Jewish; Estonian; Greek; Hungarian; Kashubian; Kosovar; Latvian; Lithuanian; Lusatian Sorbian; Macedonian; Moldovans; Montenegrins; Polish; Romanian; Russian; Serbian; Slovak; Slovenian; Transylvanian Saxon; or Ukrainian.

Office of Eastern European Affairs

(R.C. 107.24)

The bill establishes the Office of Eastern European Affairs to assist the Commission in the fulfillment of the Commission's duties. As previously noted, the Commission must appoint a Director of the Office to serve at the Commission's pleasure. The Director must appoint employees as necessary to assist in the fulfillment of the Office's duties; employees appointed by the Director serve at the pleasure of the Director.

The duties of the Office include all of the following:

- Provide information and advise the Commission on proposed solutions to problems of Eastern European people;

- Serve as a clearinghouse to review and comment on all proposals to meet the needs of Eastern European people that are submitted to the Office by public and private agencies;
- Apply for and accept grants and gifts from government and private sources to be administered by the Office or subcontracted to local agencies, as long as the local agencies use the grants and gifts for the public purpose intended;
- Monitor and evaluate all programs subcontracted to local agencies by the Commission and ensure that any grants and gifts from the government are being used for the public purpose intended;
- Endeavor to ensure that Eastern European people have access to decision-making bodies in all state and local government departments and agencies;
- Submit a written annual report of the Office's activities, accomplishments, and recommendations to the Commission;
- Establish an advisory committee for special subjects, as needed, to facilitate and maximize community participation in the operation of the Commission. An advisory committee must be made up of persons representing community organizations, charitable institutions, public officials, and other persons as determined by the Office;
- Establish relationships with local governments, state governments, and private businesses that promote and ensure equal opportunity for Eastern European people in government, education, and employment.

New African Immigrants Commission

(R.C. 4112.32)

The bill removes the requirement that the House Speaker, Senate President, and minority leaders of each chamber recommend members to the New African Immigrants Commission. Under current law, the Speaker and President must each recommend to the Governor two individuals, and the minority leaders of each chamber must recommend to the Governor one individual.

The bill adds four nonvoting members to the Commission. The Speaker must appoint two nonvoting members, one of whom must be a member of the House and one of whom must be a private citizen. The President must appoint the remaining two nonvoting members, one of whom must be a member of the Senate and one of whom must be a private citizen. Each nonvoting member's term of office is four years. For a nonvoting member who is also a member of the General Assembly, the term of office expires at the end of the member's term in the General Assembly or after four years, whichever occurs first.

Under current law, the Commission consists of 11 members appointed by the Governor with the advice and consent of the Senate. All members of the Commission must be of sub-Saharan African origin, and must be American citizens or lawful, permanent, resident aliens. Members must be from urban, suburban, and rural geographical areas representative of sub-Saharan African people with a numerical and geographical balance of the sub-Saharan African population throughout Ohio.

Office of New African Immigrant Affairs

(R.C. 4112.33)

The bill establishes the Office of New African Immigrant Affairs to assist the Commission in the fulfillment of the Commission's duties. The Commission must appoint a Director of the Office, who will serve at the pleasure of the Commission. The Director must, pending approval from the Commission, appoint employees as necessary to assist the Office in the fulfillment of its duties; the employees must serve at the pleasure of the Director.

New African Immigrants Grant and Gift Fund

(R.C. 4112.34)

The bill also creates the New African Immigrants Grant and Gift Fund in the state treasury. The fund is to consist of grants and gifts received by the Commission under the Commission's current authority, as noted in its duties listed above, as well as funds transferred or appropriated to the Commission by the General Assembly. The Commission must use the fund to support the Commission's duties, including operating the Office established under the bill. Finally, the bill specifies that investment earnings of the fund must be credited to the fund.

Commission on Minority Health

(R.C. 3701.78)

Under current law, the Commission on Minority Health has 21 members, including the Directors of Health, Mental Health and Addiction Services, Developmental Disabilities, Job and Family Services, and Medicaid, or their designees. The bill adds the Director of Aging or the Director's designee to the Commission.

General Assembly appointments

The bill removes General Assembly appointments from the following boards.

Broadcast Educational Media Commission

(R.C. 3353.02)

The bill eliminates four members of the General Assembly from the Broadcast Educational Media Commission, two from the House and two from the Senate, who under current law serve as nonvoting members on the Commission. The bill also transfers, from the House Speaker and the Senate President to the Governor, the authority to appoint voting members of the Commission. Under current law, the Commission consists of 11 voting members and four nonvoting members. Three of the voting members are appointed by the Speaker, three are appointed by the President, and three are appointed by the Governor. The bill requires the Governor to appoint nine voting members of the Commission. The remaining two voting members of the Commission, under continuing law, are the Superintendent of Public Instruction and the Chancellor of the Higher Education.

Child support guideline advisory councils

(R.C. 3119.023)

The bill removes the requirement that the House Speaker and the Senate President each appoint three members to a child support guideline advisory council. Under current law, both the Speaker and President must appoint not more than two members of the same political party.

Current law requires the Department of Job and Family Services, every four years, to review the basic child support schedule issued by the Department to determine whether child support orders adequately provide for the needs of children who are subject to the child support orders. For each review, the Department must establish a child support guideline advisory council to assist the department in the completion of its reviews and reports. Continuing law requires each council to consist of all of the following:

- Obligors;
- Obligees;
- Judges of courts of common pleas who have jurisdiction over domestic relations and juvenile court cases that involve the determination of child support;
- Attorneys whose practice includes a significant number of domestic relations or juvenile court cases that involve the determination of child support;
- Representatives of child support enforcement agencies;
- Other persons interested in the welfare of children.

Chiropractic Loan Repayment Advisory Board

(R.C. 3702.987)

The bill removes the requirement that the House Speaker and the Senate President each appoint one member of their respective chambers to the Chiropractic Loan Repayment Advisory Board. Under continuing law, the Board consists of the following members:

- A representative of the Department of Higher Education, appointed by the Chancellor;
- The Director of Health or an employee of the Department of Health designated by the Director;
- Three representatives of the chiropractic profession, appointed by the Governor.

The purpose of the Board is to assist the Department of Health in the administration of the Chiropractic Loan Repayment Program. Under continuing law, the program provides loan repayment on behalf of individuals who agree to provide chiropractic services in areas designated as chiropractic health resource shortage areas by the Director of Health.

Commission on Hispanic-Latino Affairs

(R.C. 121.31)

The bill removes all four of the nonvoting members of the Commission on Hispanic-Latino Affairs. Under current law, the four nonvoting members are members of the General Assembly, two of whom are appointed by the House Speaker (one from each political party) and two of whom are appointed by the Senate President (one from each political party). The 11 voting members of the Commission, under current law, must each be appointed by the Governor. To be eligible to serve as a voting member, an individual must be all of the following:

- Capable of speaking Spanish;
- Of Spanish-speaking origin;
- A U.S. citizen or lawful, permanent, resident alien.

Furthermore, the Commission must consist of individuals from urban, suburban, and rural geographical areas representative of Spanish-speaking people with a numerical and geographical balance of the Spanish-speaking population throughout Ohio.

Dentist Loan Repayment Advisory Board

(R.C. 3702.92; Section 737.40)

The bill removes the requirement that the House Speaker and the Senate President each appoint two members to the Dentist Loan Repayment Advisory Board. Under current law, the Speaker and President are each required to appoint one member of the General Assembly from each political party to the Board. The remaining members of the Board include:

- A representative of the Department of Higher Education designated by the Chancellor;
- The Director of Health or an employee of the Department of Health designated by the Director;
- Four representatives of the dental profession, appointed by the Governor from persons nominated by the Ohio Dental Association.

The purpose of the Board is to assist the Department of Health in the administration of the Dental Loan Repayment Program. Under continuing law, the program provides loan repayment on behalf of individuals who agree to provide dental services in areas designated as dental health resource shortage areas by the Director of Health.

The bill also adjusts the term of members of the Board, who are representatives of the dental profession appointed by the Governor from persons nominated by the Ohio Dental Association, to begin on February 28 rather than January 28. The bill makes no change to the length of such a term, which is two years under current law. Finally, the bill clarifies that a person who is a member of the Board before this provision's effective date may complete the term to which the person was appointed.

Historical Boilers Licensing Board

(R.C. 4104.33; Section 741.20)

The bill transfers, from the House Speaker and the Senate President, the authority to appoint members to the Historical Boilers Licensing Board. Under current law, the Speaker and President must each appoint two members to the Board and the Governor must appoint the remaining three members. The bill requires the Governor to appoint all seven members to the Board. Under current law, members of the Board must include all of the following:

- One employee of the division of boiler inspection in the Department of Commerce;
- One independent mechanical engineer who is not involved in selling or inspecting historical boilers;
- One active member of an association that represents managers of fairs or festivals;
- Four members who each own a historical boiler, have at least ten years of experience in the operation of historical boilers, and reside in a different region of Ohio.

Finally, the bill clarifies that a current member of the Board who was appointed by the Speaker or President, may complete their term. Upon the expiration of such terms, the Governor must make the necessary appointments.

Ohio Athletic Commission

(R.C. 3773.33)

The bill removes the two nonvoting members of the Ohio Athletic Commission. Under current law, the House Speaker and Senate President must each appoint one nonvoting member from their respective chambers to the Commission. The Commission consists of five voting members appointed by the Governor with the advice and consent of the Senate. Not more than three members, under current law, may be of the same political party.

Ohio Expositions Commission

(R.C. 991.02)

The bill reduces the membership of the Ohio Expositions Commission from 15 to 13 by removing the two members who are members of the General Assembly. Under current law, the chairperson of the standing committee to which agricultural matters are generally referred in the House must serve as an *ex officio* member of the Commission, as well as the chairperson of the corresponding committee in the Senate.

Ohio Coal Development Office Technical Advisory Committee

(R.C. 1551.35)

The bill removes the four members of the General Assembly from the Ohio Coal Development Office Technical Advisory Committee. Under current law, the House Speaker and the Senate President must each appoint one member of their respective chambers, and the minority leaders of each chamber must each appoint one member from their respective

chambers. The remaining members of the Committee include the following appointments made by the Director of Development:

- One member of the Public Utilities Commission;
- One representative of coal production companies;
- One representative of United Mine Workers of America;
- One representative of electric utilities;
- Two individuals with a background in coal research and development technology, one of whom is employed at the time of the member's appointment by a state university.

The Director of Environmental Protection must also serve as an *ex officio* member of the Committee.

Second Chance Trust Fund Advisory Committee

(R.C. 2108.35)

The bill reduces the membership of the Second Chance Trust Fund Advisory Committee from 13 to 11 by removing two members who are members of the General Assembly. Under current law, the chairperson of the standing committee to which health-related matters are generally referred in the House must serve as an *ex officio* member of the Committee, as well as the chairperson of the corresponding committee in the Senate.

Ohio Public Works Commission

(R.C. 164.02; Section 701.80)

The bill establishes a schedule for appointments to fill vacancies on the Ohio Public Works Commission, and changes the length of terms for Commission members from three years to four years. The bill specifies that a person who is a member of the Commission before the provision's effective date may complete the term to which the person was appointed.

The bill requires that, not later than 30 days after the provision's effective date, the Senate President must appoint one member to a term of four years, and the House Speaker, the House Minority Leader, and the Senate Minority Leader each must appoint one member to an initial term of two years. All subsequent appointments to the Commission, including those for the three positions on the Commission whose terms expire on December 31, 2023, must be for terms of four years. All terms commence from the date of appointment.

The bill clarifies that a member who is appointed to fill a vacancy must complete the remainder of that term, and may be reappointed for up to two subsequent four-year terms.

OFFICE OF BUDGET AND MANAGEMENT

Budget Stabilization Fund

- Requires that the next $650 million of investment earnings of the Budget Stabilization Fund (BSF) be credited to the GRF rather than the BSF.
- Increases, from 8.5% to 10%, the amount of the GRF revenues for the preceding fiscal year intended to be maintained in the BSF.

State appropriation limitation

- Modifies, starting FY 2028 (starting July 1, 2027), how the state appropriation limitation (SAL) is calculated by requiring the inclusion of certain non-GRF appropriations in the SAL calculation.
- Establishes a standard annual growth rate of 3.0% for SAL and eliminates the alternative growth factor.
- Eliminates the exemption for appropriations of gifts of money from inclusion in the SAL calculation.
- Eliminates the General Assembly's authority to exceed the SAL in response to an emergency proclamation by the Governor.
- Requires the Governor to itemize all non-GRF appropriation line items that are subject to the SAL as part of the Governor's biennial budget submissions.

Medicaid Caseload and Expenditure Forecast report

- Requires the OBM Director, in consultation with the Department of Medicaid, to develop and submit to the Governor a Medicaid Caseload and Expenditure Forecast each biennium.
- Requires the Governor to submit the new report to the General Assembly as part of the executive budget proposal each biennium.

Health and Human Services Reserve Fund

- Requires the OBM Director to transfer $600 million cash from the Health and Human Services Reserve Fund to the BSF.
- If needed to meet the state's Medicaid program obligations in FYs 2024 or 2025, permits the Medicaid Director to request the Controlling Board to transfer money from the HHS Fund to GRF item 651525, the main Medicaid appropriation item.

Routine support services for boards and commissions

- Eliminates the Central Service Agency within the Department of Administrative Services, which provides routine support services to various boards and commissions, and transfers its duties to OBM.

Fraud analysis

- Requires OBM to conduct a statewide assessment of financial fraud and financial crimes on state programs.
- Requires OBM and other state agencies to submit a report to the Governor, Senate President, and House Speaker by June 30, 2024.

OBM reporting requirements

- Eliminates various reporting requirements for agencies to submit information to OBM and removes OBM as a recipient of certain reports.

Appropriation report to General Assembly

- Eliminates the requirement that the OBM Director furnish to legislative leaders a report, each April and October, of various funds and line items without current year appropriation, but with remaining open encumbrances.

Annual comprehensive financial reports

- Changes the name of a report the OBM Director and the Ohio Turnpike and Infrastructure Commission must each issue from a "comprehensive annual financial report" to an "annual comprehensive financial report."

Budget Stabilization Fund

(R.C. 131.43 and 131.44)

The bill requires that the first $650 million of investment earnings of the Budget Stabilization Fund (BSF) accrued after the bill's 90-day effective date be credited to the GRF. All subsequent earnings will be credited to the BSF itself, as required by current law. For each fiscal year in which such investment earnings are credited to the GRF, the OBM Director must certify the amount to the Tax Commissioner by the following July 10 (see "**Withholding rate adjustments**," below).

Additionally, it increases from 8.5% to 10%, the minimum amount of the GRF revenues for the preceding fiscal year intended to be maintained in the BSF and used in the calculation for the BSF's required year-end balance.

State appropriation limitation

(R.C. 107.032, 107.033, 107.034 (repealed), 107.035, 131.56, 131.57, and 131.58; Section 701.40)

SAL calculation

The bill changes how the state appropriation limitation (SAL) is calculated starting in FY 2028 (starting July 1, 2027). Under continuing law, the Governor must include a SAL as part of the executive budget proposal at the beginning of each new General Assembly. The bill also explicitly directs the Governor to take the bill's changes into account when calculating the SAL for FY 2028. Generally, the SAL limits the growth of GRF spending to a designated percentage

each biennium. For more background on the SAL, please see LSC's Guidebook for Ohio Legislators, Chapter 8 (PDF), available on LSC's website at www.lsc.ohio.gov.

Non-GRF appropriations to be included in SAL calculation

The bill includes in the meaning of "aggregate GRF appropriations" any appropriations made indirectly from any non-GRF fund that is supported by cash transfers from the GRF. For example, if a program is funded by a non-GRF fund, but that fund's money originates with GRF cash transfers, the program's appropriations must be included as "aggregate GRF appropriations" despite being appropriated from a non-GRF fund. This will likely result in more appropriations being classified as aggregate GRF appropriations and thus subject to the SAL.

Under continuing law, an appropriation that originates in the GRF will continue to be included in the SAL calculation even if that appropriation is subsequently moved to a non-GRF account. The bill further states that any tax revenue credited to the GRF during FYs 2024 through 2027 is a GRF tax source funding GRF appropriations for the succeeding fiscal year even if the tax revenue is later credited to a non-GRF account. As a hypothetical, this means that if the commercial activity tax (CAT), which is credited to the GRF in FY 2024, is credited to a non-GRF account starting in FY 2028, those non-GRF appropriations paid for by the CAT revenue would still be included in the calculation of the SAL, even though they were funded at that time from a non-GRF account. This change will ensure that all appropriations supported by GRF tax revenue during FY 2024 through FY 2027 will be included permanently in the SAL calculation.

SAL growth factor

The bill revises the growth factor for calculating the SAL. It reduces the SAL growth factor from 3.5% to 3% and eliminates the alternative growth factor based on inflation and population growth. Under current law, the SAL is calculated using the greater of the following figures:

- The previous year's SAL (or aggregate GRF appropriations for the previous fiscal year, in certain years) multiplied by 3.5% (standard growth factor);
- The sum of the rate of inflation plus the rate of population change (alternative growth factor).

As a result of the bill's change, the SAL must be calculated using the 3% standard growth factor only.

Gifts of money included in SAL calculation

The bill eliminates an exemption excluding appropriations of money received as gifts from being included in the SAL calculation. Therefore, starting in FY 2028, any appropriations of gifts of money must be included in the calculation for that year.

Elimination of SAL exception for emergency proclamation

Also taking effect in FY 2028, the bill eliminates an exception permitting the General Assembly to exceed the SAL if the excess appropriations are made in response to a Governor's emergency proclamation and the appropriations are used for that emergency. The bill retains the current exception permitting the General Assembly to exceed the SAL by passing a bill by a $^{2}/_{3}$

majority of the members of each house that identifies the purpose of the excess appropriation and whether the appropriation must be included in future SAL calculations.

List of non-GRF appropriation items subject to SAL

Finally, the bill requires the Governor to include in the executive budget proposal a table itemizing all non-GRF appropriation line items that are subject to the SAL for the current fiscal year and each fiscal year covered by the upcoming budget proposal. The list of those appropriation line items must be included in the main operating appropriations act for that biennium. This change also takes effect starting with the budget for FY 2028.

Medicaid Caseload and Expenditure Forecast report

(R.C. 107.03, 126.021, and 126.023)

The bill requires the OBM Director, in consultation with the Department of Medicaid, to submit a Medicaid Caseload and Expenditure Forecast report to the Governor, alongside the biennial budget estimates currently required. The report must be submitted to the Governor by January 1 of each odd-numbered year, near the start of a new General Assembly.

Submission to General Assembly

The report, in turn, must be submitted to the General Assembly as part of Governor's executive budget proposal, as a supplemental budget document. In most years, this means the report must be submitted by the fourth week after the new General Assembly organizes; in a year following a new Governor's inauguration, it must be submitted by March 15.

Report components

The bill prescribes requirements that the new report must meet. The report must provide a part-to-whole mapping of the state and federal shares of the Medicaid appropriation item, GRF 651525, Medicaid Health Care Services, or any equivalent GRF item, and break down the information by the following categories: eligibility group and subgroup, service delivery system, Medicaid provider, and program. For each of these categories, the report must clearly distinguish proposed policy changes from continuing law or administrative policy. The report must also indicate whether the data used throughout the report is proposed, estimated, or actual data for the current or proposed biennium.

The bill identifies specific, required components to be included, as follows:

- A complete Medicaid budget broken down by the agency administering each component of the program, fund, appropriation item, and whether the spending is for services or administration;
- A summary of Medicaid service spending by eligibility group and subgroup and service delivery system and a detailed mapping into individual appropriation items, including state and federal shares of each item;
- A complete description of each policy proposal, including assumed start date and cost projection broken down by fiscal year, appropriation item, state and federal shares, eligibility group and subgroup, and service delivery system;

- The Medicaid caseload broken down by eligibility group and subgroup and service delivery system;
- The percentage of total Medicaid enrollment that is comprised of Medicaid recipients enrolled under the care management system and the percentage of total Medicaid spending that the care management system comprises;
- A detailed accounting of both the care management system component and the fee-for-service component of the Medicaid budget by eligibility group and subgroup, including spending, member months, and per member per month capitation rates or costs;
- Historical spending data by service delivery system and Medicaid provider and program, including at least the following provider categories:
  - Hospital;
  - Pharmacy;
  - Waiver;
  - Nursing;
  - Home health care;
  - Professional medical and clinic;
  - Nursing facility;
  - Behavioral health care;
  - Intermediate care facility for individuals with intellectual disabilities (ICF/IID).
- A detailed accounting of the Medicare Buy-In and Part D components of the Medicaid budget by eligibility group and subgroup, including spending, average monthly premiums, and average rates;
- A summary of projected spending for each fiscal year broken down by forecast component and by baseline and policy proposals;
- Detailed calculations demonstrating the effects of the following hypothetical scenarios:
  - A $1 increase in Medicaid home and community-based services wages for direct care providers for each fiscal year, broken down by provider, appropriation item, and state and federal shares;
  - A one percentage point increase in provider franchise fee revenue for each fiscal year;
  - A $1 increase in nursing facility and ICF/IID per Medicaid day payment rates.

- A detailed explanation of how the Governor's Medicaid budget recommendations satisfy the law requiring the Medicaid Director to implement cost savings reforms to the Medicaid program;[26]
- The most recent Medicaid cost containment report;[27]
- Any other information the OBM or Medicaid directors deem to be useful to facilitate a better understanding of the Governor's Medicaid budget recommendations.

For almost all components, the report must include Medicaid proposed, estimated, or actual program data for each fiscal year of the upcoming budget biennium and the current fiscal biennium. The OBM and Medicaid directors are permitted to include additional years' data as well.

Health and Human Services Reserve Fund

(Section 516.20)

The bill requires the OBM Director to transfer $600 million cash from the Health and Human Services (HHS) Reserve Fund to the BSF, on or shortly after July 1, 2023. Additionally, during FYs 2024 and 2025, if the Medicaid Director determines that there are insufficient funds to pay the state's Medicaid program obligations, the Director may request the Controlling Board to approve a cash transfer from the HHS Fund to the GRF, specifically to item 651525 (the primary Medicaid appropriation item), to fund the needed increase, up to $600 million total over the biennium.

Routine support services for boards and commissions

(R.C. 126.25 and 126.42; Sections 516.10 and 525.10)

The bill eliminates the Central Service Agency currently located within DAS. The Agency provides routine support services to various boards and commissions. Those services will be provided by OBM instead. The bill adds "human resources and personnel services" as a routine support service and removes language specifying that initiating or denying personnel or fiscal actions is not considered routine support services.

Fraud analysis

(Section 701.70)

The bill requires OBM, with help from DAS, to establish and coordinate a statewide assessment of financial fraud and financial crimes in state programs, specifically including those under the jurisdiction of the Department of Taxation, the Bureau of Workers' Compensation, and the Department of Job and Family Services. OBM must establish and coordinate an effort to implement a statewide initiative to identify and recover state funds from private sector banking institutions and digital payment networks that hold funds associated with fraudulent

[26] R.C. 5162.70.

[27] R.C. 5162.131, not in the bill.

disbursements. Additionally, the bill requires OBM to coordinate an effort to prevent state funds from being dispersed fraudulently by utilizing banking institution financial crime data with the state agency fraud analytics.

By June 30, 2024, OBM and other state agencies as determined by OBM must submit a financial report to the Governor, the Senate President, and the House Speaker demonstrating the prevention and recovery of funds associated with fraudulent disbursements from state agencies.

OBM reporting requirements

(R.C. 126.30, 131.02, 153.17, 3333.021, 5123.0412, 5727.28, 5727.42, and 5727.91; repealed R.C. 131.38)

The bill eliminates the following reporting requirements for agencies to submit certain information to OBM:

- Interest charges paid related to an agency's purchase or lease of goods or services;
- Unpaid amounts due to the state that an agency is unable to collect;
- Information on segregated custodial funds maintained by an agency;
- Notification, by the owner of a public work, of execution of a takeover contract for the takeover of a defaulted public works contract; and
- Tax refunds to certain entities.

The bill also removes OBM from a list of recipients to which the Chancellor of Higher Education must send a fiscal analysis prior to the implementation of any action or adoption of a rule with an expected fiscal effect. Finally, it removes OBM as a recipient for a Department of Development Disabilities' report on use of the Department of Developmental Disabilities Administration and Oversight Fund.

Appropriation report to General Assembly

(Repealed R.C. 126.231)

The bill eliminates a requirement that the OBM Director furnish to the Senate President and Senate Minority Leader, the Speaker of the House and the House Minority Leader, and the Chairpersons of the Finance committees in both chambers a report, each April and October, of the following appropriation information:

Details of eliminated OBM report	
Report	**Line items or funds included in the report**
Both October and April	Line items without current year appropriation, but with remaining open encumbrances.
	Dedicated purpose funds that have more than 100% of their appropriation in cash on hand.
October only	Funds that had no expenditures in the immediately preceding FY, but had remaining cash balances.
	Funds that have spent less than half of their preceding FY appropriations.
April only	Funds that had no expenditures in the current FY, but had remaining cash balances.
	Funds that spent or encumbered less than half of their current FY appropriations through December of that FY.

Annual comprehensive financial reports

(R.C. 126.21, 126.46, and 5537.17)

The bill changes the name of the state report the OBM Director must issue from a "comprehensive annual financial report" to an "annual comprehensive financial report." Under continuing law, this financial report of the state must cover all funds handled by OBM, including basic financial statements and required supplementary information prepared in accordance with generally accepted accounting principles, as well as any other information required by the Director. The bill also makes a conforming change in the State Audit Committee Law; continuing law requires the Committee to review and comment on OBM's report preparation process regarding the renamed report.

The bill also changes the name of a report the Ohio Turnpike and Infrastructure Commission must issue from a "comprehensive annual financial report" to an "annual comprehensive financial report." Under current law, the report must outline the complete operating and financial statement covering the Commission's operations and funding of any turnpike projects and infrastructure projects for each year.

CASINO CONTROL COMMISSION

Sports gaming involuntary exclusion list

- Allows the Ohio Casino Control Commission (OCCC) to prohibit a person from participating in sports gaming in Ohio if the person has threatened violence or harm against a person who is involved in a sporting event, where that threat was related to sports gaming with respect to that sporting event.

Type C sports gaming license and liquor permits

- Allows a brewery, winery, or distillery that operates a bar or restaurant on-site (A-1-A liquor permit holder) or a micro-brewery (A-1c permit holder) to apply for a type C sports gaming host license.

Child and spousal support withheld from winnings

- Requires a casino operator or sports gaming proprietor to transmit withheld child and spousal support to the Department of Job and Family Services by electronic means.

Annual reports on sports gaming

- Requires OCCC, each year, to contract with a state university in Ohio to prepare a report concerning problem sports gaming and to submit it to the Governor and the General Assembly.
- Requires OCCC to use a request for proposals process to award the contract and to supervise and coordinate the preparation of the report.
- Requires OCCC to levy fees on sports gaming proprietors, mobile management services providers, and management services providers to cover the cost of the report.

Sports gaming involuntary exclusion list

(R.C. 3772.01 and 3772.031)

The bill allows the Ohio Casino Control Commission (OCCC) to prohibit a person from participating in sports gaming in Ohio if, before, during, or after a sporting event, the person has threatened violence or harm against a person who is involved in the sporting event, where that threat was related to sports gaming with respect to that sporting event.

For purposes of the provision described above, a person is considered to be involved in a sporting event if the person is an athlete, participant, coach, referee, team owner, or sports governing body with respect to the sporting event; any agent or employee of such a person; or any agent or employee of an athlete, participant, or referee union with respect to the sporting

event. This is the same as the list of persons who, under continuing law, may not participate in sports gaming because of their involvement in sporting events.[28]

Under continuing law, OCCC may add a person to its sports gaming involuntary exclusion list for a number of reasons, including past gaming law violations, a reputation for dishonest gaming activities, or posing a threat to the safety of a sports gaming facility's patrons or employees. A person who is added to the involuntary exclusion list is entitled to notice and an opportunity for a hearing before being excluded.

Type C sports gaming license and liquor permits

(R.C. 3775.01 and 3775.07)

The bill allows a brewery, winery, or distillery that operates a bar or restaurant on-site (A-1-A liquor permit holder) or a micro-brewery (A-1c permit holder) to apply for a type C sports gaming host license. Current law allows D-1, D-2, and D-5 permit holders (bar or restaurant that serves beer or intoxicating liquor for on-premises consumption) to apply to OCCC for a type C sports gaming host license. A type C licensee may offer lottery sports gaming through a type C sports gaming proprietor using self-service or clerk-operated sports gaming terminals located at the liquor permit premises.

Casino and sports gaming winnings

(R.C. 3123.90)

The bill modifies the law concerning withholding of past due child and spousal support from casino and sports gaming winnings, by requiring a casino operator or sports gaming proprietor to transmit the money to the Department of Job and Family Services by electronic means.

Annual reports on sports gaming

(R.C. 3775.02)

The bill requires OCCC, each year, to contract with a state university in Ohio to prepare a report concerning problem sports gaming. The report must discuss the prevalence of problem sports gaming in Ohio and recommendations on how to address problem sports gaming. If requested by OCCC's Executive Director, the report also must include an additional analysis of wagering trends, including an analysis of historical wagers placed in Ohio and identification of unusual or suspicious wagering activity. And, the report must cover any other gaming-related matters, as directed by OCCC.

Before awarding a contract to prepare a report, OCCC must issue a request for proposals and consider all factors in awarding the contract. The contract must go to a state university that demonstrates its experience and expertise in evaluating the integrity of sports gaming and reducing problem sports gaming in Ohio. OCCC must supervise and coordinate the preparation of the report and submit it to the Governor and the General Assembly.

[28] R.C. 3775.13(F), not in the bill.

Under continuing law and administrative rules, a state university in Ohio may request anonymized sports gaming data from a sports gaming proprietor for the purpose of conducting research to assist OCCC in ensuring the integrity of sports gaming and problem gambling. The data are not a public record, and the state university may only disclose them for certain listed purposes.[29] The bill adds the new report as one of the permitted purposes for which a state university may request and disclose anonymized sports gaming data.

In order to cover the expenses incurred in preparing the report, the bill requires OCCC to levy fees on sports gaming proprietors, mobile management services providers, and management services providers in amounts corresponding to the proportion of the state's total sports gaming receipts they received in the previous calendar year. (For example, if Ohio's total sports gaming receipts are $100 million for the year, and proprietor A brings in $75 million, while proprietor B brings in $25 million, proprietor A's fees must cover 75% of the cost of the report, and proprietor B's must cover 25% of the cost.)

[29] O.A.C. 3775-16-14.

DEPARTMENT OF CHILDREN AND YOUTH

Creation of the Department

- Creates the Department of Children and Youth to serve as the state's primary children's services agency and establishes the position of Director of Children and Youth.
- Requires the Department to facilitate and coordinate the delivery of children's services in Ohio.
- Requires the Directors of Children and Youth, ODJFS, Education, ODH, Developmental Disabilities, ODM, OhioMHAS, and Development to develop a plan to transfer children's services duties, functions, programs, and staff resources to the new department by January 1, 2025.
- Transfers various programs and duties from ODJFS, Education, ODH, Developmental Disabilities, and OhioMHAS to the Department of Children and Youth on January 1, 2025, and makes conforming changes throughout the Revised Code.
- Accelerates the requirement for transferring agencies to complete their regulatory restriction reductions relating to children and youth to be completed before January 1, 2025, instead of June 30, 2025, as under current law.

Residential infant care center services

- Beginning in FY 2024, requires the Department, in coordination with ODM, to establish a bundle of funding for nonmedical maternal and child health programmatic services provided by residential infant care centers to infants born substance-exposed and their families.
- Not later than June 30, 2025, requires the Department and ODM to establish a permanent reimbursement model for services provided by residential infant care centers.

Department of Children and Youth

(R.C. 5180.01 and 5180.02 (primary), 121.02, 121.03, 121.35, 121.37, 121.40, 3109.15, 3109.16, 3109.17, 3109.179, 5101.34, 5101.341, and 5101.342; Sections 130.10 to 130.16 and 423.10 to 423.140)

The bill creates the Department of Children and Youth to serve as the state's primary children's services agency and establishes the position of Director of Children and Youth as a member of the Governor's cabinet. Under the bill, the Department must facilitate and coordinate the delivery of children's services in Ohio, including services provided by government programs that focus on the following:

- Adoption, child welfare, and foster care services;
- Early identification and intervention regarding behavioral health, including early intervention services, early childhood mental health initiatives, multi-system youth

services, and family support services administered through the Ohio Family Children First Cabinet Council, Ohio Commission on Fatherhood, and Children's Trust Fund Board;

- Early learning and education, including child care and preschool licensing, early learning assessments, Head Start, preschool special education, publicly funded child care, and the Step Up to Quality program;
- Maternal and child physical health, including infant vitality, home visiting, maternal and child health, maternal and infant support, and Medicaid-funded child health services.

Administering the Department

The bill requires the Director of Children and Youth, the Department's chief executive and appointing authority, to administer the Department and implement the delivery of children's services, including by doing the following:

- Adopting rules in accordance with state law;
- Approving and entering into contracts, agreements, and other business arrangements on the Department's behalf;
- Making appointments to the Department and approving actions related to departmental employees and officers, including their hiring, promotion, termination, discipline, and investigation;
- Directing the performance of employees and officers;
- Applying for grants and allocating any funds awarded;
- Any other action as necessary to implement the bill's provisions.

As part of administering the Department and implementing the delivery of children's services, the bill grants the Director the authority to organize the Department for its efficient operation, including by creating divisions or offices within it. The Director also may establish procedures for the Department's governance and performance, employee and officer conduct, and the custody, preservation, and use of departmental books, documents, papers, property, and records. The bill requires the Director or Director's designee to fulfill any duty or perform any action that, by law, is imposed on or required of the Department.

The bill also requires each state and local agency involved in the delivery of children's services to comply with any directive issued by the Director and to collaborate with the Department.

If a law permits or requires the Director to adopt an administrative rule, the bill requires the Director to do so in accordance with the Administrative Procedure Act (APA), unless the authorizing law specifies a different procedure. There are two general statutory rulemaking procedures, one in the APA and the other in R.C. 111.15. The primary difference between the two is that the APA requires notice and a public hearing before adopting a proposed rule; R.C. 111.15 does not.

Children's Trust Fund Board, Ohio Commission on Fatherhood, and Ohio Family and Cabinet First Cabinet Council

The bill maintains the Children's Trust Fund Board and Ohio Commission on Fatherhood, but transfers them to the Department rather than ODJFS as under current law. The bill also includes the Director of Children and Youth in the membership of the Ohio Family and Children First Cabinet Council. These changes take effect 90 days after the bill's effective date.

Transitional language related to transfer to Department of Children and Youth

The bill addresses the transfer of duties, functions, and programs to the Department as well as other issues relating to its creation, including by doing the following:

- Requiring the Directors of Children and Youth, ODJFS, Education, ODH, Developmental Disabilities, ODM, OhioMHAS, and Development or their designees to identify duties, functions, programs, and staff resources related to children's services within their departments;
- Requiring the Directors to develop a detailed organizational plan to implement the transfer of the identified duties, functions, programs, and resources to the new department by January 1, 2025, and enter into a memorandum of understanding regarding the transfer;
- Specifying that any business commenced but not completed by January 1, 2025, within the other departments that is slated to be transferred to the new department is to be completed by the Department of Children and Youth or its Director in the same manner, and with the same effect, as if completed by the other departments;
- Transferring all employees and staff resources identified by the Directors on January 1, 2025, or an earlier date chosen by the Directors and specifying that they retain their same positions and benefits;
- Authorizing the Directors to jointly or separately enter into contracts for staff training and development to facilitate the transfer;
- Specifying that 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 Department of Children and Youth;
- Specifying that no action or proceeding pending on the date of the transfer is affected by the transfer and is to be prosecuted or defended in the name of the Department or Director;
- Specifying that all rules, orders, and determinations relating to children's services programs made or undertaken before the transfer continue in effect as rules, orders, and determinations of the new Department until modified or rescinded by it;
- Transferring to the new Department all records, documents, files, equipment, assets, and other materials of the transferred programs and staff resources;

- Requiring the OBM Director to make budget and accounting changes to implement the transfer of duties, programs, and functions.

Collective bargaining

The bill specifies that the creation of the new Department and transfer of programs, duties, and employees are not appropriate subjects for public employees' collective bargaining.

Authority regarding employees

The bill authorizes the Director of Children and Youth to establish, change, and abolish positions for the Department and to assign, reassign, classify, reclassify, transfer, reduce, promote, or demote employees who are not subject to state law governing public employees' collective bargaining.

This authority includes assigning or reassigning an exempt employee to a bargaining unit classification if the Director determines that the bargaining unit classification is the proper classification for that employee. 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 Director, or in the case of a position transferred outside of the Department, the Director of Administrative Services, 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 of the Director of Children and Youth taken under this authority are not subject to appeal to the State Personnel Review Board.

Retirement incentive plan

The bill authorizes the Directors included in the transition workgroup described above, with the approval of OBM, to establish a retirement incentive plan for employees of the departments who are members of the Ohio Public Employees Retirement System and whose job duties will be transferred to the new Department of Children and Youth. Any such plan must remain in effect until December 31, 2024.

Transferring and renumbering administrative rules

The bill requires the Directors transferring children's services duties and programs to the new Department of Children and Youth to complete, before January 1, 2025, a reduction in regulatory restrictions related to children's services. The reduction is required under continuing law and currently must be completed no later than June 30, 2025. The bill prohibits a transferring Director from treating a transfer to the new Department as a reduction for purposes of satisfying the requirement.

Under continuing law, a "regulatory restriction" is any part of an administrative rule that requires or prohibits an action. Rules that include the words "shall," "must," "require," "shall not," "may not," and "prohibit" are considered to contain regulatory restrictions.[30]

[30] R.C. 121.95.

On and after January 1, 2025, if necessary to ensure the integrity of the numbering of the Administrative Code, the Legislative Service Commission Director must renumber the rules related to children's services programs transferred to the Department to reflect the transfer.

From the date the reduced rules related to children's services are transferred to the new Department until June 30, 2025, the Department must comply with the regulatory reduction requirements applicable to all cabinet-level and certain other agencies under continuing law. The requirements include a requirement that the Department not adopt a regulatory restriction unless it simultaneously removes two or more existing regulatory restrictions (known as the "two-for-one rule"). The law also requires these agencies to reduce their number of regulatory restrictions in accordance with a statutory schedule.

Beginning July 1, 2025, continuing law prohibits these agencies, including the new Department, from adopting a new regulatory restriction if adoption would cause a statewide cap on such restrictions calculated by JCARR to be exceeded. Under the bill, JCARR is to include the reduced rules transferred to the new Department, minus any reductions achieved by the Department between January 1, 2025, and June 30, 2025, when calculating the statewide cap.

Like all agencies currently subject to the reduction requirements, beginning on and after July 1, 2025, the new Department must contact JCARR before submitting a proposed rule containing a regulatory restriction. JCARR must determine whether adopting the restriction would cause the state to exceed the cap. If JCARR determines that adopting the restriction would cause the cap to be exceeded, the Department may not adopt it.

Conforming amendments

In Sections 130.12 to 130.16, the bill makes extensive conforming changes throughout the Revised Code to reflect the transfer of the following children's services programs to the Department of Children and Youth effective January 1, 2025:

- Adoption;
- Child care;
- Child welfare, including foster care;
- Early childhood education (note that the Department of Education and Workforce retains authority over preschool teachers and staff, but the Department of Children and Youth will license preschool programs);
- Early intervention services under Part C of the federal Individuals with Disabilities Education Act;[31]
- Help Me Grow and home visiting;

[31] 20 United States Code (U.S.C.) 1431 *et seq*. and regulations implementing that part in 34 Code of Federal Regulations (C.F.R.) part 303.

- Maternal and infant vitality, including the Commission on Infant Mortality, shaken baby syndrome education, and safe sleep screening and education;
- Preschool special education.

It also adds the Director of Children and Youth to various boards and commissions involving children's services, such as the Child Care Advisory Council, the Commission on Infant Mortality, and the Ohio Home Visiting Consortium.

Delegation of legislative authority

There are a number of Ohio programs and duties impacting children and youth that are not expressly transferred to the new Department by the bill. Examples include child support and paternity establishment, the Youth and Family Ombudsman's office, the Children's Health Insurance Program, the Program for Medically Handicapped Children, child fatality and fetal-infant mortality review boards, and the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), among others.

With regard to the workgroup of directors described above and the organizational plan and memorandum of understanding to transfer children's services programs to the new Department, it is unclear to what extent that plan could assign other children's services programs and duties not included in this bill to the new Department without amending the Revised Code. Under the Ohio Constitution, legislative authority is vested in the General Assembly.[32]

Residential infant care center services

(Section 423.20)

Beginning in FY 2024, the bill requires the Department of Children and Youth, in coordination with ODM, to establish a bundle of funding for nonmedical maternal and child health programmatic services provided by residential infant care centers to infants born substance-exposed and their families. Additionally, not later than June 30, 2025, the Department and ODM are required to establish a permanent reimbursement model for services provided by residential infant care centers. The permanent model must include reimbursement for nonmedical services described above and medical services.

[32] Ohio Const., art. II, secs. 1 and 26.

DEPARTMENT OF COMMERCE

Medical marijuana

- Creates the Division of Marijuana Control (DMC) within the Department of Commerce (COM) and requires the State Board of Pharmacy (PRX) and COM to transfer the Medical Marijuana Control Program to DMC no later than December 31, 2023.
- Establishes a Superintendent of Marijuana Control to oversee DMC.
- Specifies that licenses and registrations issued by COM and PRX remain in effect for the remainder of their term and that forms of medical marijuana approved by PRX remain approved unless that approval is later revoked by DMC.
- Specifies that COM and PRX rules related to the Medical Marijuana Control Program remain in effect until repealed or amended by DMC, but requires DMC to review and propose revisions to existing rules on retail dispensaries by March 1, 2024.
- Allows DMC to investigate alleged violations of the Medical Marijuana Law, including by subpoenaing documents and witnesses.
- Requires PRX, upon receipt of a request, to provide DMC with information from the Ohio Automated Rx Reporting System (OARRS) relating to an individual or entity being investigated by DMC.
- Makes conforming changes throughout the Revised Code.

Division of Financial Institutions

- Replaces the requirement that the Superintendent of Financial Institutions obtain a criminal records check in relation to a person who controls a bank, or has a substantial interest in or participates in managing a bank, with a requirement that the Superintendent request a criminal records check of a person who exercises "control" of a bank.
- Defines "control" as the power to vote, directly or indirectly, at least 25% of the voting shares or interests or the power to elect or appoint a majority of executive officers or directors.
- Rebuttably presumes a person to exercise control when the person holds the power to vote, directly or indirectly, at least 10% of the voting shares or interests.

State Fire Marshal

- Eliminates the Underground Storage Tank Revolving Loan Program under which the State Fire Marshal may issue loans to political subdivisions to assist with costs in removing underground storage tank systems that store petroleum and hazardous substances.
- Repeals the law establishing the Underground Storage Tank Revolving Loan Fund, which is used for purposes of the program.

Division of Industrial Compliance

Elevator safety

- Aligns the law governing the fee for issuing or renewing a certificate of operation for an elevator with the law governing the intervals for inspection.
- Extends the maximum interval between required Elevator Safety Review Board meetings.

Out-of-state specialty contractors

- Prevents the December 29, 2023, scheduled elimination of the Ohio Construction Industry Licensing Board's (OCILB) ability to issue specialty contractor licenses without examination in accordance with reciprocity agreements entered into with other states.
- Exempts a contractor who obtains a license through a reciprocity agreement from the requirement, effective December 29, 2023, that an out-of-state applicant must pass an examination to obtain a license.

Manufacturing and Construction Mentorship Program

- Expands the Manufacturing Mentorship Program to expose minors to construction occupations through temporary employment in addition to manufacturing occupations as under current law.
- Changes the program's name to the "Manufacturing and Construction Mentorship Program."

Real property

Ohio fire and building codes

- Requires the State Fire Marshal to exclude an exterior patio that has a means of egress on at least three sides, or within 50 feet of an open side, and that is compliant with the Americans with Disabilities Act, in establishing occupant load for a building.
- Requires the Director of Commerce, the State Fire Marshal, the Board of Building Standards, and a representative of local building departments to develop guidelines for the enforcement of the Ohio Building Code and Fire Code in a coordinated manner.
- Allows a retail establishment to obtain a temporary fire permit lasting 14 days in the event the local fire code official is unavailable to conduct an inspection or issue a permit for longer than five business days.
- Allows a retail establishment to obtain a temporary building permit lasting 14 days in the event the state or local building official is unavailable to conduct an inspection or issue a permit for longer than five business days.

Right-to-list home sale agreements

- Prohibits "right-to-list" home sale agreements that purport to run with the land, bind future owners, or create a lien, encumbrance, or other security interest in residential real estate.

- Specifies that right-to-list home sale agreements entered into, modified, or extended after the bill's 90-day effective date are void and unenforceable.
- Requires county recorders to refuse to record right-to-list home sale agreements.
- Stipulates that a person, other than the property owner, who seeks to enter a right-to-list home sale agreement commits an unfair and deceptive practice under the Consumer Sales Practices Act (CSPA).

Division of Liquor Control

B-1 liquor permit holders and craft beer exhibitions

- Allows the distributor of a beer manufacturer (B-1 permit holder) to supply the manufacturer's beer for a craft beer exhibition authorized by an F-11 liquor permit.

D-8 liquor permit changes

- Regarding an applicant for a D-8 liquor permit, which authorizes (1) an agency store to sell spirituous liquor samples, (2) a carryout store (C-1, C-2, or C-2x liquor permit holder) to sell beer, wine, or mixed beverages tasting samples, or (3) a carryout to sell growlers of beer, does both of the following:
  - Lowers the permit fee from $500 to $250 if the permit applicant only conducts one of the above activities; and
  - Retains the $500 permit fee if the permit applicant conducts two or more of the above activities.

Liquor permit premises: outdoor sales area

- Codifies and makes permanent a law that is set to expire December 31, 2023, that allows a qualified liquor permit holder to expand the area in which it may sell alcoholic beverages to the following areas (under certain circumstances):
  - In any area of the permit holder's property that is outdoors and where sales are not currently authorized, including the permit holder's parking area;
  - In any outdoor area of public property that is immediately adjacent to the permit holder's premises and that is owned by a municipal corporation or township, with the public property owner's permission;
  - In any outdoor area of private property that is immediately adjacent to the permit holder's premises, with the private property owner's permission.

Duplicate liquor permits

- Does both of the following regarding duplicate liquor permits issued by the Division of Liquor Control:
  - Requires all liquor permit holders that may serve alcohol for on-premises consumption, rather than only certain permit holders as in current law, to obtain a

duplicate permit in order to serve alcohol from an additional bar at the permit premises beyond the two bars authorized by the original permit; and

- Requires the duplicate permit fee for each added bar to be the higher of $100 or 20% of the fee payable for the original permit issued for the premises, rather than specific fee amounts depending on the type of permit issued as in current law.

Liquor permit cancellations

- Allows, rather than requires, the Liquor Control Commission to cancel liquor permits for certain reasons, including the permit holder's death or bankruptcy.

Sale of spirituous liquor by agency store

- Stipulates that the statute requiring the Division of Liquor Control to procure, upon request of a person, a specific variety or brand of spirituous liquor that is out of stock at an agency store is subject to the statutes governing the agency store system and the equitable distribution of spirituous liquor brands and varieties that are in high demand.

Division of Real Estate and Professional Licensing

Real estate brokers

- Modifies the prerequisites to take the real estate broker's examination by:
  - Requiring that an applicant have worked as a licensed real estate broker or salesperson for at least two of the five years preceding the application; and
  - Removing the requirement that the applicant have worked as a licensed real estate broker or salesperson for an average of 30 hours per week.
- Requires the Superintendent of Real Estate and Professional Licensing to forward any identifying information to the Attorney General if a person fails to pay a civil penalty for certain unlicensed or unregistered activity.

Disciplinary actions

- Limits to state or federally chartered institutions where a person holding a real estate broker or salespersons license must, for the purpose of receiving escrow funds and security deposits, or for the purpose of depositing and maintaining funds in the course of real property management on the behalf of others, maintain a special or trust bank account.
- Permits the Superintendent to take disciplinary action against a license holder for having been judged incompetent in any capacity, as opposed to simply for the purpose of holding a real estate license.

Administration of funds

- Creates the Cemetery Registration Fund and requires burial permit fees to be deposited into the new fund, instead of to the Division generally, but with the same purpose.

- Eliminates the Cemetery Grant Fund and redirects deposits to the Cemetery Registration Fund and eliminates a restriction on the total value of grants permitted to be issued in a single fiscal year.
- Eliminates the Real Estate Education and Research Fund, Manufactured Homes Regulatory Fund, Home Inspectors Fund, and Real Estate Appraiser Operating Fund, and redirects deposits going to these funds under existing law to the existing Division of Real Estate Operating Fund.
- Expands the purposes for which the Real Estate Operating Fund may be used to include the purposes for which the eliminated funds may be used.
- Allows instead of requires, as in current law, the Ohio Real Estate Commission to use operating funds (instead of the Real Estate Education and Research Fund) for education and research.
- Allows the Superintendent to collect a service fee from the Real Estate Recovery Fund to defray the cost of administering the fund, rather than requiring the Superintendent to collect the service fee.

Confidentiality of investigatory information

- Expands the Division of Real Estate and Professional Licensing's ability to share investigatory information with the Division of Securities, Division of Industrial Compliance, and any law enforcement agency.
- Makes a technical correction.

Division of Securities

Securities registration

- Requires all securities registered under the federal Securities Act of 1933 to be registered in Ohio by coordination.
- Specifies that the registration procedures, evaluation standards, and general oversight provisions for a registration by description or registration by qualification do not apply to a registration by coordination.
- Requires business development companies (BDCs) to file a notice with the Division of Securities before conducting business in Ohio, and permits a BDC, after filing the notice, to sell an indefinite amount of securities in Ohio.

Division of Unclaimed Funds

Legal claims

- Specifies that only when the holder acts in good faith and in compliance with the Unclaimed Funds Law will the holder be held harmless by the state for any legal claim related to the transfer of the funds to the state, and only to the extent of the value of the unclaimed funds remitted by the holder to the Director of Commerce.

- Requires that if any legal proceedings are initiated against the holder related to the unclaimed funds, the holder must notify the Director within 14 days of any service of process on the holder.
- Gives the Director discretion to defend the lawsuit against the holder, instead of requiring the Director to assume the defense.
- Provides that if the Director elects not to intervene in the lawsuit and judgment is entered against the holder for any amount paid to the Director, then the Director must reimburse the organization for the amount paid, or modify any agreement to reflect satisfaction of the judgement.
- Specifies that no person has a claim against the state, the holder, or a transfer agent, registrar, or other person acting for or on behalf of a holder for any change in the market value of the unclaimed funds occurring after delivery by the holder to the Director, or after the sale of the property by the Director.

Uniform Commercial Code

Documentary service charges

- Increases the maximum permitted documentary service charge from $250 to $500 per sale.

Lease-purchase agreements

- Allows a person that offers or displays online personal property owned by the person for lease-purchase to disclose the price of the property, amount of the lease payment, and the total number of lease payments necessary to acquire ownership electronically, rather than affixing such information to the property itself.
- Requires mandated disclosures to be made electronically if the property offered for lease-purchase is not owned by the lessor, regardless of whether the property is offered or displayed online.

Medical marijuana

(R.C. 121.04, 121.08, 3796.02, 3796.03, 3796.032, 3796.04 (repealed), 3796.05, 3796.06, 3796.061, 3796.08, 3796.10, 3796.11, 3796.12, 3796.13, 3796.14, 3796.15, 3796.16, 3796.17, 3796.19, 3796.20, 3796.22, 3796.23, 3796.27, 3796.30, 4729.80, and 4776.01; Section 525.20; conforming changes in R.C. 109.572, 1321.37, 1321.53, 1321.64, 4729.86, 4735.143, 4763.05, 4764.06, 4764.07, 4768.03, and 4768.06)

Transfer to Division of Marijuana Control (DMC)

The bill consolidates oversight of the Medical Marijuana Control Program within the Division of Marijuana Control (DMC), which the bill creates within the Department of Commerce (COM). To oversee DMC, the bill establishes a Superintendent of Marijuana Control who reports to the Director of Commerce. Currently, oversight of the Medical Marijuana Control Program is

split between COM and the State Board of Pharmacy (PRX), with COM being responsible for licensing and oversight of cultivators, processors, and testing laboratories and PRX being responsible for licensing and oversight of medical marijuana patients, caregivers, and dispensaries. Accordingly, the bill transfers all assets, liabilities, and obligations of COM and PRX related to medical marijuana to DMC.

The bill requires the transfer to be complete no later than December 31, 2023. Until then, PRX and COM retain their respective marijuana licensing and oversight responsibilities. Persons seeking registration as a medical marijuana patient or caregiver must apply to PRX until the 180th day following the effective date of the bill's changes. After that date, such applications must be submitted to DMC. Consequently, it appears that PRX will continue to receive applications for patient and caregiver registrations for a least three months after the Medical Marijuana Control Program is fully transferred to DMC. Presumably, PRX would send those applications to DMC for processing.

The bill specifies that medical marijuana licenses and registrations issued by PRX and COM remain in effect for the remainder of their term. If a license or registration expires before the program transfer is complete, the original issuer (PRX or COM) may renew it under the law as it existed before the bill's effective date. Forms of medical marijuana previously approved by PRX remain approved unless DMC later revokes the approval.

Rules

DMC is required to adopt rules, standards, and procedures for the Medical Marijuana Control Program. The topics of those rules closely mirror those mandated for COM and PRX under current law. COM and PRX rules continue in effect unless they are repealed or amended by DMC. However, the bill requires DMC to review and propose revisions to the PRX rules concerning medical marijuana retail dispensaries no later than March 1, 2024.

Investigations

The bill allows DMC to initiate and conduct an investigation, and subpoena witnesses and documents, whenever there appears to be a violation of the Medical Marijuana Law, or when DMC otherwise believes it to be in the best interest of medical marijuana patients or the general public. A person that fails to comply with a DMC order or subpoena may be held in contempt by a court of common pleas of appropriate jurisdiction.

Drug database usage

The bill requires PRX, upon receipt of a request from a designated representative of DMC, to provide to the representative information from the Ohio Automated Rx Reporting System (OARRS) relating to an individual who, or entity that, is the subject of an active investigation being conducted by DMC. OARRS is a drug database used by PRX to prevent the misuse of controlled substances and other dangerous drugs.

Division of Financial Institutions

Criminal records checks

(R.C. 1121.23)

The bill replaces the requirement that the Superintendent of Financial Institutions obtain a criminal records check in relation to a person who directly or indirectly controls a bank, or has a substantial interest in or participates in the management of a bank, with a requirement that the Superintendent request a criminal records check of a person who exercises "control" of a bank. The bill defines "control" as the power to vote, directly or indirectly, at least 25% of outstanding voting shares or voting interests of a licensee or person in control of a licensee, or the power to elect or appoint a majority of executive officers or directors.

The bill creates a presumption that a person exercises control when that person holds the power to vote, directly or indirectly, at least 10% of outstanding voting shares or voting interests of a licensee or a person in control of a licensee. However, this presumption can be rebutted by establishing that the person is a passive investor by a preponderance of the evidence. To determine the percentage of a person controlled by any person, that person's interest is aggregated with any other immediate family member. This includes a spouse, parents, children, siblings, in-laws, and any other person who shares their home.

The bill also provides definitions for several terms that are not defined for purposes of this provision.

"**Director**" means an individual elected to serve as the director of a for-profit corporation or a nonprofit corporation.

"**Executive officer**" means president, treasurer, secretary, any individual at or above the senior vice-president level or its functional equivalent, any individual at the vice-president level or its functional equivalent if the organization does not have senior vice-presidents, and "manager" as that term is defined in the Ohio Revised Limited Liability Company Act (LLC Law) (a person designated by the LLC or its members with the authority to manage all or part of the activities or affairs of the LLC on its behalf, regardless of their title).

"**Incorporator**" has the same meaning as in Ohio's General Corporation Law: a person who signed the original articles of incorporation.

"**Organizer**" has the same meaning as in the LLC Law: a person executing the initial articles of organization.[33]

Because continuing law requires the Superintendent to request a criminal records check for someone to serve as an organizer, incorporator, director, or executive officer, the bills adds these definitions to clarify precisely who that includes in this context.

[33] R.C. 1701.01, 1701.55, 1702.26, and 1706.01, not in the bill.

State Fire Marshal

Underground Storage Tank Revolving Loan Program

(R.C. 3737.02, 3737.88, and 3737.882; repealed R.C. 3737.883)

The bill eliminates the Underground Storage Tank Revolving Loan Program and the accompanying Underground Storage Tank Revolving Loan Fund. Under the program, a political subdivision may apply for a loan from the State Fire Marshal to assist with the costs of removing underground storage tank systems that store petroleum and hazardous substances. The loans are for sites where a responsible party is unknown or unable to financially pay for the removal of the storage tank. The State Fire Marshal must adopt rules to administer and operate the program, including establishing qualifying criteria for loan recipients. The fund is used to make underground storage tank revolving loans. The fund currently has no cash balance.

Division of Industrial Compliance

Elevator safety

Inspection interval

(R.C. 4701.17)

The bill aligns the law governing the fee for issuing or renewing a certificate of operation for an elevator with the law governing the intervals for inspection. Continuing law requires elevators to be inspected twice every 12 months, and sets the fee for a certificate of operation for elevators at $220 plus $12 for each floor serviced by the elevator. The bill retains the existing fee, but changes a reference in the fee provision from "once every six months" to "twice every twelve months." This change makes the fee provision consistent with the inspection provision.

Elevator Safety Review Board meetings

(R.C. 4785.09; Section 110.40)

Current law requires that the Elevator Safety Review Board meet at least once per month. The bill extends the period between meetings to occurring at least once per quarter. As such, the maximum period between meetings is extended to three months.

Additionally, the bill clarifies that the amendment to the section does not supersede the future repeal of that section. Continuing law, implemented by H.B. 107 of the 134th General Assembly, repeals the laws that create the Elevator Safety Review Board and require licensure of elevator contractors and mechanics on April 3, 2033.

Out-of-state specialty contractors

(R.C. 4740.05 and 4740.08; Sections 125.20 to 125.26)

The bill prevents the December 29, 2023, scheduled elimination of the Ohio Construction Industry Licensing Board's (OCILB) ability to issue specialty contractor licenses without examination in accordance with reciprocity agreements entered into with other states. An individual issued a license through a reciprocity agreement is not subject to the requirement, effective December 29, 2023, that an out-of-state applicant must pass an examination to obtain the license.

Currently, OCILB issues reciprocal licenses to individuals who are licensed specialty contractors in states with which Ohio has a reciprocity agreement. To grant a reciprocal license, OCILB must determine the requirements for licensure under the laws of the other state are substantially equal to Ohio's licensure requirements, and that the other state extends similar reciprocity to Ohio licensees. The out-of-state applicant also must pay a fee established by OCILB. The applicant is not required to pass an examination to receive a reciprocal license.

OCILB's authority to issue a license through a reciprocity agreement currently is scheduled to end on December 29, 2023. Beginning on that date, a licensee from another state seeking an Ohio specialty contractor's license must pass an examination to receive the license. The individual may sit for the applicable examination if the individual holds a substantially similar out-of-state license and does all of the following:

- Provides proof that the individual was issued at least five authorizations for construction, erection, equipment, alteration, or addition of any building by an authority with responsibility for enforcing building regulations in the jurisdiction (essentially, building permits) where the individual holds the out-of-state occupational license;
- Provides at least one tax return that reflects income earned for services provided under the individual's out-of-state occupational license;
- Provides proof that the contracting company with whom the individual is employed in the jurisdiction where the individual holds the out-of-state occupational license is licensed as a foreign corporation or registered as a foreign limited liability company under Ohio law and that the corporation or company has designated an agent in Ohio;
- Meets the following requirements applicable to applicants seeking an initial specialty contractor license under continuing law:
  - Be at least 18 years old;
  - Be a U.S. citizen or legal alien residing in the U.S.;
  - Maintain contractor's liability insurance in an amount determined by OCILB;
  - Not violated the OCILB Law or engaged in specific activities involving fraud, misrepresentation, or deception.

Under the bill, however, an individual licensed in another state that has a reciprocity agreement with Ohio is eligible for an Ohio license without taking an examination. A licensee from a state that does not have a reciprocity agreement with Ohio will need to provide proof that the individual meets the above requirements and pass the examination. Alternatively, such an individual may apply to take the examination in the same manner as an individual seeking an initial license.[34]

[34] See R.C. 4740.06, not in the bill.

Manufacturing and Construction Mentorship Program

(R.C. 4109.05 and 4109.22)

The bill expands the "Manufacturing Mentorship Program" to include construction occupations and renames the program the "Manufacturing and Construction Mentorship Program." The program exposes minors in Ohio who are 16- or 17-years old to both construction occupations (under the bill) and manufacturing occupations (under continuing law) through temporary employment. An employer employing a minor under the program must:

- Determine the duration of the minor's employment;
- Assign a mentor to provide direct and close supervision to the minor while the minor is engaged in any workplace activity;
- Provide the minor with the training described under "**Mentorship program training**," below;
- Encourage the minor to participate in a career-technical education program after the minor's employment ends, if the minor is not participating in such a program when the minor begins employment;
- Comply with all state and federal laws and regulations relating to the employment of minors.

As with manufacturing occupations under continuing law, the bill allows a minor who is employed by an employer under the program to work in any construction occupation that is not prohibited for minors of that age by Ohio's Minor Labor Law or rules adopted under the Law.

For purposes of the bill, a "construction occupation" is employment consisting of the construction, reconstruction, enlargement, alteration, repair, remodeling, renovation, demolition, or painting of a building or other structure, road, bridge, or other work, and includes preparing a site for new construction.

Mentorship program training

The bill requires an employer to provide a 16- or 17-year old minor employed in a construction occupation under the program with training that includes all of the following:

- A ten-hour course in construction or general industry safety and health hazard recognition and prevention approved by the U.S. Department of Labor's Occupation Safety and Health Administration (OSHA) (the minor may participate in an OSHA-approved 30-hour course if the minor has already successfully completed a ten-hour course);
- Instructions on how to operate the specific tools the minor will use during the minor's employment;
- The general safety and health hazards that the minor may be exposed to at the minor's workplace;
- The value of safety and management commitment;

- Information on the employer's drug testing policy.

The bill requires the employer to pay any costs associated with providing a minor in a construction occupation with the training.

As with manufacturing employers employing minors under the program, a construction employer participating in the program is not required to provide the training described above if the minor presents proof of completing the training during the six-month period immediately before beginning employment.

List of approved tools

The bill requires the Director of Commerce, in consultation with construction employers, to adopt rules in accordance with the Administrative Procedure Act specifying a list of the tools that a 16- or 17-year old minor who is employed in a construction occupation under the program may operate during the minor's employment. The Director must use the "Field Operations Handbook" issued by the U.S. Department of Labor's Wage and Hour Division for guidance in developing the list. Nothing in the bill requires the Director to include a tool on the list if the federal Fair Labor Standards Act[35] (FLSA) hazardous occupation orders and Ohio's Minor Labor Law or rules adopted under it specifically permit 16- or 17- year olds to operate the tool.

Prohibitions

The bill prohibits an employer from:

1. Permitting a 16- or 17-year old minor to operate a tool a minor of that age is permitted to operate under the rules described in "**List of approved tools**" above unless the minor is employed by the employer under the program;

2. Permitting a 16- or 17-year old minor who is employed under the program to operate a tool that a minor of that age is prohibited from using by the FLSA and Ohio's Minor Labor Law or rules adopted under it.

Penalty for violation

Under continuing law, the Director must designate enforcement officials to enforce Ohio's Minor Labor Law. An enforcement official who discovers a violation of the Law must file a complaint against an offending employer in any court of competent jurisdiction after providing notice to the employer of the violation. If the court finds the employer violated the Law, the employer is assessed a penalty, which is paid into the fund of the school district in which the violation was committed.

An employer who violates the bill's prohibitions is assessed a civil penalty of up to $1,730 for each violation.[36]

[35] 29 U.S.C. 201 *et seq.*

[36] R.C. 4109.13 and 4109.99, not in the bill.

Hazardous occupations prohibited for minors

Continuing law requires the Director, after consulting with the Director of Health, to adopt rules prohibiting the employment of minors in occupations that are hazardous or detrimental to the health and well-being of minors. The Director of Commerce must consider the hazardous occupation orders issued pursuant to the FLSA when adopting the rules. The bill prohibits the Director from adopting any rule that would prohibit a minor who is 16- or 17-years old and employed by an employer under the "**Construction and Manufacturing Mentorship Program**" above from being employed in a construction occupation if the hazardous occupation orders issued pursuant to the FLSA permit the minor's employment in the construction occupation.

Interaction between federal and state minor labor laws

An employer or employee may be subject to the FLSA, Ohio's Minor Labor Law, or both laws, depending on the employer type and size and whether the employer or employee engages in interstate commerce. In the situation where an employer or an employee is subject to both federal and Ohio law and the laws differ, the law that provides the most protection for the minor applies.[37] For example, federal and Ohio law prohibit a minor from using hammering machines such as a power hammer.[38] If Ohio law were amended to permit the minor to use a hammering machine that is prohibited under the FLSA, the federal law would control because it is more restrictive of the minor's activity. Therefore, it appears that a minor's employment would be limited in certain occupations that are prohibited under the federal law, even if Ohio law were amended to permit the minor's employment in those occupations.

Real property

Ohio fire and building codes

Exterior patios

(R.C. 3737.83; Sections 110.20 and 110.21)

Continuing law requires that structures adhere to occupant load limits and other safety requirements in the Ohio Fire Code and the Ohio Building Code. Occupant load refers to the number of people permitted in a building at one time based on the building's floor space and function – the number of people for which the means of egress is designed.[39] The bill requires the State Fire Marshal to establish in the state Fire Code that the occupant load does not include an exterior patio that has a means of egress on at least three sides, or within 50 feet of an open side, and in which each means of egress is compliant with standards established by the Americans with Disabilities Act. To be compliant, each means of egress must provide a continuous and unobstructed way of travel to an area of refuge, a horizontal exit, or a public way.[40]

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[37] 29 U.S.C. 218 and 29 C.F.R. 570.50.

[38] 29 C.F.R. 570.59 and O.A.C. 4101:9-2-11.

[39] O.A.C. 1301:7-7-10 and 4101:1-10-01.

[40] International Building Code § 1007.1 (2003).

Coordinated enforcement

(R.C. 3737.062)

The bill requires the Director of Commerce, in collaboration with the State Fire Marshal, the Board of Building Standards, and representatives of local building departments, to develop guidelines for the enforcement of the Ohio Building Code and state Fire Code in a coordinated manner, including the interaction of exemptions from one code with the requirements of the other code.

Temporary fire and building permits

(R.C. 3737.833 and 3781.032)

Under current law, permits provided under the Ohio Fire Code must be granted by the State Fire Marshal or local fire code official, usually the fire chief for municipalities and townships that have fire departments. Similarly, the Ohio Building Code requires permits to be granted by the relevant building official from a department or agency of the state, or a political subdivision, which has jurisdiction to enforce state and local building codes. Building officials are responsible for administering and enforcing both the Ohio Building Code and any local building regulations adopted in accordance with the state law.[41]

If the local fire code official or state or local building official is unable to conduct an inspection or issue a permit required by the state fire or building codes for more than five business days, the bill allows the owner, operator, or developer of a retail establishment to obtain a temporary fire or building permit from *any* fire or building code official authorized to conduct that inspection or issue that permit elsewhere in Ohio. In the event that a retail establishment does receive a temporary permit, that permit will last for only 14 days, after which time the establishment must obtain the permit in question from the local fire code or building official.

The bill defines a "retail establishment" as a place of business open to the general public for the sale of goods or services, including establishments currently under construction and not yet open to the public.

Right-to-list home sale agreements

(R.C. 317.13, 4735.01, 4735.18, and 5301.94)

The bill prohibits "right-to-list" home sale agreements, where the owner of residential real estate agrees to provide another person the exclusive right to list the real estate for sale at a future date, in exchange for monetary consideration, or something else of value. The prohibition applies to agreements entered into, modified, or extended after the bill's 90-day effective date that meet one or both of the following criteria:

- The agreement states that it runs with the land, or otherwise purports to bind future owners of the residential real estate;

[41] O.A.C. 1301:7-7-01, Sections 105.1.1, 104.1, and 104.2; O.A.C. 4101:1-1-01, Sections 105.1, 104.1, and 104.2; R.C. 3781.01, not in the bill.

- The agreement purports to be a lien, encumbrance, or other real property security interest.

For example, a "right-to-list" agreement might give a real estate agent the exclusive right to list a particular property for the duration of the agreement, no matter who the owner of the property is or how many times the property changes hands.

Under the bill, right-to-list agreements are void and unenforceable. Furthermore, county recorders must refuse to record such an agreement. However, the bill clarifies that county recorders do not have a duty to evaluate every document presented to determine whether or not the document is a right-to-list agreement.

Persons other than the property owner that seek to enter a right-to-list agreement commit an unfair and deceptive practice under the Consumer Sales Practices Act (CSPA). Such persons would be subject to a lawsuit brought by either the Attorney General or the property owner.[42] Furthermore, real estate agents or brokers who are found to have entered into a right-to-list agreement would be subject to the following sanctions:

- Revocation of license;
- Suspension of license;
- A fine of no more than $2,500;
- A public reprimand;
- Additional continuing education.[43]

Division of Liquor Control

B-1 liquor permit holders and craft beer exhibitions

(R.C. 4303.2011)

The bill allows the distributor of a brewery (B-1 permit holder) to supply the brewery's beer for a craft beer exhibition authorized by an F-11 liquor permit. Current law allows an F-11 permit holder to sell at an exhibition beer that it has purchased from breweries (A-1 and A-1c permit holders) that are participating in the exhibition.

D-8 liquor permit changes

(R.C. 4303.184)

Regarding an applicant for a D-8 liquor permit, the bill does both of the following:

1. Lowers the permit fee from $500 to $250 if the permit applicant only conducts one of the activities specified below; and

[42] R.C. 1345.07 and 1345.09, not in the bill.

[43] R.C. 4735.051, not in the bill.

2. Retains the $500 permit fee if the permit applicant conducts two or more of the below activities.

The D-8 permit authorizes:

1. An agency store to sell spirituous liquor samples;

2. A carryout store (C-1, C-2, or C-2x liquor permit holder) to sell beer, wine, or mixed beverages tasting samples; or

3. A carryout to sell growlers of beer.

Liquor permit premises: outdoor sales area

(R.C. 4301.62 and 4303.188; Sections 610.70 and 803.20)

The bill codifies and makes permanent a law that is set to expire on December 31, 2023. The codification takes effect January 1, 2024. The law allows a qualified liquor permit holder to expand the area in which it may sell beer, wine, mixed beverages, or spirituous liquor (alcoholic beverages) by the individual drink for consumption to personal consumers in the following areas:

1. In any area of the permit holder's property that is outdoors and where sales are not currently authorized, including the permit holder's parking area;

2. In any outdoor area of public property that is immediately adjacent to the permit holder's premises and that is owned by a municipal corporation or township, with the public property owner's written permission in accordance with the bill;

3. In any outdoor area of private property that is immediately adjacent to the permit holder's premises, with the private property owner's permission.

A qualified permit holder is a large or small brewery (A-1 or A-1c liquor permit holder); a brewery, winery, or small distillery that operates a bar or restaurant (A-1-A permit holder); a winery (A-2 or A-2f permit holder); or a bar or restaurant (D class permit holder). A personal consumer is an individual who is at least 21 and who intends to use a purchased alcoholic beverage only for personal consumption and not for resale or other commercial purposes.

If a qualified permit holder sells alcoholic beverages in the outdoor area, the permit holder must clearly delineate the area where personal consumers may consume alcoholic beverages.

For the bill's purposes, a qualified permit holder must obtain the written consent of either of the following:

1. If the public property is located in a municipal corporation, the executive officer of the municipal corporation or the executive officer's designee. If the executive officer or designee denies consent, the permit holder may appeal to the municipal corporation's legislative authority. The legislative authority may adopt a resolution requesting the executive officer to reconsider the denial.

2. If the public property is located in the unincorporated area of a township, the township's legislative authority by adoption of a resolution consenting to the sale of alcoholic beverages in the outdoor area.

In addition, a qualified permit holder that intends to sell alcoholic beverages by the individual drink in an outdoor area must notify the Division of Liquor Control and the Department of Public Safety's Investigative Unit of the area in which the permit holder intends to sell the alcoholic beverages. The permit holder must provide the notice within ten days of the commencement of the sales.

A qualified permit holder or the holder's employee must deliver each alcoholic beverage sold to a personal consumer in an outdoor area authorized under the bill.

Duplicate liquor permits

(R.C. 4303.30)

Current law requires certain liquor permit holders that serve alcohol for on-premises consumption to obtain a duplicate permit if the permit holder wishes to add an additional bar at the permit premises beyond the two bars authorized by the original permit. The liquor permit holders subject to this requirement are the D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5e to D-5o, and D-6 permit holders. According to the Division of Liquor Control, a D-1, D-2x, or D-3x permit holder is not required to obtain a duplicate permit if the additional bar is exclusively used for the sale of beer. Further a D-3x permit holder is not required to obtain a duplicate permit if the additional bar is exclusively used for the sale of wine. An A-1-A permit holder must obtain a duplicate bar permit for an additional bar only if the permit holder obtains a D-6 permit (Sunday sales of alcohol).

The bill requires all liquor permit holders that serve alcohol for on-premises consumption to obtain a duplicate permit if the permit holder wishes to add more than two bars. It also revises the per bar permit fee for a duplicate permit as follows:

Permit	Current law	The bill
A-1-A with a D-6	$781.20	$781.20
A-1	Not authorized	$781.20
A-1c	Not authorized	$200
A-2/A-2f	Not authorized	$100
A-5	Not authorized	$200
B-1	Not authorized	$625
B-2	Not authorized	$100
B-2a	Not authorized	$100
B-3	Not authorized	$100
B-4	Not authorized	$100

Permit	Current law	The bill
B-5	Not authorized	$312.60
D-2	$100	$112.80
D-3	$400	$150
D-3a	$400	$187.60
D-4	$200	$100
D-4a	Not authorized	$150
D-5	$1,000	$468.80
D-5a	$1,000	$468.80
D-5b	$1,000	$468.80
D-5c	$400	$312.60
D-5d	Not authorized	$468.80
D-5e	$650	$243.80
D-5f	$1,000	$468.80
D-5g	$375	$375
D-5h	$375	$375
D-5i	$468.80	$468.80
D-5j	$468.80	$468.80
D-5k	$375	$375
D-5l	$468.80	$468.80
D-5m	$468.80	$468.80
D-5n	$4,000	$4,000
D-5o	$1,000	$468.80
E	Not authorized	$100

Permit	Current law	The bill
F class	Not authorized	$100 to $340

Liquor permit cancellations

(R.C. 4301.26)

The bill allows, rather than requires, the Liquor Control Commission to cancel a liquor permit for any of the following reasons (except as provided in the rules of the Division of Liquor Control relative to transfers of a permit):

1. In the event of the permit holder's death or bankruptcy;

2. The making of an assignment for the benefit of the permit holder's creditors; or

3. The appointment of the permit holder's property.

Sale of spirituous liquor by agency store

(R.C. 4301.19)

The bill stipulates that the statute requiring the Division of Liquor Control to procure, upon request of a person, a specific variety or brand of spirituous liquor that is out of stock at an agency store is subject to both of the following:

1. The statute requiring the Division to operate a system for the sale of spirituous liquor at agency stores; and

2. The statute allowing the Superintendent of Liquor Control to establish rules for the equitable distribution of spirituous liquor for brands and varieties that are in high demand.

Division of Real Estate and Professional Licensing

Real estate brokers

Licensure

(R.C. 4735.07)

The bill modifies the work requirements to take the real estate broker's examination. Current law requires an applicant to have been a licensed real estate broker or salesperson for at least two years. Additionally, the applicant must have worked as a licensed real estate broker or salesperson for an average of 30 hours per week during at least two of the five years preceding that person's application.

The bill changes the requirement that the applicant have been a licensed real estate broker or salesperson for at least two years by requiring that those two years take place during the five years preceding the application. This change means that applicants for the examination must have two years of recent experience, but does not require that those two years be consecutive or immediately precede the application.

The bill also removes the requirement that an applicant have worked as a licensed real estate broker or salesperson for an average of at least 30 hours per week for two of the preceding five years. Under the bill, an applicant only has to have been a licensed real estate broker or salesperson for at least two of the preceding five years, and the number of hours worked each week during those two years is no longer a factor.

Civil penalty

(R.C. 4735.052)

If a person fails to pay a civil penalty the Ohio Real Estate Commission assessed for certain unlicensed or unregistered activity, the bill requires the Superintendent of Real Estate and Professional Licensing to forward to the Attorney General identifying information relating to the person. Under continuing law, the Superintendent also must forward to the Attorney General the person's name and the amount of the penalty, for purposes of collecting the penalty. The civil penalty is up to $1,000 per violation, with each day constituting a separate violation.

Disciplinary actions

(R.C. 4735.18)

The bill limits where brokerage trust accounts may be maintained to state or federally chartered institutions located in Ohio. Current law requires that a real estate broker or salesperson license holder must maintain a special or trust bank account in a depository located in Ohio. This change applies to brokerage trust accounts for the purpose of receiving escrow funds and security deposits, as well as brokerage trust accounts for the purpose of depositing and maintaining funds in the course of real property management on behalf of others. Continuing law permits the Superintendent of Real Estate and Professional Licensing to take disciplinary actions against a license holder who fails to maintain these accounts.

The bill also permits the Superintendent to take disciplinary action against a license holder for having been judged incompetent by a court in any capacity. Current law allows for disciplinary action to be taken only when a license holder has been judged incompetent for the purpose of holding the license.

Administration of funds

(R.C. 3705.17, 4735.03, 4735.06, 4735.09, 4735.12, 4735.13, 4735.15, 4735.211, 4763.15, 4763.16, 4764.18, 4767.03, 4767.10, 4768.14, 4768.15, 4781.17, and 4781.54)

The bill makes several changes to the funds that hold fees collected by the Division of Real Estate and Professional Licensing by consolidating several funds. Under existing law, changed in part by the bill, when obtaining a burial permit, a funeral director or other person must pay the local registrar or sub-registrar a $3 fee. From this fee, the registrar or sub-registrar keeps 50¢ and the rest, $2.50, goes to the Division to be used for purposes of the Cemetery Law. Of the $2.50 that goes to the Division, $1 goes to the Cemetery Grant Fund to advance grants to cemeteries registered with the Division to defray the costs of exceptional cemetery maintenance or training cemetery personnel in the maintenance and operation of cemeteries. The bill eliminates the Cemetery Grant Fund, creates the Cemetery Registration Fund, and requires burial permit fees to be deposited into the new fund. In addition, under existing law, the Division cannot advance

grants totaling more than 80% of the appropriation to the fund for that fiscal year. The bill also eliminates this restriction.

The bill also eliminates several other funds managed by the Division. It eliminates the Real Estate Education and Research Fund, Manufactured Homes Regulatory Fund, Home Inspectors Fund, and Real Estate Appraiser Operating Fund. The bill redirects deposits going to these funds under existing law to the existing Division of Real Estate Operating Fund. The bill makes several conforming changes related to the redirection of these funds.

The bill authorizes, instead of requires as in current law, the Ohio Real Estate Commission to use operating funds for the purpose of education and research in the same manner it is authorized to use the funds in the Real Estate Education and Research Fund under current law.

Lastly, the bill authorizes, rather than requires, the Superintendent of Real Estate and Professional Licensing to collect a service fee from the Real Estate Recovery Fund to defray the cost of administering the fund. The amount collected must not exceed the annual interest earnings of the fund multiplied by the federal short-term interest rate (which is 5% for 2023). Under continuing law, the Real Estate Recovery Fund is maintained to satisfy judgments against real estate brokers and salespeople who engage in professional misconduct. To support the fund, continuing law requires the Real Estate Commission to impose special assessments on brokers and salespersons renewing their licenses.[44]

Confidentiality of investigatory information

(R.C. 4735.05)

Under existing law, unchanged by the bill, when the Superintendent of Real Estate and Professional Licensing is conducting an investigation of a licensee or an applicant pursuant to a complaint, or otherwise pursuant to the Superintendent's enforcement duties, all information obtained as part of the investigation must be held confidentially by the Superintendent. Under existing law, changed in part by the bill, the Division of Real Estate and Professional Licensing is permitted to release information to the Superintendent of Financial Intuitions, as it relates to nonbank consumer lending laws, to the Superintendent of Insurance, as it relates to Title Insurance Law, to the Attorney General, or to local law enforcement agencies and local prosecutors.

In addition to not preventing the release of this information to these entities, the bill clarifies that the release of information is permissive – the confidentiality requirement does not *require* the release of this information. In addition, the bill expands this provision to permit the release of information to the Division of Securities, the Division of Industrial Compliance, and in general to any law enforcement agency or prosecutor, not just a local law enforcement agency or prosecutor.

[44] "In the matter of the Determination of the Interest Rates Pursuant to Section 5703.47 of the Ohio Revised Code (PDF)," Ohio Department of Taxation, October 14, 2022, available on the Department of Taxation's website: tax.ohio.gov.

The bill also makes a technical correction by removing a legacy reference to a repealed statutory provision.

Division of Securities

Securities registration

(R.C. 1707.01, 1707.09, 1707.091, and 1707.092)

General background

The Ohio Securities Act regulates the sale of securities (e.g., stocks, bonds, options, promissory notes, and investment contracts) in Ohio. The Act delegates the administration of the law to the Division of Securities in the Department of Commerce. If a device or transaction constitutes a security under the Act, it cannot be sold in Ohio without first registering it with the Division or properly exempting it from registration. Additionally, persons who carry out the sale of securities in Ohio must be licensed by the Division or properly exempted from licensure.

Existing law, unchanged by the bill, provides three ways to register securities with the Division, each of which requires a filing with the Division that includes fees, exhibits, and other specified documents:

- An issuer that is registering securities with the U.S. Securities and Exchange Commission (SEC) under the Securities Act of 1933 can file a **registration by coordination** with the Division.
- An issuer that is making an offering that involves a limited number of purchasers or limited selling efforts can file a **registration by description** with the Division.
- Issuers that are not eligible for registration by coordination or registration by description can pursue **registration by qualification** with the Division.

Registration by coordination – oversight by the Division

Under existing law, changed in part by the bill, the Division of Securities can subject securities registered by coordination to the same application rules and evaluation standards that apply to those registered by qualification. These registration by qualification rules and standards are more robust than the baseline requirements for registration by coordination, and allow the Division greater discretion to decline registration if, for example, the Division determines registration is not in the public interest. The bill changes this, so that the registration by coordination is mutually exclusive from a registration by qualification, limiting the Division's review discretion. Furthermore, the bill requires all federally registered securities to be registered by coordination. Currently, a federally registered security may be registered in Ohio by either coordination or qualification.

Under existing law, changed in part by the bill, the Division may suspend a security offering under any type of registration or a security subject to an exemption if it finds the proposed offer or disposition is on grossly unfair terms, or the plan of issuance and sale of securities would (or would tend to) defraud or deceive purchasers. The bill seems to exclude securities registered by coordination from this oversight.

Timing of effectiveness

Under existing law, subject to full payment of a registration fee and certain other requirements, a registration statement under the coordination procedure is effective either at the moment the federal registration statement becomes effective or at the time the offering may otherwise be commenced in accordance with the rules, regulations, or orders of the SEC. The bill retains the same application fee and other requirements, but also specifies that the effectiveness of the statement is not subject to delay or waiver of any condition by the Division of Securities or the issuer.

Notice filings

Under existing law, investment companies, as defined under the federal Investment Company Act of 1940, that are registered or have filed a registration statement with the SEC must also file a notice with the Division of Securities. The notice filing consists of a fee, based on the aggregate price of securities to be sold in Ohio, and a copy of the investment company's federal registration statement or form U-1 (Uniform Application to Register Securities) or form NF (Uniform Investment Company Notice Filing) of the North American Securities Administrators Association.

The bill extends the notice filing requirement to business development companies (BDCs) that elect to be subject to federal SEC requirements. A BDC is a closed-end fund that invests in private companies and small public firms that have low trading volumes or are in financial distress. BDCs raise capital through public offerings, corporate bonds, and hybrid investment instruments. The bill authorizes a BDC to sell an indefinite amount of securities in Ohio after filing notice with the Division. Under continuing law, securities sold to a BDC are exempt from the general registration requirements.

Division of Unclaimed Funds

Legal claims against holder

(R.C. 169.07)

The Unclaimed Funds Law, in part, specifies the types of funds that must be declared unclaimed and requires holders of such funds to report information relating to the unclaimed funds to the Director of Commerce, give notice to owners or beneficiaries, and pay all or a portion of the funds to the Director. Under current law, changed in part by the bill, when the holder makes a payment of unclaimed funds to the Director, the holder is relieved of further responsibility for the safe-keeping of the funds and will be held harmless by the state from liability for any claim arising out of the transfer of the funds to the Director. The bill limits the hold harmless provision to holders that act in good faith and in compliance with the Unclaimed Funds Law and caps the state's assumption of liability at the value of the unclaimed funds paid, as of the time of the payment to the Director.

Under continuing law, if a lawsuit is brought against a holder that has transferred unclaimed funds to the Director or that has an agreement with the Director to hold a portion of the funds, the holder must notify the Director in writing about the legal proceedings. The bill specifies that the holder must notify the Director not later than 14 days after the holder is served

notice of the lawsuit. Continuing law specifies that failure by a holder to give the notice to the Director absolves the state from any liability the state my otherwise have with regard to the unclaimed funds. The bill adds that it absolves the state from liability only beyond the value of the unclaimed funds paid by the holder to the Director.

Under current law, if there is a lawsuit against the holder, the Director must intervene and assume the defense of the holder in the lawsuit. Under the bill, the Director may take any action the Director considers necessary or expedient to protect the interests of the state, which may or may not include intervening in the lawsuit in defense of the holder. The Director is not required to intervene. The bill specifies that if the Director elects not to intervene in the lawsuit and a judgement is entered against the holder for any amount of the unclaimed funds paid to the Director, the Director must reimburse the holder for the amount paid, or enter into an agreement modified to reflect the satisfaction of the judgement, if there was an agreement in place previously in which the holder held the funds. The bill also specifies that the Director is not required to hold harmless or intervene in the lawsuit against the holder that does not act in good faith or that does not act in compliance with the Unclaimed Funds Law and that the changes made in the bill to the Unclaimed Funds Law do not insure or indemnify a holder against a holder's own acts or omission, negligence, bad faith, or breach of any duties owed to the owner of the unclaimed funds or the Director.

Under continuing law, property transferred to the Director that is not cash must be converted to cash and the proceeds are deposited into the Unclaimed Trust Fund. The bill specifies that if there is a change in the market value of the unclaimed funds after the payment is made by the holder to the Director, or after the sale of the unclaimed funds by the Director, a person cannot file a lawsuit against the state, a holder, a transfer agent, registrar, or other person acting for or on behalf of the holder for any change in the market value of the unclaimed funds.

Uniform Commercial Code

Documentary service charges

(R.C. 1317.07)

The bill increases the maximum documentary service charge that a seller may impose as part of a retail installment contract from $250 to $500 per sale. Generally, a retail seller is prohibited from charging any additional fee or similar expense as part of an installment contract. Continuing law allows an exception when the seller is authorized under codified law or by rules to charge the additional fee or expense.

One such exception involves motor vehicle sales, where a motor vehicle dealer may charge the lesser of $250, or 10% of the amount paid for the motor vehicle by the buyer or lessee. The bill increases the maximum charge for motor vehicles to $500, or 10% of the amount paid by the buyer or lessee.

Lease-purchase agreements

(R.C. 1351.01 and 1351.07)

The bill amends the law related to lease-purchase agreements. A lease-purchase agreement is an agreement for the use of personal property for an initial period of four months

or less, that is automatically renewable with each lease payment, and that permits the person leasing the property to purchase the property. All of the following are expressly excluded from the law governing lease-purchase agreements:

- A lease for agricultural, business, or commercial purposes;
- A lease made to an organization;
- A lease of money or intangible personal property;
- A lease of a motor vehicle.

Under continuing law, a person offering property for lease-purchase must disclose all of the following:

- The cash price of the property;
- The amount of the lease payment;
- The total number of lease payments necessary to acquire ownership of the property.

Current law requires such disclosures to be stamped upon, or otherwise affixed to the property in a manner that is clear and understandable. Under the bill, when personal property is being offered or displayed for lease-purchase online by the property owner, then the property owner may make the aforementioned disclosures electronically. If the property is not owned by the person offering it for lease-purchase, then the person offering the property is required to make the disclosures electronically, regardless of whether or not the property is offered or displayed online.

STATE BOARD OF COSMETOLOGY

- Reduces the required hours of initial instruction for a barber, cosmetologist, or hair designer license that an applicant must satisfy if the applicant does not hold another license.

Reduction in training hours

(R.C. 4709.07 and 4713.28, with conforming changes in R.C. 4709.10)

The bill reduces the number of hours of required training that an applicant must satisfy to obtain an initial barber license or practicing cosmetologist or hair designer license, if the applicant does not hold another license, to 1,000 hours. Under current law, an applicant must complete a number of training hours to obtain an initial license as follows:

- For an initial barber license, 1,800 hours;
- For an initial cosmetologist license, 1,500 hours;
- For an initial hair designer license, 1,200 hours.

Under continuing law unchanged by the bill, an applicant who holds a barber license and applies for a practicing cosmetologist or hair designer license, or a cosmetologist or hair designer applying for a barber license, must complete 1,000 hours of training to be issued the additional license.

COUNSELOR, SOCIAL WORKER, AND MARRIAGE AND FAMILY THERAPIST BOARD

- Requires that four Counselor, Social Worker, and Marriage and Family Therapist Board members be licensed as either independent social workers or social workers, provided that at least one member is a licensed social worker at the time the member is appointed to the Board.
- Eliminates a requirement that not more than eight Board members be of the same sex.

Board membership

(R.C. 4757.03)

The bill modifies the membership requirements for social worker members on the Counselor, Social Worker, and Marriage and Family Board. Specifically, it requires that four Board members be licensed as either independent social workers or social workers. At least one of them must be a licensed social worker at the time of appointment. Currently, two Board members must be licensed independent social workers and two members be licensed social workers.

The bill also requires that, at all times, at least one of these four Board members be an educator who teaches in a baccalaureate or master's degree social work program. Current law requires that, at all times, the social worker membership include such an educator.

The bill eliminates a requirement that not more than eight Board members be of the same sex.

OHIO DEAF AND BLIND EDUCATION SERVICES

- Establishes Ohio Deaf and Blind Education Services and places the State School for the Deaf and the State School for the Blind under it.
- Abolishes the superintendent positions for both schools and creates one superintendent for Ohio Deaf and Blind Education Services appointed by the State Board of Education.

Ohio Deaf and Blind Education Services

(R.C. 3325.01, 3325.011, 3325.02, 3325.03, 3325.04, 3325.06, 3325.07, 3325.071, 3325.08, 3325.09, 3325.10, 3325.11, 3325.12, 3325.13, 3325.15, 3325.16, and 3325.17; conforming changes in R.C. 123.211, 124.15, 3101.08, 3301.0711, 3365.07, 4117.14, 4117.15, 5162.01, and 5162.365; repealed R.C. 3325.14; Section 525.30)

The bill establishes Ohio Deaf and Blind Education Services (ODBES) and places under it the State School for the Deaf and the State School for the Blind. ODBES must operate under the control and supervision of the State Board of Education. The State Board, on recommendation of the Superintendent of Public Instruction, must appoint a superintendent for ODBES.

The bill transfers the duties prescribed to the state schools for deaf and blind under current law to ODBES. It also abolishes the individual superintendent positions for both state schools and transfers their powers and duties to the new ODBES superintendent.

In addition, the bill:

1. Changes references to "partially deaf," "partially blind," and "both deaf and blind" in the law regarding the state schools to "hard of hearing," "visually impaired," and "deafblind," respectively;

2. Authorizes the ODBES superintendent to create additional divisions to meet the educational needs of students throughout Ohio who are deaf, hard of hearing, blind, visually impaired, or deafblind;

3. Eliminates law that permits the Superintendent of the School for the Deaf to pay expenses for the instruction of deafblind Ohio resident children in any suitable institution;

4. Eliminates a prohibition against the State School for the Blind hiring a teacher who has not taken at least two courses in braille or otherwise demonstrated competency in it;

5. Transfers from the State Board to ODBES the responsibility to establish training programs for the parents of preschool children who are deaf, hard of hearing, blind, or visually impaired;

6. Transfers from the State Board to ODBES the responsibility to establish career-technical programs for visually impaired students and expands that responsibility to include students who are blind, deaf, hard of hearing, and deafblind; and

7. Combines the separate employees food service funds into one ODBES Employees Food Service Fund.

DEPARTMENT OF DEVELOPMENT

All Ohio Future Fund

- Renames the Investing in Ohio Fund as the All Ohio Future Fund and expands the fund's economic development purposes.
- Requires the Director of Development (DEV Director) to adopt rules, in consultation with JobsOhio, that establish requirements and procedures to provide financial assistance from the fund to eligible economic development projects.
- Requires the DEV Director, when awarding financial assistance from the fund, to give preference to sites that are publicly owned.
- Requires Controlling Board approval to release moneys from the fund.
- Prohibits an entity that receives financial assistance from the fund from:
  - Issuing riders or any other additional charges to their customers for the purposes of the project that is funded by that assistance;
  - If the entity is a water company, using the financial assistance for a new or expanded water treatment facility or waste water treatment facility.

Welcome Home Ohio (WHO) Program

- Creates the Welcome Home Ohio (WHO) Program, which:
  - Creates a grant program by which land banks may apply for funds to purchase residential property, for sale to income-eligible owner occupants, and appropriates $25 million in both FYs 2024 and 2025 to fund such grants.
  - Creates a grant program by which land banks may apply for funds to rehabilitate or construct residential property, up to $30,000, for income-restricted owner occupancy, and appropriates $25 million in both FYs 2024 and 2025 to fund such grants.
  - Authorizes up to $25 million in tax credits in each of FY 2024 and 2025 for the rehabilitation or construction of income-restricted and owner-occupied residential property.

Rural Industrial Park Loan Program

- Allows a developer who previously received financial assistance under the Rural Industrial Park Loan Program and that, consequently, is currently ineligible to receive additional financial assistance, to apply for and receive additional assistance, provided the developer did not receive any previous assistance in the current fiscal biennium.
- Regarding the program eligibility criterion that prohibits a proposed industrial park from competing with an existing industrial park in the same county, states that the consent of the existing industrial park's owner demonstrates noncompetition.

Brownfield and building revitalization programs

- Revises the Brownfield Remediation Program and the Building and Site Revitalization Program to require each county to designate a lead entity to submit grant applications to the DEV Director under the programs.
- Requires a lead entity to be either a land bank, if the county has one or an entity selected by the Department of Development (DEV) from recommendations made by the board of county commissioners of the county.
- Requires a lead entity to include with a grant application any agreement executed between the board and other recipients that will receive grant money through the lead entity.
- Specifies that recipients may include local governments, nonprofit organizations, community development corporations, regional planning commissions, county land reutilization corporations, and community action agencies.
- Authorizes a lead entity, after making an initial application for grant funding under the Brownfield Remediation Program, to later amend that application, and allows the DEV Director to approve the amended amount of requested grant funding up to the amount reserved for that county.

TourismOhio name and mission

- Renames the office within DEV responsible for promoting Ohio tourism from TourismOhio to the State Marketing Office, and charges the office with promoting not just tourism, but also "living, learning, and working" in Ohio.

Microcredential assistance program

- Increases the maximum reimbursement amount for microcredential training providers participating in DEV's Individual Microcredential Assistance Program from $250,000 to $500,000 per fiscal year.

Distress criteria

- Modifies and standardizes the criteria used to evaluate whether a county or municipality is a distressed area for the purpose of DEV's Urban and Rural Initiative Grant Program and Rural Industrial Park Loan Program.
- Requires DEV to update the counties and municipalities that qualify as distressed areas under each program every ten years, rather than annually.
- Makes the same changes to the distressed area characteristics for several obsolete DEV-administered grant and tax credit programs.

Ohio Residential Broadband Expansion Grant Program

Definition changes

- Adds the definition of "extremely high cost per location threshold area" as an area in which the cost to build high speed internet infrastructure exceeds the extremely high cost per location threshold established by the Broadband Expansion Program Authority.
- Removes wireless broadband from the definitions of "tier one broadband service" and "tier two broadband service" and increases the broadband speed requirements to be:
  - At least 25, but less than 100 megabits per second (Mbps) downstream and at least three, but less than 20 Mbps upstream for tier one service;
  - 100 Mbps or greater downstream and 20 Mbps or greater upstream for tier two service.
- Permits the inclusion of fixed wireless broadband service as tier two service, if located in an extremely high cost per location threshold area.
- Changes the definition of "unserved area" to no longer exclude an area where construction of tier one service is in progress and scheduled to be completed within two years.
- Creates the definition of "eligible addresses" to include residential addresses that are in an unserved area or tier one area and modifies the definitions of "eligible project" and "last mile" to replace references to "residences" with "eligible addresses."

Other terminology changes

- Changes the requirement for posting program grant application information on the DEV website to list "eligible addresses" instead of "residential addresses."
- Changes "residences" to "residential addresses" (1) in the notarized letter of intent information required for applications, (2) in the broadband speed verification complaint provision, and (3) in the information required for broadband provider annual progress reports and Authority annual reports.

Authority duties

- Includes among the Authority's duties the requirement to establish the extremely high cost per location threshold for the costs of building high speed internet infrastructure in any specific area, above which wireline broadband service has an extremely high cost in comparison to fixed wireless broadband service.

Program funding

- Requires gifts, grants, and contributions provided to the DEV Director for the Ohio Residential Broadband Expansion Grant (ORBEG) Program to be deposited in the Ohio Residential Broadband Expansion Grant Program Fund.

- Specifies that if the use of these deposits or the appropriation of nonstate funds is contingent upon meeting application, scoring, or other requirements that are different from existing law program requirements, DEV must adopt the different requirements.
- Requires a description of any differences in program requirements adopted by DEV as described above to be made available with the program application on the DEV website at least 30 days before the beginning of the application submission period.

Program grant application challenges

- Modifies various requirements regarding challenges to program grant applications such as requirements for what evidence a challenge must include and how and to whom copies of a challenge, or copies of a broadband provider's revised application in response to a challenge, must be sent.
- Requires DEV to reject any challenge regarding a residential address where tier two service is planned if the challenging provider also submitted an application for the same residential address.
- Specifies that if an application is not challenged during an application submission period, the lack of a challenge does not do either of the following:
  - Create a presumption that residential addresses included in an application submitted in a subsequent submission period are eligible addresses under the program; or
  - Prohibit a challenging provider from filing a challenge to an application that is being refiled during a subsequent submission period.

Application scoring system changes

- Replaces the existing weighted scoring system used to prioritize and select grant applications with a specific scoring rubric for awarding a maximum of 1,000 points per application based on specific criteria for nine factors, including factors as, for example, broadband service speed, local support, and broadband providers' years of experience.
- Provides that applications for a grant under the ORBEG Program must be prioritized from the highest to the lowest point score according to the rubric.
- Provides for provisional scoring of applications to facilitate challenges, and requires DEV to publish the scoring on its website, but prohibits the Authority from voting on applications, or making awards based on, the provisional scoring.

ORBEG Program reports

- Removes from the list of information that a broadband provider must include in its annual progress report, the number of commercial and nonresidential addresses that are not funded directly by the ORBEG Program but have access to tier two service as a result of the eligible project.

Broadband Pole Replacement and Undergrounding Program

- Creates the Ohio Broadband Pole Replacement and Undergrounding Program within DEV to reimburse providers of qualifying broadband service for utility pole replacements, mid-span pole installations, and undergrounding that accommodate facilities used to provide qualifying broadband service access.
- Defines "qualifying broadband service" as retail wireline broadband service capable of delivering symmetrical internet access at download and upload speeds of at least 100 megabits per second (Mbps) with a latency level sufficient to permit real-time interactive applications.
- Defines "unserved area" as an area in Ohio without current access to fixed terrestrial broadband service capable of delivering internet access at download speeds of at least 25 Mbps and upload speeds of at least 3 Mbps.
- Considers as an "unserved area" an area for which a governmental entity has awarded a broadband grant after determining the area to be an eligible unserved area under that program and an area that has not been awarded any broadband grant funding, and the most recent federal mapping information indicates that the area is an unserved area.
- Requires DEV to administer the program and to establish the process to provide reimbursements, including adopting rules and establishing an application for reimbursement and the Broadband Expansion Program Authority to review applications and award program reimbursements.

When reimbursements may not be awarded

- Prohibits the Authority from awarding reimbursements that are federally funded, if the reimbursements are inconsistent with federal requirements and if the applicant fails to commit to compliance with any federally required conditions in connection with the funds.
- Also prohibits the Authority from awarding of reimbursements if (1) the broadband infrastructure deployed is used only for providing wholesale broadband service and is not used by the applicant to provide qualifying broadband service directly to residences and businesses and (2) a provider (not the applicant) is meeting the terms of a legal commitment to a governmental entity to deploy such service in the unserved area.

Who may apply for reimbursements

- Allows providers (entities, including pole owners or affiliates, that provide qualifying broadband service) to apply for a reimbursement under the program for eligible costs associated with deployed pole replacements, mid-span pole installations, and undergrounding.
- Designates as ineligible for a reimbursement an applicant's costs of deploying qualifying broadband service for which the applicant is entitled to obtain full reimbursement from

another governmental entity but allows the applicant to apply for and obtain reimbursement for the portion of costs that were not already reimbursed.

- Allows the Authority to require applicants to maintain accounting records demonstrating that other grant funds do not fully reimburse the same costs as those reimbursed under the program.
- Requires the Authority to review applications and approve reimbursements based on various requirements and limitations.

Information and documentation from pole owner

- Allows a pole owner to require a provider to reimburse the owner for the owner's actual and reasonable administrative expenses related to certain information and documentation for a program application, not to exceed 5% of the pole replacement or mid-span pole installation costs, and specifies that these costs are not reimbursable.

Application requirements

- Requires DEV, not later than 60 days after the Pole Replacement Fund (described below) receives funds for reimbursements, to develop and publish an application form and post it on the DEV website.
- Requires the application form to identify and describe any additional federal conditions required in connection with the use of the federal funds, if any federal funds are used for awards under the program.
- Requires applications to include certain information including, for example, the number, cost, and locations of pole replacements, mid-span pole installations, and undergrounding for which reimbursement is requested; the reimbursement amount requested; and information necessary to demonstrate the applicant's compliance with reimbursement conditions.
- Establishes additional requirements for an application regarding a pole attachment or a mid-span pole installation, if the applicant is the pole owner of affiliate of the pole owner.

Applicant duties prior to receiving a reimbursement

- Requires a provider applying for reimbursement to agree to do certain things such as (1) activating qualifying broadband service to end users utilizing the program-reimbursed broadband infrastructure not later than 90 days after receiving a reimbursement, (2) complying with any federal requirements associated with funds used for awards under the program, and (3) refunding all or any portion of reimbursements received, if the applicant materially violated any program requirements.

Reimbursement award timeline and formula

- Requires the Authority to award reimbursements to an applicant not later than 60 days after it receives an application forwarded by DEV.

- Allows the Authority to award reimbursements equal to the lesser of $7,500 or 75% of the total amount paid by the applicant for pole replacement or mid-span pole installation costs.
- Allows reimbursement awards for undergrounding costs to be calculated as described above, except that the amount may not exceed the reimbursement amount that would be available if the applicant had attached broadband infrastructure to utility poles instead of undergrounding that infrastructure.

Reimbursement refunds

- Requires applicants that are awarded reimbursements to refund, with interest, reimbursement amounts if the applicant materially violates any program requirement and specifies that at the direction of DEV, refunds are to be deposited into the Broadband Replacement Pole Fund.

Broadband Pole Replacement Fund

- Creates the Broadband Pole Replacement Fund and makes an appropriation in FY 2024 to provide funding for reimbursements awarded under the program and for DEV to administer the program.

Program information on DEV website

- Requires DEV to publish and regularly update certain information regarding the program on its website.

DEV report on deployments under program

- Whenever the fund is exhausted, requires the Authority, not later than one year after, to identify, examine, and report on broadband infrastructure deployment under the program and the technology facilitated by the reimbursements and requires the report to be published on DEV's website.

Program audit

- Requires the Auditor of State to audit the fund annually, beginning not later than one year after the first deposits are made to the credit of the fund.

Sunset

- Except as provided below, effectively sunsets the program by requiring payments under the fund to cease and the fund to no longer be in force or have further application six years after the sunset provision's effective date.
- For the six-month period after the sunset date, requires fund payments to cease, and requires DEV and the Authority to (1) review any applications and award reimbursements, if the applications were submitted prior to that date and (2) to review applications and award reimbursements, if the applications were submitted not later than four months after that date for reimbursements of costs incurred prior to that date.

- Requires any fund balance remaining after final applications are processed (after the sunset date and as described above) to be returned to the original funding sources as determined by DEV.

Governor's Office of Housing Transformation

- Establishes the Governor's Office of Housing Transformation to assume the authority, duties, assets, and liabilities of the Ohio Housing Finance Agency, abolished by the bill, effective January 1, 2024.
- Transfers employees of the agency to the office.
- Specifies that the office is run by a director designated by the Governor.
- Eliminates independent bond-issuing and rulemaking authority.

Tax Credit Authority

- Increases the number of Tax Credit Authority members from five to seven.
- Stipulates that the two additional members are appointed by the Governor.
- Requires the Tax Credit Authority to approve a multifamily rental housing project before the project may receive funding from the Governor's Office of Housing Transformation.

All Ohio Future Fund

(R.C. 126.62)

The bill renames the Investing in Ohio Fund as the All Ohio Future Fund. It also expands the fund's purposes beyond promoting economic development throughout Ohio, including gas, sewer, and water infrastructure projects and other infrastructure improvements. The new expanded purposes include providing financial assistance through loans, grants, or other incentives that promote economic development. Additionally, the fund may be used for electric infrastructure development projects approved by the Public Utilities Commission (see "**Electric infrastructure development**" under the "**PUBLIC UTILITIES COMMISSION**" chapter of this analysis), and electric infrastructure improvements made by electric cooperative and municipal electric utilities. Investment earnings of the fund must be credited to the fund.

The bill requires the Director of Development (DEV Director) to adopt rules in accordance with the Administrative Procedure Act that establish requirements and procedures to provide financial assistance from the fund to eligible economic development projects. The Director must consult with JobsOhio in adopting the rules.

The rules must include the following:

1. All forms and materials required to apply for financial assistance from the fund;

2. Requirements, procedures, and criteria that the Director must use in selecting sites to receive financial assistance from the fund. The rules must require the Director to consider sites that JobsOhio and local and regional economic development organizations have identified for

economic development. The criteria adopted in rules for site selection must include a means to identify and designate economic development projects into the following development tiers:

a. A tier one project is a megaproject. A megaproject is a large scale development that meets certain wage and investment or payroll thresholds.

b. A tier two project is a megaproject supplier. A megaproject supplier is a supplier of tangible personal property to a megaproject that has a substantial manufacturing, assembly, or processing facility in Ohio or meets certain wage and investment or payroll thresholds.

c. A tier three project is a project in an industrial park or a site that is zoned industrial.

3. Any other requirements or procedures necessary to administer the bill's provisions governing the fund.

When awarding financial assistance, the Director must do both of the following:

1. Unless a higher amount is approved by the Controlling Board, limit financial assistance amounts as follows:

a. For tier one projects, up to $200 million per project;

b. For tier two projects, up to $75 million per project;

c. For tier three projects, up to $25 million per project.

2. Give preference to sites that are publicly owned.

The Director may provide grants and loans from the fund to port authorities, counties, community improvement corporations, joint economic development districts, and public-private partnerships to aid in the acquisition of land necessary for site development. The Director may provide loans to a board of county commissioners to facilitate the transfer or relocation of assets under the control of the county for the purpose of site development.

The bill requires the Controlling Board to release money appropriated from the fund before the money may be spent. The bill prohibits an entity that receives financial assistance from the fund from:

1. Issuing riders or any other additional charges to its customers for the purposes of a project that is funded by that assistance;

2. If the entity is a water company, using the financial assistance for a new or expanded water treatment facility or waste water treatment facility.

Welcome Home Ohio (WHO) Program

(R.C. 122.631 to 122.633, 5726.98, and 5747.98; Sections 259.10, 259.30, and 513.10)

The bill creates the Welcome Home Ohio (WHO) Program under DEV. The program has three components:

- Grants for land banks to purchase qualifying residential property;
- Grants for land banks to rehabilitate or construct qualifying residential property;

- Tax credits for land banks and nonprofit developers that rehabilitate or construct qualifying residential property.

"Qualifying residential property" is single-family residential property, include a single unit in a multi-unit property as long as it has ten units or less, with at least 1,000 square feet of habitable space.

Qualifying residential property that benefits from any of the incentives offered by the program must be sold, for $180,000 or less, to an individual, or individuals, with annual income that is no more than 80% of the median income for the county where the property is located. Buyers must also agree, in the purchase agreement, to maintain ownership of the property as a primary residence, not to sell or rent the property at all for five years, and not to sell the property to anyone who does not meet the income requirements for twenty years. Land banks and developers are required to include deed restrictions with these requirements when selling property that benefits from the WHO Program, and the bill grants DEV the authority and standing to sue to enforce those requirements. The buyer must annually certify to DEV, during the five-year period following their purchase of the property, that the buyer still owns and occupies the property and has not rented it to another individual for use as a residence.

Key features of the grant and tax credit programs are discussed below.

Grants for foreclosure sale purchases

WHO Program grants for land banks to pay or offset the cost to purchase qualifying residential property. The bill appropriates $25 million for such grants in both FY 2024 and 2025, and DEV may award grants to land banks as long as funds are available. Grant amounts are not capped.

Grants for construction or rehabilitation

The WHO Program allows land banks to apply to DEV for a grant to pay or offset the cost to rehabilitate or construct qualifying residential property held by the land bank. The bill appropriates $25 million for such grants in both FY 2024 and 2025, and DEV may award grants to land banks as long as funds are available. WHO construction and rehabilitation grants are capped at $30,000 per qualified residential property.

WHO Program tax credits

The WHO Program allows DEV to award nonrefundable tax credits against the income tax and financial institutions tax (FIT) to land banks and eligible developers for the rehabilitation or construction of qualifying residential property. An "eligible developer" is one of several enumerated nonprofit entities, provided a primary activity of the entity is the development and preservation of affordable housing or a community improvement corporation or community urban redevelopment corporation.

Credits equal $90,000 per qualified residential property or one-third of the cost of construction or rehabilitation, whichever is less. Up to $25 million in total credits may be awarded by DEV in both FY 2024 and 2025, but no credits may be issued after FY 2025. Land banks and developers can apply for tax credits after the construction or rehabilitation is completed and the property is sold.

Eligible applicants will be awarded a tax credit certificate. Because land banks and nonprofit developers likely do not have income tax or FIT liability, they will be unlikely to claim the credits themselves. The bill authorizes the certificates to be transferred, with written notice to TAX. This allows a land bank or developer to sell the right to claim the credits, and purchasers may claim the credits for the taxable year or tax year that the certificate is issued and claim any unused amount in the five ensuing taxable or tax years.

Grant and credit combinations

The bill authorizes a land bank that receives a grant to purchase qualified residential property to also apply for and receive either a WHO construction or rehabilitation grant or a WHO tax credit for the same qualified residential property. However, the bill prohibits a land bank that receives a grant to construct or rehabilitate qualified residential property from applying for a WHO tax credit for the same property.

Penalties

Land banks and developers that receive WHO grant funds and do not use them for their program purposes, do not sell the qualified residential property on which those funds are spent to an eligible buyer, sell to an eligible buyer who does not agree to the program's sale restrictions, or sell without the required deed restriction must repay the grant funds.

A purchaser of qualified residential property that benefits from a WHO grant or tax credit is also subject to penalty for not abiding by the program's five-year sale or rental restriction. If the qualified residential property benefits from one of the grant programs and the purchaser sells or rents the property as a residence before owning the property for five years, the purchaser is subject to a $90,000 penalty, less $18,000 for every full year of ownership. If the property benefited from the WHO tax credit and the purchaser sells or rents before five years, the purchase is subject to a penalty equal to the amount of the tax credit, reduced by 20% for every full year the purchaser owned the property.

For qualified residential property that benefits from either both grant programs or a grant program and the tax credit, purchasers are only subject to one penalty for violation of the five-year sale restriction. If the property benefited from both grant programs, the penalties are the same, but will only be charged once. If the property benefited from both the grant program and the tax credit, whichever penalty is greater applies.

Financial literacy counseling

Land banks and nonprofit developers that benefit from WHO Program grants or tax credits must agree to provide at least one year of financial literacy counseling to each purchaser of qualified residential property that benefits from program grants or credits. Each purchaser must also agree to participate in that counseling.

Reporting

The bill requires each land bank and nonprofit developer that participates in the WHO Program to report the sale of each home that was awarded a grant or credit to DEV. It also requires DEV to maintain a list of homes that are still subject to the 20-year affordability deed restriction required as a grant or credit condition. That list is not a public record.

Rules

The bill authorizes DEV to adopt rules as necessary to administer each aspect of the WHO Program. The rules may include any of the following:

- Application forms, deadlines, and procedures;
- Criteria for evaluating and prioritizing applications,

Guidelines for promoting an even geographic distribution of awards throughout the state.

Rural Industrial Park Loan Program

(R.C. 122.23)

The bill alters two eligibility criteria for assistance from the Rural Industrial Park Loan Program. First, it allows a developer that previously received financial assistance under the program to receive additional financial assistance. However, the developer is still not eligible if the previous financial assistance was received in the current fiscal biennium. Currently, a program applicant that previously received any financial assistance via the program is ineligible for further assistance.

Second, the bill allows a proposed industrial park that would compete with an existing industrial park in the same county to receive assistance, provided the existing industrial park's owner consents. Under current law, if there is competition with an existing industrial park, a proposed industrial park is ineligible for assistance.

The Rural Industrial Park Loan Program is a program under which the DEV Director may make loans and loan guarantees for the development and improvement of industrial parks. To be eligible, the proposed location of the park must be in an economically distressed area, an area with a labor surplus, or a rural area as designated by the Director. The Director must use the Rural Industrial Park Loan Fund to support the program.

Brownfield and building revitalization programs

(R.C. 122.6511 and 122.6512)

Current law creates both the Brownfield Remediation Fund (brownfield fund), and the Building Demolition and Site Revitalization Fund (building fund). The brownfield fund is used to fund a grant program for the remediation of brownfield sites. The building fund is used to fund a grant program for the demolition of commercial and residential properties and revitalization of surrounding properties that are not brownfields.

From appropriations made to each fund, the DEV Director must reserve money for each county (88 counties) in Ohio. For the brownfield fund, the amount reserved is $1 million per county or a proportionate amount if the appropriations are less than $88 million. For the building fund, the amount reserved is $500,000 per county or a proportionate amount if the appropriations are less than $44 million. The Director must make appropriated money that exceeds the amount to be reserved for each county available for grants for projects located anywhere in Ohio on a first-come, first-served basis.

The bill revises the brownfield fund to clarify that only a "lead entity" may submit grant applications to the Director. A lead entity is a county land reutilization corporation (land bank) if the county has one. If not, the board of county commissioners must submit a lead entity letter of intent to the Director, and DEV selects the lead entity for that county. When applying for a grant, the lead entity must include with a grant application any agreement executed between the lead entity and other recipients that will receive grant money through the lead entity. The bill specifies that recipients may include local governments, nonprofit organizations, community development corporations, regional planning commissions, county land reutilization corporations, and community action agencies. Current law does not specify the entities that may receive project funding.

The bill makes these same changes regarding the building fund. However, under current law, these requirements are already generally being implemented with respect to the building fund under rules adopted by the Director.

Finally, regarding the brownfield fund, the bill authorizes a lead entity, after making an initial application to the Director for grant funding, to later amend that application. Accordingly, the bill allows the Director to approve the amended amount of requested grant funding up to the amount reserved for that county.

TourismOhio name and mission

(R.C. 122.07, 122.071, 122.072, 122.073, and 149.309)

The bill renames the office within DEV responsible for promoting Ohio tourism from TourismOhio to the State Marketing Office. In addition, it charges the Office with promoting not just tourism, but also "living, learning, and working" in Ohio. Unlike the Director of TourismOhio, the bill does not require the Director of the State Marketing Office to be the equivalent rank of deputy director of DEV.

The bill also renames the existing TourismOhio Advisory Board as the State Marketing Advisory Board. However, that Board continues to focus on advising the state on strategies to promote tourism.

Microcredential assistance program reimbursement

(R.C. 122.1710)

The bill increases the maximum reimbursement amount for a training provider from the Individual Microcredential Assistance Program (IMAP) from $250,000 to $500,000 per fiscal year.

Under continuing law, approved training providers may seek reimbursement through IMAP for the cost to provide training that allows an individual to receive a microcredential, i.e., an industry-recognized credential or certificate, approved by the Chancellor of Higher Education, that a person can complete in one year or less.[45] Continuing law limits a training provider's IMAP reimbursement to $3,000 per training credential that an individual receives.

[45] R.C. 122.178, not in the bill.

Distress criteria for DEV incentives

(R.C. 122.16, 122.173, 122.19, 122.21, 122.23, and 122.25; Section 701.140)

Under continuing law, DEV administers two grant programs to develop urban and rural sites and parks – the Urban and Rural Initiative Grant Program (URI grants) and the Rural Industrial Park Loan Program (RIP loans). These programs award funding to counties and, in the case of the URI grants, municipalities, that meet certain criteria indicative of economic distress, i.e., an above-average unemployment rate, low per capita income, or certain other poverty markers. These areas are referred to in statute as "distressed areas." The bill modifies and standardizes the criteria used to evaluate whether a county or municipality is a "distressed area" for the purposes the URI grants and RIP loans, as follows:

- Requires that the five-year average unemployment rate of the county or municipal corporation in which a project is located be based on local area unemployment statistics published by the U.S. Bureau of Labor Statistics (BLS);
- Requires that, to qualify based on per capita personal income, the per capita personal income of the county or municipal corporation must be equal to or less than 80% of the per capita personal income of the United States, as opposed to 80% of the median county per capita income under current law;
- Requires that county per capita income statistics be determined based on data published by the U.S. Department of Commerce Bureau of Economic Analysis (BEA) and that municipal per capita income statistics be determined based on the five-year estimates published by the U.S. Census Bureau in the American Community Survey (ACS);
- Requires that the ratio of transfer receipts to total personal income of a county be determined based on data published by the BEA;
- Requires that the percentage of municipal residents with incomes below the poverty line be determined based on the ACS.

The bill also allows DEV to designate alternative sources of the distressed area statistics if the federal government ceases to publish those statistics.

Under current law, DEV is required to update which counties and municipalities qualify as distressed areas every year. The bill only requires this update every ten years, within three months after the publication of the decennial census. Accordingly, the statistical source described above that DEV will use to make these updates is the most recent version as of the date that census is published.

The bill makes similar changes to the distressed area characteristics for several obsolete grant and tax credit programs administered by DEV, including an income tax credit for the economic redevelopment of a distressed brownfield, which expired in 1999, an income tax credit

for purchases before 1999 of new manufacturing machinery or equipment, and a grant program that funded the improvement of industrial sites.[46]

Ohio Residential Broadband Expansion Grant Program

(R.C. 122.40, 122.407, 122.4017, 122.4019, 122.4020, 122.4030, 122.4031, 122.4032, 122.4034, 122.4037, 122.4040, 122.4041, 122.4045, 122.4071 and 122.4076; conforming changes in R.C. 122.4023 and 122.4050)

The Ohio Residential Broadband Expansion Grant (ORBEG) Program awards grants to broadband providers for projects to provide "tier two broadband service" to areas of the state that are "tier one areas" or "unserved areas." DEV administers the program and works in conjunction with the Broadband Expansion Program Authority, the entity that awards the grants according to a scoring system developed by DEV in consultation with the Authority.[47]

ORBEG Program definition changes

The bill makes changes to certain definitions that apply to the ORBEG Program. First, the bill removes retail wireless broadband service from the definitions of "tier one broadband service" and "tier two broadband service"; however, it permits fixed wireless broadband service to be included as tier two service in an extremely high cost per location threshold area (see description of such an area below).

The bill also increases the broadband speed requirements for each tier. Under the bill, tier one service is at least 25, but less than 100 megabits per second (Mbps) downstream and at least 3, but less than 20 Mbps upstream and tier two service is 100 Mbps or greater downstream and 20 Mbps or greater upstream. Under current law, tier one service is retail wireline or wireless broadband service that is at least 10, but less than 25 Mbps downstream and at least 1, but less than 3 Mbps upstream, and tier two service is retail wireline or wireless broadband service that is at least 25 Mbps downstream and at least 3 Mbps upstream.

Second, the bill defines "extremely high cost per location threshold area" as an area in which the cost to build high speed internet infrastructure exceeds the extremely high cost per location threshold established by the Authority.

Third, under the bill, an "unserved area" does not exclude an area where construction of a network to provide tier one service is in progress or scheduled to be completed within a two-year period. The bill retains the exclusion of the construction of a network to provide tier two service that is in progress or scheduled to be completed within a two-year period. An "unserved area" is an area without access to either tier one service or tier two service.

Fourth, the bill adds the definition of "eligible addresses," which are residential addresses in an unserved area or tier one area.

[46] R.C. 122.95, not in the bill.

[47] R.C. 122.40 to 122.4077, all but the sections listed above, not in the bill.

Other terminology changes

To reflect the new definition of "eligible addresses" and also to replace the term "residences," the bill:

- Modifies the definitions of "eligible project" and "last mile" by specifying that (1) an "eligible project" is a project to provide tier two service access to eligible addresses (instead of to "residences") in an unserved or tier one area of a municipal corporation or township that is eligible for funding under the ORBEG Program and (2) the definition of "last mile" includes, in part, other network infrastructure in the last portion of the network that is needed to provide tier two service to "eligible addresses" (instead of to "residences") as part of an eligible project;
- Requires DEV to publish on its website, for each completed grant application, the list of "eligible addresses" (instead of "residential addresses") included with the application;
- Requires the notarized letter of intent required for an application to state that none of the funds provided by the program grant will be used to extend or deploy to any "residential addresses" (instead of "residences") other than to those in the unserved or tier one areas of the application's project;
- Changes the reference to "residence" to be "residential address" in the provision regarding broadband speed verification tests following a complaint concerning a "residence" that is part of the eligible project;
- For the report each broadband provider receiving a program grant must submit, changes the requirement that the report include the number of "residences" that have access to tier two service as a result of the eligible project to include the number of "residential addresses" instead;
- For the Authority's required annual report, changes the requirement to list the number of "residences" receiving, for the reporting year, tier two service for the first time under the ORBEG Program to the number of "residential addresses" instead.

Authority duties

To the list of ongoing duties that the Authority must perform under the ORBEG Program, the bill adds the requirement that the Authority must establish the extremely high cost per location threshold for the costs of building high speed internet infrastructure in any specific area, above which wireline broadband service has an extremely high cost in comparison to fixed wireless broadband service.

ORBEG Program funding

Ongoing law requires the Authority to award grants under the ORBEG Program using funds from the Ohio Residential Broadband Expansion Grant Program Fund. The bill specifies that any gift, grant, and contribution received by the DEV Director for the ORBEG Program must be deposited in the fund. (Currently, the only funds that the law expressly requires to be deposited

in the fund are payments from certain broadband providers that fail to provide tier two service as described in a challenge upheld by the Authority.[48])

Under the bill, if an appropriation for the ORBEG Program includes funds that are not state funds, or if the Director receives funds that are in the form of a gift, grant, or contribution to the fund, the Authority must award grants from those funds. However, if those funds are contingent on meeting application, scoring, or other requirements that are different from existing law requirements under the ORBEG Program, the following must occur:

- DEV must adopt the different requirements and publish a description of them with the program application on the DEV website.
- A description of any differences in application, scoring, or other program requirements must be available with the application on the DEV website at least 30 days before the beginning of the application submission period.

Program grant application challenges

The bill makes changes to the process that allows a "challenging provider" to challenge, all or part of a completed application for a program grant after the application is published on the DEV website. Under ongoing law, a "challenging provider" is a broadband provider that provides tier two service within or directly adjacent to an eligible project or a municipal electric utility that provides tier two service to an area within the eligible project that is within the geographic area served by the utility.

Deadline for challenging an application

Under the bill, a challenge must be made in writing not later than 65 days after the provisional application scoring has been published on the DEV website (see "**Provisional scoring**" below). Current law requires the challenge to be made in writing not later than 65 days after the close of the application submission period or an application extension period, if an extension is granted by DEV.

Method for providing copies of a challenge

The bill requires a challenging provider to provide its complete challenge to DEV, and within ten business days of receipt of the challenge, DEV must provide a complete copy of the challenge to the applicant whose application is subject to the challenge. Both the challenge provided by the challenging provider and the copies sent to the applicant by DEV must be sent by electronic means or such other means as DEV may establish. This differs from the current law process which requires the challenging provider to provide, by certified mail, a written copy of the challenge to DEV and to the broadband provider that submitted the application being challenged.

[48] R.C. 122.4036, not in the bill.

Information in a challenge that is proprietary or a trade secret

The bill removes the provision in current law that allows the copy of a challenge provided to DEV to include any information that the challenging provider considers to be proprietary or a trade secret, but does not prohibit the inclusion of such information.

The bill also removes the provision that permits redaction of the proprietary information or trade secrets from the copy provided to the broadband provider that submitted the application being challenged. This provision is no longer necessary because the bill removes the requirement that the challenging provider provide the copy to the broadband provider that submitted the application.

Information provided by challenging providers

Current law lists the minimum information that must be included for a challenge, which to be successful must provide sufficient evidence to DEV that all or part of a project is ineligible for a program grant. The bill modifies the provision that requires evidence disputing the application's notarized letter of intent to specify that the eligible project contains "eligible addresses." Current law requires that evidence must be provided that the project contains "unserved or tier one areas."

The bill also adds the requirement that the signed, notarized statement submitted by a challenging provider must identify the aggregate number of eligible addresses to which the challenging provider offers tier two service and the part of the eligible project to which it will offer tier two service. Under ongoing law, the statement must identify the part of the eligible project to which the challenging provider offers or will offer "broadband service," current law does not specify whether that service is tier two service or a different level of broadband service.

The bill also requires, rather than permits, a challenging provider to present shapefile data and residential addresses to demonstrate that all or part of an application's project is ineligible for a program grant. It adds the requirement that this information must identify each challenging residential address and the basis for such challenge. But, it removes the provision allowing a challenging provider to present maps or similar geographic details.

When DEV must reject a challenge

The bill adds a provision that requires DEV to reject any challenge regarding a residential address where the provision of tier two service is planned to be provided if the challenging provider has also submitted an application for funding for the same residential address.

Effect when there is no challenge

In the event that an application filed during an application submission period is not challenged under the ORBEG Program's challenge process, the bill specifies that the lack of a challenge does not create a presumption that residential addresses included in an application submitted in a subsequent submission period are eligible addresses under the program. The bill also specifies that the lack of a challenge does not prohibit a challenging provider from filing a challenge to an application that is being refiled during a subsequent submission period.

Under ongoing law, the Authority may establish no more than two submission periods each fiscal year during which time DEV accepts applications. Submission periods must be at least 60 but not more than 90 days.

Suspension of an application

The Authority, under current law, may suspend an application, approve the application, or reject an application after receiving a challenge. If it suspends an application, the broadband provider that submitted the application may revise and resubmit the application not later than 14 days after receiving a suspension notification from the Authority.[49] The bill removes the requirement that the broadband provider must provide a copy of its revised application to the challenging provider. Instead, the bill adds the requirement that DEV must provide the revised application to the challenging provider by electronic mail or by such other means as DEV establishes. The bill retains the requirement that the broadband provider must send a copy of the revised application to the Authority, but removes certified mail as one of the specified options for sending it.

Application scoring system changes

Under the bill, the Authority must establish a scoring system that includes a specified scoring rubric for nine factors described in the bill. Under ongoing law, the scoring system must be published on the DEV website at least 30 days before the beginning of the application submission period. The scoring system replaces the current weighted scoring system for the ORBEG Program that uses at least 12 factors to prioritize applications. Unlike the bill, current law does not assign a specific score for the factors used to prioritize applications, but does list the factors in law by highest to lowest weight.

Scoring rubric

The bill requires applications to be prioritized from the highest to the lowest point score according to the rubric for those factors. Under the scoring rubric, the maximum score for an application is 1,000 points. The table below lists the factors and scoring rubric for them.

Scoring factor	Scoring criteria	Maximum allowable score
Eligible projects for unserved and underserved areas	The sum of (1) the point value determined by multiplying 300 times the percentage of "passes" in unserved areas of the application and (2) ½ of the point value determined by multiplying 300 times the percentage of "passes" in underserved areas of the application. "Passes" are defined as the residential addresses in close proximity to a broadband provider's broadband infrastructure network to which residents at those addresses may opt to connect.	300

[49] R.C. 122.4033, not in the bill.

Scoring factor	Scoring criteria	Maximum allowable score
Broadband service speed based on a graduated scale	**25 points**: ≥ 100 Mbps downstream and ≥ 20 Mbps upstream but < 250 Mbps downstream and 50 Mbps upstream **50 points**: ≥ 250 Mbps downstream and ≥ 50 Mbps upstream but < 500 Mbps downstream and 100 Mbps upstream **100 points**: ≥ 500 Mbps downstream and ≥ 100 Mbps upstream but < 750 Mbps downstream and 250 Mbps upstream **125 points**: ≥ 750 Mbps downstream and ≥ 250 Mbps upstream but < 1 gigabit per second (Gbps) downstream and 500 Mbps upstream **150 points**: ≥ 1 Gbps downstream and ≥ 500 Mbps upstream but < 1 Gbps upstream **200 points**: ≥ 1 Gbps downstream and ≥ 1 Gbps upstream	200
Rating broadband service cost	The sum of the following: (1) Of a possible maximum of 75 points, the number of points equal to the application's grant cost percentile multiplied by 75; (2) Of a possible maximum of 75 points, the number of points equal to ½ of the application's percentage of eligible project funding from all sources other than the ORBEG Program. Additional requirements for this factor are described below under "***Broadband service cost factor***."	150
Tier two service coverage or greater to eligible addresses in an eligible project	**10 points:** for coverage to ≥ 500, but < 1,000 eligible addresses **20 points:** for coverage to ≥ 1000, but < 1,500 eligible addresses **30 points:** for coverage to ≥ 1,500, but < 2,000 eligible addresses **40 points:** for coverage to ≥ 2,000, but < 2,500 eligible addresses **50 points:** for coverage to ≥ 2,500, but < 3,000 eligible addresses **60 points:** for coverage to ≥ 3,000, but < 3,500 eligible addresses **70 points:** for coverage to ≥ 3,500, but < 4,000 eligible addresses **80 points:** for coverage to ≥ 4,000, but < 4,500 eligible addresses **90 points:** for coverage to ≥ 4,500, but < 5,000 eligible addresses **100 points:** for coverage to ≥ 5,000 eligible addresses	100

Scoring factor	Scoring criteria	Maximum allowable score
Local support	**25 points**: if the application includes a resolution of support from the board of county commissioners in the county where the eligible project is located; **15 points**: if the application includes a letter of support from a board of township trustees, village, or municipal corporation; **10 points**: for letters of support from a local economic development agency or a chamber of commerce that advocates for an area of the eligible project with the majority of eligible addresses in the application. Additional requirements for this factor are described below under "***Local support factor***."	50
Broadband provider general experience and technical and financial ability	Point score to be based on the Authority's judgment. The Authority may award partial points for scores awarded for this factor.	75
Broadband provider experience based on years provider has been providing tier two service	**10 points**: 4 years, but < 5 years of experience **20 points**: 5 years, but < 6 years of experience **30 points**: 6 years but < 7 years of experience **40 points**: 7 years but < 8 years of experience **50 points**: 8 years but < 9 years of experience **60 points**: 9 years but < 10 years of experience **75 points**: > ten or more years of experience	75
County median income based on the median county per capita income of the U.S. as determined by the most recently available data from the U.S. Census Bureau	**0 points**: for county median income ≥ 160% **10 points**: for county median income ≥ 140% but < 160% **20 points**: for county median income ≥ 120% but < 140% **30 points**: for county median income ≥ 100% but < 120% **40 points**: for county median income ≥ 80% but < 100% **50 points**: for county median income < 80% Additional requirements for this factor are described below under "***County median income factor***."	50

Additional scoring rubric requirements for certain factors

Broadband service cost factor

For the broadband service cost factor, the bill requires the Authority to determine the "grant cost percentile" for each application submitted during that period. The Authority must determine this percentile by doing the following:

- Determining, for each individual application in Ohio, the total grant cost per eligible address in the application by calculating the quotient of the amount of program grant funds requested for the application divided by the number of eligible addresses in the application;
- Ranking, from lowest to highest cost, all individual applications by total grant cost per eligible address;
- Assigning each individual application a percentile based on the application's total grant cost per eligible address relative to all other applications' total grant cost per eligible address.

Under the bill, the Authority must assign the percentiles so that the highest percentile is assigned to the application with the lowest total grant cost per eligible address. Percentiles for all other applications must be assigned based on each application's relative grant cost per eligible address.

Local support factor

For the local support factor, the bill scores an application differently if the application's eligible project spans multiple counties. In this case, of a possible maximum score of 25 points for county support resolutions adopted by boards of county commissioners, the number of points will be awarded on a pro rata basis based on the percentage of eligible addresses for the eligible project in each affected county for which the board of county commissioners adopted a resolution of support. Similarly, the bill scores an application differently if the application's eligible project spans multiple townships, villages, and municipal corporations. In this case, of a possible maximum score of 15 points for letters of support from boards of township trustees, villages, and municipal corporations, the number of points will be awarded on a pro rata basis according to the percentage of eligible addresses for the project in each affected village, municipal corporation or unincorporated area of a township for which a board of township trustees, village, or municipal corporation submitted a letter of support.

County median income factor

For determining the appropriate scoring range for the county median income factor, the bill scores an application differently if the application's eligible project spans multiple counties. For this type of application, the scoring range will be based on the percentage of eligible addresses for the eligible project in each affected county.

Provisional scoring

Under the bill, to facilitate the challenge process and after DEV publishes all grant applications, DEV must publish on its website a provisional scoring for applications based on the

scoring criteria for the ORBEG Program described above. The provisional scoring must be published on the DEV website not later than 15 business days after all applications have been accepted as complete.

The bill prohibits the Authority from voting on, or making awards based on the provisional scoring.

ORBEG Program reports

The bill removes, from the list of information that a broadband provider must include in its annual progress report, the number of commercial and nonresidential entities that are not funded directly by the ORBEG Program but have access to tier two service as a result of the eligible project.

Under continuing law, each broadband provider that receives a program grant must submit to DEV an annual progress report on the status of the deployment of the broadband network described in the eligible project for which the program grant was awarded.[50]

Broadband Pole Replacement and Undergrounding Program

(R.C. 191.01 to 191.45)

The bill creates the Ohio Broadband Pole Replacement and Undergrounding Program within DEV to advance the provision of qualifying broadband service access to residences and businesses in an unserved area. To accomplish this, the program reimburses certain costs of pole replacements, mid-span pole installations, and undergrounding incurred by providers.

Under the bill, DEV must administer and provide staff assistance for the program. It also is responsible for (1) receiving and reviewing program applications, (2) sending completed applications to the Broadband Expansion Program Authority for final review and the award of program reimbursements (reimbursements), and (3) establishing an administrative process for reimbursements. The Authority must award the reimbursements after reviewing applications and determining whether they meet the requirements for reimbursement.

DEV must adopt rules necessary for the successful and efficient administration of the program not later than 90 days after the effective date of the program.

Definitions

Program terms defined in the bill include the following:

Term	Definition
Affiliate	A person or entity under common ownership or control with, or a participant in a joint venture, partnership, consortium, or similar business arrangement with, another person or entity pertaining to the provision of broadband service.

[50] R.C. 122.4070, not in the bill.

Term	Definition
Broadband infrastructure	Facilities that are used, in whole or in part, to provide qualifying broadband service access to residences and businesses.
Mid-span pole installation	The installation of, and attachment of broadband infrastructure to, a new utility pole that is installed between or adjacent to one or more existing utility poles or replaced utility poles to which poles broadband infrastructure is attached.
Pole owner	Any person or entity that owns or controls a utility pole.
Pole replacement	The removal of an existing utility pole and replacement of that pole with a new utility pole to which a provider attaches broadband infrastructure.
Provider	An entity, including a pole owner or affiliate, that provides qualifying broadband service.
Qualifying broadband service	A retail wireline broadband service that is capable of delivering symmetrical internet access at download and upload speeds of at least 100 megabits per second (Mbps) with a latency level sufficient to permit real-time, interactive applications.
Undergrounding	The placement of broadband infrastructure underground, including by directly burying the infrastructure or through the underground placement of new ducts or conduits and installation of the infrastructure in them.
Unserved area	An area of Ohio that is without access to fixed, terrestrial broadband service capable of delivering internet access at download speeds of at least 25 Mbps and upload speeds of at least 3 Mbps.
Utility pole	Any pole used, in whole or in part, for any wired communications or electric distribution, irrespective of who owns or operates the pole.

Areas considered "unserved areas"

The bill further specifies that areas of Ohio are to be considered to be an "unserved area" under the program if one of the following applies:

- Under a program to deploy broadband service to unserved areas (which may include programs other than the Ohio Broadband Pole Replacement and Undergrounding Program), a governmental entity has awarded a broadband grant for the area after determining it to be an eligible unserved area under that program.
- The area has not been awarded any broadband grant funding, and the most recent mapping information published by the Federal Communications Commission (FCC) indicates that the area is an unserved area. (The searchable FCC National Broadband Map is available on the Broadband Data Collection page of the FCC website: fcc.gov/BroadbandData.)

When reimbursements may not be awarded

The Authority is not permitted to award reimbursements that are federally funded if the reimbursements are inconsistent with federal requirements and is not permitted to award reimbursements under certain other circumstances specified in the bill. Those other circumstances are:

- The broadband infrastructure deployed is used only for the provision of wholesale broadband service and is not used by the program applicant to provide qualifying broadband service directly to residences and businesses.
- A provider, other than the applicant, is meeting the terms of a legally binding commitment to a governmental entity to deploy qualifying broadband service in the unserved area.
- For reimbursements that are funded by federal funds deposited in the Pole Replacement Fund (see "**Pole Replacement Fund**" below), the applicant fails to commit to compliance with any conditions in connection with the funds that the federal government requires.

Who may apply for reimbursements

A provider may submit an application on a form prescribed by DEV for a reimbursement under the program if the provider has deployed "qualifying broadband infrastructure" in an unserved area and has paid any costs specified in the bill that are in connection with its deployment.

The bill does not define "qualifying broadband infrastructure," which must be deployed before submitting a program application. But, it does define "broadband infrastructure" as "facilities that are used, in whole or in part, to provide qualifying broadband service access to residences and businesses" and defines "qualifying broadband service" as "retail wireline broadband service that is capable of delivering symmetrical internet access at download and upload speeds of at least 100 [Mbps] with a latency level sufficient to permit real-time, interactive applications." This use of a similar, but undefined, term in the bill may create some confusion about how "qualifying broadband infrastructure" differs from "broadband infrastructure." See also "**DEV report on deployments under program**."

Costs eligible for reimbursement

Costs eligible for reimbursement under the program include (1) pole replacement costs, (2) mid-span pole installations, and (3) undergrounding costs. Specifically, reimbursements may be made for actual and reasonable costs to perform a pole replacement or mid-span pole installation, including the amount of any expenditures to remove and dispose of an existing utility pole, purchase and install a replacement utility pole, and transfer any existing facilities to the new pole. Also reimbursable are actual and reasonable undergrounding costs, including the costs to dig a trench, perform directional boring, install conduit, and seal the trench, but only if undergrounding is required by law, regulation, or local ordinance or if it is more economical than the cost of performing a pole replacement.

Costs not eligible for reimbursement

If an applicant's costs of deploying broadband infrastructure are eligible for full reimbursement from another governmental entity, those costs generally are ineligible for reimbursements. However, if the costs are reimbursed in part by a governmental entity, the applicant may apply for and obtain a reimbursement for the portion of the eligible costs that were not reimbursed by the other governmental entity.

Reimbursement accounting records

The bill allows the Authority to require applicants that obtain broadband grant funding from sources other than reimbursements under the program to maintain accounting records sufficient to demonstrate that the other grant funds do not fully reimburse the same costs as those reimbursed under the program. Since the bill's reference to broadband grant funding in the provision does not specify funding from another governmental entity, the accounting record that the Authority may require might also apply to broadband grants from the private sector.

Information and documentation from pole owner

If a pole owner provides information and documentation to a provider that enables the provider to submit an application, the pole owner may require the provider to reimburse the owner for the owner's actual and reasonable administrative expenses. The amount a pole owner may charge for those expenses may not exceed 5% of the pole replacement or mid-span pole installation costs. The bill specifies that these costs are not reimbursable under the program.

Application requirements

Not later than 60 days after the Broadband Pole Replacement Fund (see below) receives funds for reimbursements, DEV must develop and publish an application form and post it on the DEV website. The application form must identify and describe any additional federal conditions required in connection with the use of the federal funds, if any federal funds are used for awards under the program. Applications must include the following information:

- The number, cost, and locations of pole replacements, mid-span pole installations, and undergrounding for which reimbursement is requested;
- Documentation sufficient to establish that the pole replacements, mid-span pole installations, and undergrounding described in the application have been completed;
- Documentation sufficient to establish how the costs for which reimbursement is requested comport with the reimbursement requirements under the program;
- The reimbursement amount requested under the program;
- Documentation of any broadband grant funding awarded or received for the area described in the application and accounting information sufficient to demonstrate the reimbursement costs requested are eligible because they have not been fully reimbursed by another governmental entity or by a broadband grant (see "**Costs not eligible for reimbursement**" above);

- A notarized statement, from an officer or agent of the applicant, that the contents of the application are true and accurate and that the applicant accepts the requirements of the program as a condition of receiving a reimbursement;
- Any information necessary to demonstrate the applicant's compliance, and agreement to comply, with any conditions associated with the reimbursement awarded to the applicant;
- Any other information DEV considers necessary for final review and for the award and payment of reimbursements.

Applicant duties prior to receiving a reimbursement

Applicants for the program must agree to do certain things before receiving a reimbursement. Specifically, all applicants must agree to:

- Not later than 90 days after receipt of a reimbursement, activate qualifying broadband service to end users utilizing the broadband infrastructure for which the applicant has received the reimbursement for deployment costs for pole replacement, mid-span pole installation, or undergrounding;
- Certify the applicant's compliance with program requirements;
- Comply with any federal requirements associated with the funding used by the Authority in connection with the award;
- Refund all or any portion of reimbursements received under the program if the applicant is found to have materially violated any of the program requirements.

Applicants regarding a pole replacement or a mid-span pole installation, must meet the requirements described above, if the applicant is the pole owner or affiliate of the pole owner. In addition, these applicants must do the following:

- Commit that the pole owner will comply with all applicable pole attachment regulations and requirements imposed by state or federal requirements;
- Commit that the pole owner will exclude from its costs (specifically the costs used to calculate its rates or charges for access to its utility poles) the reimbursements received:
  - From the program or any other broadband grant program; or
  - By a provider, for make-ready charges.
- Commit that the pole owner will maintain and make available, upon reasonable request, to DEV, or to a party subject to the rates and charges, documentation sufficient to demonstrate compliance with the requirement that rates and charges were excluded as required.

Under the bill, the rates and charges documentation requirement does not apply to an electric distribution utility, unless the electric distribution utility is the applicant.

Reimbursement award timeline and formula

The bill requires the Authority to award reimbursements to an applicant not later than 60 days after it receives an application forwarded by DEV.

Reimbursements must equal the lesser of $7,500 or 75% of the total amount the applicant paid for each pole replacement or mid-span pole installation. For undergrounding costs, the Authority must approve reimbursements according to the same calculation, except that reimbursements may not exceed the reimbursement amount that would be available if the applicant had attached broadband infrastructure to utility poles instead of undergrounding that infrastructure.

At the Authority's direction, DEV must issue reimbursements for approved applications using the money available for them in the Broadband Pole Replacement Fund (described below). The Authority must award, and DEV must fund, reimbursements under the program until funds are no longer available. If there are any pending applications at the point when funds have been exhausted, those applications must be denied. However, applications that have been denied may be resubmitted to DEV and reimbursements awarded according to the application and award process, if sufficient money is later deposited into the fund.

Reimbursement refunds

If DEV finds that an applicant that received a reimbursement materially violated any program requirements, DEV must direct the applicant to refund, with interest, all or any portion of the reimbursements the applicant received. As required by the bill, DEV must direct the refund to be made if it finds substantial evidence of the violation and after providing the applicant notice and the opportunity to respond. At DEV's direction, refunds must be deposited to the credit of the Broadband Pole Replacement Fund (described below). Interest on refunds must be at the applicable federal funds rate as determined in current law.[51]

Broadband Pole Replacement Fund

The bill creates the Broadband Pole Replacement Fund in the state treasury. The fund is to be used by DEV to provide reimbursements awarded under the program and by the DEV Director to administer the program. The fund consists of money credited or transferred to it, money appropriated by the General Assembly, including from available federal funds, or money that the Controlling Board authorizes for expenditure from available federal funds, and grants, gifts, and contributions made directly to the fund. The bill makes an appropriation in FY 2024 to the Broadband Pole Replacement Fund from the State Fiscal Recovery Fund.

Program information on DEV website

The bill requires DEV to publish and regularly update its website with program information not later than 60 days after money is first deposited into the Broadband Pole Replacement Fund. The information that must be published includes the following:

[51] R.C. 1304.84, not in the bill.

- The number of program applications received, processed, and rejected by the Authority;
- The number, reimbursement amount, and status of reimbursements awarded;
- The number of providers receiving reimbursements;
- The balance remaining in the fund at the time of the latest program update on the website.

DEV report on deployments under program

Whenever the money in the Broadband Pole Replacement Fund is exhausted, the Authority, not later than one year after, must identify, examine, and report on the deployment of qualifying broadband infrastructure under the program and the technology facilitated by the reimbursements. The report must be published on the DEV website.

As described in more detail above, the bill does not define "qualifying broadband infrastructure." But, the bill does define "broadband infrastructure" and "qualifying broadband service." The use of a similar but undefined term in the bill may create some confusion about what DEV must report and how "qualifying broadband infrastructure" differs from "broadband infrastructure."

Program audit

The bill also requires the Auditor of State to audit the Broadband Pole Replacement Fund and its administration by the Authority and DEV for compliance with the program's requirements. The first audit must begin not later than one year after money is first deposited into the fund with subsequent audits to take place annually.

Sunset

The bill effectively sunsets the program by requiring payments under the Broadband Pole Replacement Fund to cease, and the fund to no longer be in force or have further application, on the date six years after the section creating this sunset provision takes effect.

The bill creates two exceptions to the sunset provision. For the period ending six months after the sunset date, DEV, in coordination with the Authority, must (1) complete the review of any applications that were submitted prior to the sunset date and pay reimbursements of the approved applications and (2) complete the review of any applications submitted not later than four months after the sunset date and pay reimbursements for the approved applications, if the reimbursements are for costs that were incurred prior to the sunset date.

After the reimbursements are paid as described in the exceptions above, if there is an outstanding balance in the fund, the bill requires the remaining balance to be returned to the original funding sources as determined by DEV.

Governor's Office of Housing Transformation

(R.C. 122.941, 135.143, 149.43, 154.20, 169.05, 174.01, 174.03, 174.05, 174.06, 174.07, 175.01, 175.02, 175.03 (repealed), 175.04, 175.05, 175.051 (future repeal), 175.052, 175.053, 175.06, 175.07, 175.08, 175.09, 175.10, 175.11, 175.12, 175.13, 175.14, 175.15, 175.31, 175.32, 3701.68, 3742.32, 3951.01, 5315.02; Sections 525.40 and 525.41)

The bill establishes the Governor's Office of Housing Transformation within DEV to assume the majority of the duties, powers, rights, obligations, and functions of the Ohio Housing Finance Agency, which is abolished by the bill on January 1, 2024. The provisions of the bill governing the office are generally the same as those in current law governing the agency. However, there are a few notable differences:

- The office is run by a director appointed by the Governor, whereas, the agency is run by an 11-member board, appointed by the Governor, DEV Director, and the Director of Commerce, and an executive director hired by the board.
- The office does not have independent authority to issue bonds. The Treasurer of State may issue bonds on behalf of the office.
- The annual reports of the office must be included in DEV's annual report, whereas the agency is required to submit independent annual reports and provide testimony on those reports to certain House and Senate committees.
- The office does not have independent rulemaking authority or the authority to request money for its operations. Both of those duties are shifted to the DEV Director.
- The office is not required to maintain offices throughout the state.
- The office is not permitted to contract with financial consultants, accountants, and other nonattorney consultants as necessary to carry out its objectives.
- There is no express authority for the office to sue and be sued in the office's name.
- The office does not have independent authority to provide retirement benefits, workers compensation coverage, and unemployment compensation coverage for the office's employees. Presumably, such coverage would be provided by DEV.
- The office must obtain approval of the Tax Credit Authority before awarding funding to multifamily rental housing projects.
- The office is not authorized to establish or administer a pilot program to expand housing opportunities for extremely low-income households, pregnant women, and new mothers.
- The office is not authorized to establish its own official seal.

Tax Credit Authority

Membership

(R.C. 122.17)

The bill increases the Tax Credit Authority from five to seven members. Correspondingly, the bill increases the number of members needed to constitute a quorum from three to four. Both new members are appointed by the Governor. One member must have experience in residential housing mortgage lending, loan servicing, or brokering at an institution insured by the Federal Deposit Insurance Corporation (FDIC). Another member must have experience in development or financing of multifamily housing. Continuing law requires one member be a taxation specialist.

Approval of multifamily rental housing

(R.C. 175.07)

The bill requires the new Governor's Office of Housing Transformation to obtain approval from the Tax Credit Authority before approving funding for any multifamily rental housing project.

Continuing law requires persons that apply for funding of such a project to provide notice to specified recipients and inform them of procedures for providing comments on the project's community impact or making objections to the project. An applicant is required to provide written notice by certified mail to all of the following persons if the applicant is requesting funds for a project of more than ten units:

- The chief executive officer and clerk of the legislative body of any municipal corporation in which the project is proposed to be constructed or that is within one-half mile of the project's boundaries;
- The clerk of any township in which the project is proposed to be constructed or that is within one-half mile of the project's boundaries;
- The clerk of the board of county commissioners of any county in which the project is proposed to be constructed or that is within one-half mile of the project's boundaries.

In contrast, an applicant requesting funds for a project with ten or fewer units must provide the written notice to the chief elected official of the jurisdiction in which the project is proposed to be constructed or, if there is more than one such individual, to the jurisdiction's legislative body.

DEPARTMENT OF DEVELOPMENTAL DISABILITIES

County board membership

- Beginning July 1, 2025, requires emphasis to be placed on appointing individuals with developmental disabilities and their family members to county boards of developmental disabilities.
- Beginning July 1, 2025, requires each county board to include at least one individual with developmental disabilities.

County board remote participation

- Permits county boards of developmental disabilities to establish a policy allowing members to attend board meetings remotely through electronic communication.
- Permits a board member attending a meeting remotely to be considered present, to be counted for purposes of establishing a quorum, and to vote.

Developmental Disabilities Council meetings

- Eliminates the requirements that the Developmental Disabilities Council establish geographic limits and record a roll-call vote for each vote to allow a council member's remote participation.

Interagency workgroup on autism

- Designates the entity contracted to administer programs and services for individuals with autism and low incidence disabilities as the workgroup's coordinating body.
- Requires the workgroup to meet publicly at least twice per year and submit an annual report to the Department of Developmental Disabilities.

State protection and advocacy system

- Requests that the Governor redesignate the entity serving as the state protection and advocacy system and client assistance program (P&A system).
- Specifies that the authority of the entity designated as the P&A system cannot exceed the authority granted to a state P&A system under federal law.
- Requires the entity designated as the P&A system to adopt a policy that acknowledges and supports the right of individuals served by the P&A system to reside in and receive services from an ICF/IID.

Joint committee to examine the state P&A system

- Permanently establishes a joint committee to examine the state protection and advocacy system.

Innovative pilot projects

- Permits the Director of Developmental Disabilities to authorize, in FY 2024 and FY 2025, innovative pilot projects that are likely to assist in promoting the objectives of state law governing the Department and county boards.

County share of nonfederal Medicaid expenditures

- Requires the Director to establish a methodology to estimate in FY 2024 and FY 2025 the quarterly amount each county board is to pay of the nonfederal share of the Medicaid expenditures for which the board is responsible.

County subsidies used in nonfederal share

- Requires, under certain circumstances, that the Director pay the nonfederal share of a claim for ICF/IID services using subsidies otherwise allocated to county boards.

County board annual fee for HCBS waiver services

- Permits (rather than requires) the Department to charge county boards of developmental disabilities an annual fee related to the total value of all Medicaid claims paid for home and community-based services provided to individuals eligible to receive services from the county board.
- Permits the Department to use the fees collected to provide technical and financial support to county boards with respect to the responsibility of county boards to pay the nonfederal share of certain Medicaid services.

Medicaid rates for homemaker/personal care services

- For 12 months, requires the Medicaid rate for each 15 minutes of routine homemaker/personal care services provided to a qualifying enrollee in the Individual Options Medicaid waiver program be 52¢ higher than the rate for services to an enrollee who is not a qualifying enrollee.

Competitive wages for direct care workforce

- Requires that certain funds contained in the bill for provider rate increases be used to increase wages and needed workforce supports to ensure workforce stability and greater access to care for Medicaid recipients.

Direct care provider payment rates

- Increases direct care wages to $17 an hour in FY 2024 beginning January 1, 2024, and to $18 an hour for all of FY 2025 for certain direct care services provided under the Medicaid home and community-based services waivers administered by the Department.

Direct Support Professional Quarterly Retention Payments Program

- Continues the Direct Support Professional Quarterly Retention Payments Program administered by the Department until December 31, 2023.

- Upon the conclusion of the program, requires the Department to use funds to increase the direct care base payment rate for (1) personal care services and (2) adult day services by $1 per hour over the base payment rates for the services.

Intermediate care facilities for individuals with intellectual disorders (ICFs/IID)

- Increases the ICF/IID per Medicaid day payment rate by adding to the formula a professional workforce development payment amount.
- For purposes of ICF/IID Medicaid payments, creates a new peer group for youth in need of intensive behavior support services.
- Exempts ICF/IIDs that have specified bed capacities in counties with specified populations from the limitation that no more than two residents reside in the same sleeping room.
- Repeals law requiring recoupment of payments made to ICFs/IID under a program that no longer exists.

Obsolete report repeal

- Repeals law requiring the Department to submit a report to the General Assembly in 2003, 2004, and 2005.

County board membership

(R.C. 5126.021; R.C. 5126.022 (repealed effective July 1, 2025))

Beginning July 1, 2025, the bill requires appointing authorities to place emphasis on appointing individuals with developmental disabilities and their family members to county boards of developmental disabilities. To achieve this, the bill modifies the composition of each board of developmental disabilities to generally require each board to include at least one individual with developmental disabilities. Under existing law, a board is required to include at least two individuals who are eligible for services from the board or are immediate family members of such individuals. The bill instead requires each county board to include at least one individual with developmental disabilities and at least one individual who is a family member of an individual with developmental disabilities.

The bill requires a board of county commissioners to appoint as a member of a board of developmental disabilities at least individual with developmental disabilities and at least one family member of an individual with developmental disabilities. The bill also requires a senior probate judge to appoint at least one individual with developmental disabilities or a family member of such an individual. If a senior probate judge appoints an individual with developmental disabilities, the bill specifies that the appointment satisfies the requirement for a board of county commissioners to make the appointment.

The bill also specifies that an appointing authority's unfilled vacancy does not prohibit the appointing authority from filling other vacancies on the county board of developmental disabilities.

County board remote participation

(R.C. 5126.0223)

As a permanent exception to the Open Meetings Act, the bill permits each county board of developmental disabilities to establish a policy that allows board members to use a means of electronic communication to attend and vote at a board meeting. For this purpose, "electronic communication" is live, audio-enabled communication that permits members attending the meeting remotely and those present in person where the meeting is being conducted to communicate with each other simultaneously.

A board's policy must specify the number of regular meetings at which each board member must be present in person, which may not be less than half of the regular board meetings held annually. Additionally, the policy must specify the following minimum standards regarding a meeting conducted using electronic communication:

1. At least one-third of the board members attending a meeting must be present in person at the place where the meeting is conducted;

2. All votes taken at the meeting must be taken by roll call vote; and

3. A board member who intends to attend a meeting using electronic communication must notify the chairperson of that intent at least 48 hours before the meeting, except in the case of a declared emergency.

A board member who attends a meeting remotely is considered to be present at the meeting and counted for the purposes of establishing a quorum.

Developmental Disabilities Council meetings

(R.C. 5123.35)

The bill removes two requirements related to remote meetings of the Ohio Developmental Disabilities Council. First, it removes the prerequisite that, for a Council member to participate in a meeting remotely by teleconference, roll call votes must be made for each vote taken. Second, it removes a requirement that the Council establish a geographic restriction for video conference or teleconference participation under the Council's rulemaking authority.

Interagency workgroup on autism

(R.C. 5123.0419)

The bill designates the entity contracted to administer programs and coordinate services for infants, preschool and school age children, and adults with autism and low incidence disabilities as the coordinating body of the interagency workgroup on autism that exists under continuing law.[52] The workgroup is tasked with addressing the needs of individuals with autism and their families.

[52] R.C. 3323.32 (not in Section 101.01 of the bill).

The bill requires the workgroup to submit an annual report to the Department of Developmental Disabilities detailing the group's recommendations as well as priorities and goals for the coming year. Under the bill, the coordinating body is responsible for ensuring the report is compiled and submitted and must contract with the Department to implement the recommendations made by the workgroup as well as any additional initiatives.

Finally, the bill requires the workgroup to meet publicly at least twice each year to report its work to the public and hear feedback.

State protection and advocacy system

Redesignation of the state protection and advocacy system

(Section 751.10)

The bill requests that the Governor redesignate the entity serving as the state's protection and advocacy system (P&A system). Under federal law, the Governor is the official authorized to designate an entity to serve as the P&A system for the state. Each state is required to have a P&A system in place in order to receive allotments of federal funds to support and protect the legal and human rights of individuals with developmental disabilities.

Before an entity serving as a state P&A system may be redesignated, federal law requires that all of the following be satisfied:[53]

- There is good cause for the redesignation;
- The state gives the existing entity both notice of the intent to redesignate and an opportunity to respond to the assertion that good cause has been shown for the redesignation;
- The state gives timely notice and an opportunity for public comment in an accessible format to individuals with developmental disabilities or their representatives;
- The existing entity has an opportunity to appeal the redesignation to the U.S. Secretary of Health and Human Services, on the basis that the redesignation was not for good cause.

Authority of the state P&A system

(R.C. 5123.60 and 5123.601)

Federal law vests in a state P&A system the authority to undertake specified actions to protect and advocate for the rights of individuals with developmental disabilities. Federal law further provides that a state P&A system may exercise authority under state law if the authority granted under state law exceeds the authority granted under federal law. The bill specifies that the authority granted to the P&A system under Ohio law cannot exceed the authority granted to a state P&A system under federal law.

[53] 42 U.S.C. 15043(a)(4).

Additionally, the bill requires the entity designated as the state P&A system to adopt a policy that acknowledges and supports the right of individuals who receive services from the P&A system to reside in and receive services from an ICF/IID.

Joint committee to examine the state P&A system

(R.C. 5123.603)

H.B. 110 of the 134th General Assembly required the Senate President and House Speaker to establish a joint committee to examine the activities of the state P&A system. The bill, eliminates a requirement that this joint committee be established every two years and instead establishes it permanently.

In making the joint committee permanent, the bill eliminates a requirement that the Senate President and House Speaker determine the dates on which the terms of members of the joint committee begin and end. Additionally, the bill eliminates a requirement the Senate President and House Speaker specify a deadline every two years by which the joint committee must submit a report regarding the joint committee's recommendations, and eliminates a requirement that the joint committee prepare such a report.

The bill also removes the authority of the current entity serving as the state P&A system to, in its sole discretion, appear before and offer testimony to the joint committee.

Innovative pilot projects

(Section 261.120)

For FY 2024 and FY 2025, the bill permits the Director to authorize the continuation or implementation of innovative pilot projects that are likely to assist in promoting the objectives of state law governing the Department and county boards. Under the bill, a pilot project may be implemented in a manner inconsistent with the laws or rules governing the Department and county 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, Ohio Health Care Association/Ohio Centers for Intellectual Disabilities, the Values and Faith Alliance, and ARC of Ohio.

County share of nonfederal Medicaid expenditures

(Section 261.100)

The bill requires the Director to establish a methodology to estimate in FY 2024 and FY 2025 the quarterly amount each county board is to pay of the nonfederal share of the Medicaid expenditures for which the board is responsible. With certain exceptions, existing law requires the board to pay this share for waiver services provided to an eligible individual. 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.

County subsidies used in nonfederal share

(Section 261.130)

The bill requires the Director to pay the nonfederal share of a claim for ICF/IID services using funds otherwise appropriated for subsidies to county boards if (1) Medicaid covers the services, (2) the services are provided to an eligible Medicaid recipient who does not occupy a bed that was 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 board, and (4) the provider has a valid Medicaid provider agreement when services are provided.

County board annual fee for HCBS waiver services

(R.C. 5123.0412)

Under current law, the Department is required to charge each county board of developmental disabilities an annual fee equal to 1.25% of the total value of all Medicaid claims for home and community-based services provided during the year to an individual eligible to receive services from the county board. The bill instead ***permits*** the Department to charge this fee and specifies that the annual fee may not exceed the amount described above.

In addition to the purposes specified in existing law for which the Department must use the fees described above, the bill permits these fees to be used to provide technical and financial support to county boards with respect to county boards' responsibility to pay the nonfederal share of (1) Medicaid expenditures for Medicaid case management services a county board provides to an individual with a developmental disability and (2) Medicaid expenditures for certain home and community-based services provided to an individual with a developmental disability.

Medicaid rates for homemaker/personal care services

(Section 261.140)

The bill requires that the total Medicaid payment rate for each 15 minutes of routine homemaker/personal care services provided to a qualifying enrollee of the Individual Options Medicaid waiver program be 52¢ higher than the rate for services provided to an enrollee who is not a qualifying enrollee. The higher rate is to be paid only for the first 12 months, consecutive or otherwise, that the services are provided beginning July 1, 2023, and ending July 1, 2025. An Individual Options enrollee is a qualified enrollee if all of the following apply:

- The enrollee resided in a developmental center, converted ICF/IID,[54] or public hospital immediately before enrolling in the Individual Options waiver.

[54] A converted ICF/IID is an ICF/IID, or former ICF/IID, that converted some or all of its beds to providing services under the Individual Options waiver.

- The enrollee did not receive before July 1, 2011, routine homemaker/personal care services from the Medicaid provider that is to receive the higher Medicaid rate.
- The Director has determined that the enrollee's special circumstances (including diagnosis, services needed, or length of stay) warrant paying the higher Medicaid rate.

Competitive wages for direct care workforce

(Section 261.150)

The bill includes funding from the Department, in collaboration with the Departments of Medicaid and Aging, to be used for provider rate increases, in response to the adverse impact experienced by direct care providers as a result of the COVID-19 pandemic and inflationary pressures. The bill requires the provider rate increases be used to increase wages and workforce supports to ensure workforce stability and greater access to care for Medicaid recipients.

Direct care provider payment rates

(Section 261.75)

The bill earmarks Medicaid funds to be used to increase provider base wages to $17 an hour in FY 2024, beginning January 1, 2024, and $18 an hour in FY 2025, beginning July 1, 2024, for the following services provided under Medicaid components of the home and community-based services waivers administered by the Department:

1. Personal care services;

2. Adult day services;

3. ICF/IID services.

Direct Support Professional Quarterly Retention Payments Program

(Section 261.160)

The bill continues the Direct Support Professional Quarterly Retention Payments Program administered by the Department until December 31, 2023.

Upon the conclusion of the Direct Support Professional Quarterly Retention Payments Program, the bill specifies that a portion of appropriated funds instead be used to increase the direct care base payment rate for personal care services and adult day services administered under Medicaid waiver components administered by the Department by an additional $1 per hour over the base payment rates for the services specified in the bill.[55]

[55] Section 261.75.

Intermediate care facilities for individuals with intellectual disorders (ICFs/IID)

ICF/IID payment rate

(R.C. 5124.15)

Under continuing law, each ICF/IID receives a per day payment amount for each Medicaid resident. The bill increases the ICF/IID Medicaid payment rate by adding to the formula a professional workforce development payment amount, equal to 13.5% in FY 2024 and 20.81% in FY 2025 of the ICF/IID's desk-reviewed, actual, allowable, per Medicaid day direct care costs from the applicable cost report year.

New ICF/IID Medicaid peer group for certain youth

(R.C. 5124.01)

The bill creates "peer group 6" as a new classification for ICF/IID Medicaid day payment rate determinations. The new group consists of ICFs/IID that have:

- A Medicaid-certified capacity not exceeding six;
- Submitted and received approval for a best practices protocol for providing services to youth up to 21 years old in need of intensive behavior support services;
- A contract with the Department that includes a provision for Department approval of all admissions to the ICF/IID; and
- Agreed to a reimbursement methodology established under existing rules.

Number of ICF/IID residents in same sleeping room

(R.C. 5124.70)

The bill exempts certain ICF/IIDs from the existing law requirement that generally prohibits an ICF/IID provider from permitting more than two residents to reside in the same sleeping room. An ICF/IID is exempt from these requirements if, on the bill's effective date, the ICF/IID meets one of the following requirements, as measured by the 2020 federal decennial census:

- The ICF/IID has a Medicaid-certified bed capacity between 60 and 70 beds and is located in a county with a population between 40,500 and 41,000;
- The ICF/IID has a Medicaid-certified bed capacity between 90 and 100 beds and is located in a county with a population between 242,000 and 243,000;
- The ICF/IID has a Medicaid-certified bed capacity between 55 and 60 beds and is located in a county with a population between 400,000 and 500,000;
- The ICF/IID has a Medicaid-certified bed capacity between 90 and 100 beds and is located in a county with a population between 1,300,000 and 1,400,000;

- The ICF/IID has a Medicaid-certified bed capacity between 120 and 130 beds and is located in a county with a population between 160,000 and 162,000.

Recoupment for ICF/IID downsizing delay

(Repealed R.C. 5124.39; R.C. 5124.45)

The bill repeals law that requires the Department to recoup money paid to certain ICFs/IID in a downsizing incentive program that no longer exists. ICFs/IID classified as former peer group 1-B and approved to downsize by July 1, 2018, were eligible to collect efficiency incentive payments from the Department. If an ICF/IID did not successfully downsize by that date, the Department was required to recoup the payment plus interest, unless the ICF/IID qualified for an exemption. The incentive and recoupment programs no longer exist.

Obsolete report repeal

(Repealed R.C. 5123.195)

The bill repeals law requiring the Department to submit a report regarding implementation of changes to the law governing residential facility licensure at the end of 2003, 2004, and 2005.

DEPARTMENT OF EDUCATION AND WORKFORCE

I. Transfer of State K-12 Governance

Department of Education and Workforce

- Renames the Department of Education as the Department of Education and Workforce (DEW).
- Creates the position of the Director of Education and Workforce, who is appointed by the Governor, with the advice and consent of the Senate, and is the head of DEW.
- Establishes within DEW the Division of Primary and Secondary Education and the Division of Career-Technical Education, each of which is headed by a Deputy Director appointed by the Director with the advice and consent of the Senate.

State Board of Education

- Transfers most of the powers and duties of the State Board of Education and the Superintendent of Public Instruction to DEW.
- Retains the State Board's and state Superintendent's powers and duties regarding educator licensure, licensee disciplinary actions, school district territory transfers, and certain other areas.
- Expands the uses for the State Board Licensure Fund.

Implementation deadline

- Requires the Director, Department, State Board, and state Superintendent to complete any action necessary to implement the transfer of powers within 90 days of the bill's effective date.

Workforce Development

- Requires DEW to develop informational materials for seventh and eighth graders about available career opportunities.
- Requires DEW to participate in the process to identify in-demand jobs.
- Requires the Governor to appoint the Deputy Directors to the Governor's Executive Workforce Board.

Nonchartered nonpublic schools

- Codifies an administrative rule that sets minimum requirements for nonchartered nonpublic schools, including hours of instruction, educational requirements for teachers and administrators, curriculum, promotion, and safety requirements.
- Requires the Director of Education and Workforce to update existing rules to conform to the changes and prohibits the adoption of any additional rules for nonchartered nonpublic schools.

Home education and school attendance

- Exempts a child from the compulsory school attendance law if the child's parent submits a notice to the superintendent of the child's school district of residence that the child is receiving a home education in specified subject areas.
- Specifies that a child exempt for the purposes of home education may be subject to state truancy law if there is evidence the child is not receiving the required education.

II. School finance

Funding for FY 2024 and 2025

- Extends the operation of the school financing system established in H.B. 110 of the 134th General Assembly, with changes, to FY 2024 and FY 2025.
- Extends to FY 2024 and FY 2025 the payment of temporary transitional aid related to school transportation to school districts based on an FY 2020 funding base.
- Requires the payment of transitional aid to districts, community schools, and STEM schools based on an FY 2023 funding base.

Student wellness and success fund

- Requires the Department to notify, in each fiscal year, each school district, community school, and STEM school of the portion of the district or school's state share of the base cost that is attributable to the staffing cost for the student wellness and success component.
- Requires districts and schools to spend student wellness and success funds (SWSF) on the same initiatives required for disadvantaged pupil impact aid (DPIA) funds.
- Requires districts and schools to spend at least 50% of SWSF for either physical or mental health based initiatives, or a combination of both.
- Requires districts and schools to develop a plan to use SWSF in coordination with certain community based mental health treatment providers and other community partners.
- Requires that any SWSF allocated in any of FYs 2020 through 2023 be expended by June 30, 2025, and any unexpended funds be repaid to the Department.
- Beginning in FY 2024, requires all SWSF to be expended by the end of the following fiscal year, and any unexpended funds be repaid to the Department.
- At the end of each fiscal year, requires each district and school to submit a report to the Department describing the initiative or initiatives on which the district or school's SWSF were spent during that fiscal year.

Disadvantaged pupil impact aid

- Makes changes in initiatives for which schools may spend DPIA.

Gifted funding requirements

- Makes permanent, and in some cases revises, requirements regarding gifted student funding and services, including spending requirements, funding reductions for noncompliant spending, and reporting and auditing requirements.

Jon Peterson Special Needs Scholarship amounts

- Increases the base and category amounts for the Jon Peterson Special Needs Scholarship Program for FY 2024 in proportion to the bill's estimated proposed increase of 12.1% to the statewide average base cost per pupil and increases the category amounts for FY 2025. Increases the funding cap for the Jon Peterson Special Needs Scholarship Program from $27,000 to $30,000 for FY 2024 and to $32,445 for FY 2025.

Payment for districts with decreases in utility TPP value

- Requires the Department to make a payment, for FY 2024 and FY 2025, to each city, local, exempted village, or joint vocational school district that has at least one power plant within its territory and that experiences a 10% or greater decrease in the taxable value of utility tangible personal property (TPP) and an overall negative change in TPP subject to taxation.

Newly chartered nonpublic school auxiliary services funds

- Permits a newly chartered nonpublic school, within ten days of receiving its charter, to elect to receive auxiliary services funds directly.

Community school equity supplement

- Requires the Department to pay a $400 per student equity supplement in FY 2024 and FY 2025 to each community school that is not an e-school.

DOPRs and career-technical programs

- Adds dropout prevention and recovery programs (DOPRs) of school districts, community schools, and STEM schools to the approval process for state funding for career-technical education programs.
- Requires the Department to authorize a payment for a DOPR offering a career-technical program that is in its first year of operation and that submits an application for approval after the May 15 deadline established under continuing law.

DOPR community school credential-only programs

- Requires the Department to include students enrolled in a credential-only program at a DOPR community school in the school's category one career-technical ADM and to count those students as full-time students.
- Permits a DOPR community school that offers a credential-only program to provide support services to its graduates to assist them in securing post-secondary placement opportunities.

- Authorizes a DOPR community school to use a portion of its career-technical education funds to provide its recent graduates with short-term, emergency financial assistance related to specified issues.

DOPR e-school funding pilot program

- Makes permanent and revises the operation of the pilot program that provides additional funding to DOPR internet- or computer-based community schools (e-schools).

School funding based on updated TY 2021 data

- Requires the Department to compute the state foundation aid for a school district whose property tax information was incorrectly reported in tax year 2021 using updated information for that year.

III. Student transportation

School district schedule

- Eliminates requirements for a school district to consider, notify, and consult with each joint vocational school district (JVSD), community school, and chartered nonpublic school whose students the district transports when the district changes its school schedule.
- Requires instead that a school district receive approval to change its schedule from each JVSD, community school, and chartered nonpublic school whose students the district transports.

Transportation communication schedule

- Requires each community school, chartered nonpublic school, and school district to adhere to a specified communication schedule regarding student transportation.

Transportation dispute resolution timeline

- Requires the Department to resolve any disputes over determinations regarding transportation noncompliance received after December 1, 2023, within 30 days of receiving notice of the dispute, or within 45 days if the Department notifies all affected parties in advance of the delay.
- Requires the Department to take initial action on mediation regarding declarations of impracticality to provide transportation received after December 1, 2023, within 30 days of receiving the request for mediation, or within 45 days if the Department notifies all affected parties in advance of the delay.

Deadline to resolve pending transportation disputes

- Requires the Department, by December 1, 2023, to process and resolve certain pending transportation disputes.

Late drop-off

- Prohibits transportation operators from delivering students late to school.

Payment in lieu – determinations of impracticality

- Requires determinations of impracticality be re-evaluated at least every other year and be reconsidered in each year if a parent or guardian has a change of circumstance and requests transportation.
- Sets the maximum for a payment in lieu of providing transportation upon a finding of impracticality to $2,500.

Out of compliance definition and penalties

- Defines "out of compliance" with regard to student transportation requirements as a period of five consecutive school days or more than ten school days within a school year in which certain conditions apply.
- Requires the Department to withhold transportation payments from a district that is found to be out of compliance with transportation requirements.
- Requires a district found to be out of compliance to submit a remediation plan to the Department. Once a district meets the terms of the remediation plan, requires the Department to resume transportation payments to that district.
- Requires the Department to calculate, for each day after that the district is found to be out of compliance the daily amount of that payment on a per-pupil basis and disburse that per-pupil amount to the parent or guardian of each student who did not receive proper transportation while the district was out of compliance.

Bus Driver Flex Career Path Model

- Requires the Department to develop the Bus Driver Flex Career Path Model to create a pathway for bus drivers to work as educational aides or student monitors at districts and schools.

Nine-passenger vehicles

- Authorizes a school district to use a vehicle designed to carry nine passengers or less (not including the driver) in lieu of a school bus to transport chartered nonpublic and community school students under certain conditions.
- Authorizes a community school to transport its students using a nine-passenger or less vehicle under certain circumstances.
- Adds a new circumstance under which a chartered nonpublic and a community school may transport its students to and from regularly scheduled school sessions using a nine-passenger or less vehicle to include when the school has offered to provide its own student transportation.

Daily pre-trip school bus inspections

- Requires the Superintendent of Public Instruction and the Director of Public Safety to modify their rules related to daily pre-trip school bus inspections by removing checks of specified equipment.

- Specifies that the State Highway Patrol must still check that equipment in their regular school bus equipment inspections.

Pilot program

- Establishes a pilot program under which two educational service centers provide transportation to students enrolled in participating community schools, STEM schools, and chartered nonpublic schools in the 2023-2024 school year.

IV. Dyslexia screening and intervention

Transfer students

- Requires school districts and schools to administer grade-level aligned dyslexia screenings to students enrolled in grades K-6 who transfer into the district or school midyear.
- Exempts a district or school from administering a tier one dyslexia screening measure to a transfer student who received a screening in that school year from the student's original school.
- Generally requires a district or school to administer a dyslexia screening within 30 days of transfer student enrollment or request, though a kindergarten transfer student screening may be performed at the regularly scheduled screening for all kindergartners if the student transfers before that assessment has been performed.

Professional development

- Requires teachers hired after April 12, 2021, to complete dyslexia professional development training by the later of two years after the date of hire or prescribed dates, unless the teacher has completed the training while employed by a different district.

V. State scholarship programs

Ed Choice Expansion eligibility and scholarship amounts

- Expands eligibility for an Ed Choice Expansion scholarship to any student entering any of grades K-12 in the school year for which a scholarship is sought.
- Establishes in codified law a logarithmic function formula to calculate Ed Choice Expansion scholarship amounts for students who receive a first-time scholarship on and after the bill's effective date, but also prescribes specific, partial scholarship amounts for the 2023-2024 school year only for students with a family income at or above 450% federal poverty level (FPL).
- Bases the income eligibility threshold for an Ed Choice expansion scholarship on a "family's adjusted gross income" rather than "family income."
- Eliminates the priority order for awarding Ed Choice expansion scholarships if the number of eligible students who apply for a scholarship exceeds the scholarship available based on the appropriation.

Ed Choice scholarship selection

- Permits a student that qualifies for both an income-based and a performance-based Ed Choice scholarship to select which of those scholarships the student would like to receive.
- Permits a student to change which scholarship they receive in each school year.

Use of private scholarships for Ed Choice

- Permits a chartered nonpublic school to accept private scholarships issued by a scholarship granting organization as payment for the difference between the amount of a scholarship and the regular tuition charge of the school, as well as for any fees regularly charged by the school.

Autism Scholarship

Eligibility

- Expands qualification for the Autism Scholarship Program to a child who receives an autism diagnosis from a physician or psychologist.
- Qualifies a child for a scholarship under one, instead of both, existing qualifications.
- Requires school districts to develop an education plan for a child who is eligible for the Autism Scholarship Program based on an autism diagnosis who does not have an individualized education program.

Intervention services providers

- Qualifies certified Ohio behavior analysts as providers that may offer intervention services under the Autism Scholarship Program.
- Qualifies registered behavior technicians as providers that may offer intervention services under the Autism Scholarship Program if the registered behavior technician works under the supervision and following the intervention plan of a certified Ohio behavior analyst or certain other certified behavior analyst.
- Prohibits the State Board from requiring registered behavior technicians and certified Ohio behavior analysts to have an instructional assistant permit to qualify to provide services to a child under the Autism Scholarship Program.

State scholarships – general

Verification of income

- Specifies what documents a student's parent or guardian may use to certify income eligibility for an Ed Choice expansion scholarship to the Department.
- Prohibits the Department from requiring the parent of a student who is applying for, or receiving, a state scholarship, other than an Ed Choice expansion scholarship, from completing any kind of income verification regarding the student's family income.
- Creates an exception to the general prohibition described above for the purpose of qualifying low-income Ed Choice or Cleveland scholarship recipients for a waiver of any

tuition, textbooks, or fees related to attending a private college through the College Credit Plus Program.

Tax return information

- Exempts an individual who is not required to file a state tax return under continuing law requirements from the requirement to certify income eligibility for an Ed Choice expansion scholarship.
- Prohibits the Department from requiring the parent of a student to submit a complete copy of the parent's federal or state income tax return to determine the student's family income for the purposes of the traditional Ed Choice or Cleveland Scholarship Program.
- Permits the Department to require a partial federal or state tax return that only contains the minimum amount of information necessary to determine the student's family income.

Waiver of additional tuition

- Removes the requirement under current law that a chartered nonpublic school or private school participating in certain state scholarship programs waive any additional tuition above a scholarship amount for a student with a family income at or below 200% FPL.

Reporting of tuition rates

- Requires certain educational entities that enroll students through a state scholarship, by September 30, 2023, for the 2023-2024 school year and by June 30 prior to each following school year, to submit to the Department the entity's tuition rates for that year.

Application after the start of the school year

- Delays the application deadline for receiving the full amount of an Ed Choice or Cleveland scholarship from July 1 to October 15 of the school year for which a scholarship is sought.
- Requires the Department to prorate the amount of a student's scholarship for an application submitted on and after October 15 based on how much of the school year remains after the date of the student's enrollment in school.

Cleveland scholarship program location restrictions

- Permits a student who resides in Cleveland Municipal School District to use the Cleveland Scholarship to attend any private school, without a restriction on location of that school.

Family income disclosure

- Prohibits a chartered nonpublic school participating in Ed Choice from requiring a student's parent to disclose, as part of the school's admission procedure, whether the student's family income is at or below 200% FPL.

VI. Community schools

Community school sponsors

- Modifies the calculation of the academic performance component of a community school sponsor's evaluation.

- Requires each sponsor to submit documentation of the sponsor's adherence to quality practices by May 15 of each year and permits the sponsor to participate in an interview to assess sponsor adherence to those practices.
- Requires the Department to request proposals for, and select an organization to develop, a portfolio-based sponsor evaluation framework in accordance with specific time frames.
- Expands eligibility from sponsors rated exemplary for the two most recent school years to all sponsors rated exemplary for statutory incentives.
- Excludes the academic performance of a community school with which an "exemplary" sponsor has entered into a contract for the first two years of that contract if the Office of Ohio School Sponsorship was the school's most recent sponsor.
- Requires the Department, in deciding whether to approve a request to change sponsors from a community school that primarily serves students with disabilities to at least consider the school's performance against the average performance of all other community schools that primarily serve students with disabilities.
- Permits a community school that primarily serves students with disabilities to enter into a contract with a new qualified sponsor without submitting a request if it satisfies certain report card rating criteria.

Community school FTE reporting

- Extends through the 2023-2024 and 2024-2025 school years the option of certain community schools to report their student enrolment on a full-time equivalent basis based partially on credits earned.

Dropout prevention and recovery schools

End-of-course exams for DOPR community schools

- Requires a dropout prevention and recovery (DOPR) community school to administer end-of-course exams in an online or paper format based on the needs of the student, in addition to the testing windows established under continuing law.
- Requires the state Superintendent to establish extended testing windows of ten weeks in duration in the fall and spring for dropout recovery community schools so that assessments may be administered in closer proximity to when students complete related coursework.
- Requires the state Superintendent to establish a summer testing window for students participating in summer instruction.

DOPR report card

- Requires the State Board of Education to consult with stakeholder groups and use data from prior school years and simulations in establishing benchmarks and performance levels for performance indicators on the DOPR community school report card.

DOPR Advisory Council

- Establishes the Dropout Prevention and Recovery Advisory Council to provide a forum for communication and collaboration between the Department and parties involved with dropout recovery community schools.
- Requires the Council to review, in collaboration with the State Board, all existing rules and guidance previously developed or adopted by the Department of Education.

Rules and guidelines for DOPR community schools

- Requires the Department to adopt any requirement imposed on a DOPR as a rule under the Administrative Procedure Act and prohibits the Department from developing guidelines, rather than rules, imposing requirements on a DOPR.
- Requires that any new rule related to DOPR community school requirements be reviewed prior to adoption by the Dropout Prevention and Recovery Advisory Council.

E-school standards

- Changes the source for the standards with which e-schools must comply.

Community school closing audit bonds and guarantees

- Removes provisions related to community school closing audit bonds. (For more information, see "**Community school closing audit bonds ad guarantees**" in the Treasurer of State portion on this analysis.)

VII. School districts

Academic intervention services for qualifying students

- Requires each school district, community school, and STEM school to provide academic intervention services, free of cost, to students who demonstrate a limited level of skill on a state assessment in math, science, or English language arts.
- Requires the Department to include a student who receives sufficient remediation under the bill's provision in the postsecondary readiness measure used to calculate the College, Career, Workforce, and Military Readiness component on the state report card.

Intradistrict open enrollment

- Requires a school district to report to the Department the number of students who attend a school building other than the one to which they are assigned.
- Requires a district to conduct a lottery to determine intradistrict placement of students by the second Monday of June prior to the school year for which enrollment is sought.

Virtual education during school closure

- Requires a school district, community school, STEM school, or chartered nonpublic school to adopt a plan to provide instruction through a virtual education model during a period of school closure for specified reasons.

- Repeals the process under which a district, community school, or chartered nonpublic school may adopt a plan to require students to complete lessons posted on the district or school's website, or paper copies of those lessons ("blizzard bags"), during a period of school closure for specified reasons.

Seizure action plans

- Requires public and chartered nonpublic schools to create an individualized seizure action plan for each enrolled student who has an active seizure disorder diagnosis.
- Requires at least one employee at each school to be trained on implementing seizure action plans.
- Provides a qualified immunity in a civil action for money damages for school districts and schools and their officers and employees for injury, death, or other loss allegedly arising from providing care or performing duties under the bill.
- Entitles the provisions "Sarah's Law for Seizure Safe Schools Act."

School district property disposal

- Modifies the manner in which a school district must advertise, solicit, and select bids for the sale of real property at a public auction.
- Revises the law on involuntary disposition of school district property.
- Eliminates the Facilities Construction Commission's authority to approve a school district's demolition of a facility, without complying with the school property disposal law as otherwise required under continuing law, to clear a site for a replacement facility as part of a school facilities project.

Cash payments for school-affiliated events

- Requires qualifying schools to accept cash payments for tickets and concessions at school-affiliated events, unless the event is conducted at a public facility that is leased by a professional sports team or privately owned facility.

Free feminine hygiene products

- Requires all public and private schools that enroll girls in grades six through 12 to provide free feminine hygiene products for those students and permits schools to provide products to students below grade six.

Auxiliary services personnel

- Prohibits a school district from denying a nonpublic school's request for properly licensed personnel to provide auxiliary services.

Auxiliary services reimbursement for Educational Service Centers

- Specifies that if an ESC contracts with a district to provide auxiliary services, only the ESC may be reimbursed for administrative costs.

Pecuniary interest of school board members

- Exempts a school board member employed by a private institution of higher education from the prohibition against members having a financial interest in a contract with the district when the contract is with a private institution of higher education.

VIII. Diplomas and graduation requirements

FAFSA graduation requirement

- Requires all public and chartered nonpublic school students to complete the Free Application for Federal Student Aid (FAFSA) in order to qualify for a high school diploma, unless an exception applies.

Financial literacy instruction in lieu of social studies

- Permits a student to substitute one-half unit of financial literacy instruction for one-half unit of social studies instruction to meet the law's financial literacy education curriculum requirement for graduation.

Competency-based diploma pilot program

- Requires the Department to operate a competency-based diploma pilot program in FY 2024 and 2025 for students who are at least 18 years old, but under 22 years old and issue a report on the pilot program by July 30, 2025.

Adult Diploma Pilot Program minimum age

- Expands eligibility to participate in the Adult Diploma Pilot Program by lowering the minimum age from 20 to 18 years old.

IX. Educator and other licensing and permits

Ohio Teacher Residency Program

- Permits mentoring under the teacher residency program to occur online or in-person.
- Requires the Department to provide no-cost access to online professional development resources.
- Provides a no-cost opportunity for online coaching to participants who do not pass the Resident Educator Summative Assessment (RESA).
- Permits participants who have not taken the RESA to receive online coaching if the participant's district or school pays for the associated costs.
- Prohibits the State Board from limiting the number of attempts participants have to successfully complete the RESA.

Alternative resident educator license

- Reduces the alternative resident educator license from four to two years but makes that license renewable.

- Permits the holder of an alternative resident educator license to teach preschool students.
- Permits the holder of an alternative resident educator license to convert that license to a renewable alternative educator license instead of completing the Ohio Teacher Residency Program and other certain prescribed requirements necessary for obtaining a professional educator license.

Substitute teacher license

- Permits schools to hire substitute teachers without a post-secondary degree.
- Establishes a one-year temporary substitute teacher license.

Out-of-state teacher license

- Permits an applicant for a one-year nonrenewable out-of-state teaching license who passes Ohio's Foundations of Reading Exam on the first try to forgo the required completion of coursework in the teaching of reading.

Licensure grade bands

- Expands the grades bands for which an individual may receive a resident educator license, professional educator license, senior professional educator license, or a lead professional educator license to pre-K -8 or grades 6-12.
- Permits a school district or community school to employ an educator to teach not more than two years outside of the educator's designated grade band for two school years at a time.

Pre-service teaching for compensation

- Establishes a three-year pre-service teaching permit for student teachers that authorizes them to substitute teach and receive compensation for it.

Computer science educator licensure

- Permits industry professionals to teach 40 hours a week in computer science without taking a content examination.
- Requires all computer science licenses to carry a grade band designation of K-12, pre-k-5, 4-9, or 7-12.
- Extends through the 2024-2025 school year an exemption that permits a public school to permit a licensed teacher to teach computer science in any of grades K-12, provided the teacher completes a specific professional development course.
- For purposes of that exemptions, extends the grade bands for which a license holder must be licensed to teach from any of grades 7-12 to any of grades K-12.

Financial literacy license validation

- Exempts all chartered nonpublic schools from the general requirement that teachers who provide high school financial literacy instruction have a financial literacy license validation.
- Disqualifies chartered nonpublic schools from receiving reimbursement for costs associated with financial literacy license validation for teachers.

School counselor licensure

- Codifies the requirements for an initial five-year professional pupil services license in school counseling.
- Adds as a new requirement for an initial license that an applicant complete six hours of specified training about the building and construction trades.
- Requires an individual who holds a license to complete at least four hours of specified training about the building and construction trades, which training may be conducted and approved by a member of the building and construction trades.

Community school employee misconduct

- Prohibits a community school from employing a person if the person's educator license was permanently revoked or denied or if the person entered into a consent agreement in which the person agreed not to apply for an educator license in the future.

Private school educator certification

- Makes explicit that the State Board must issue teaching certificates to private school administrators, supervisors, and teachers who hold a master's degree from an accredited college or university.

Veterans teaching without a license

- Expands eligibility for veterans to teach without a license in a school district by removing the restriction that only veterans who were honorably discharged within three years of June 30, 1997, may teach at a school district without a license.
- Permits a community or STEM school to employ as a teacher an eligible veteran who does not hold an educator license.
- Permits an eligible veteran to teach a core subject area.

RAPBACK and criminal records checks

Nonlicensed school employees

- Requires the State Board of Education to enroll all nonlicensed school employees and contractors, including bus drivers, in the Retained Applicant Fingerprint Database (RAPBACK).

- Requires any nonlicensed employee or contractor whose most recent criminal records check is older than one year or does not include certain information to complete a new records check by a State-Board prescribed date, and every six years thereafter.

School volunteers

- Specifically excludes school volunteers from the requirements related to criminal background checks and RAPBACK.

X. Student performance data

Online high school graduation rates

- Requires the Department to include a modified graduation rate measure on the state report card to account for online high schools.
- Generally requires the Department to report the modified graduation rate as data without an assigned performance rating beginning with the 2023-2024 school year.

Individual student performance reports on value-added data

- Requires the Department to do all of the following:
  - Make individual student performance data reports available to districts and schools that have an overall value-added progress dimension score calculated on the state report card.
  - Make available the data used to calculate the district's or school's overall growth rating.
- Make reports available in an electronic spreadsheet form, as soon as practicable each school year.

Report of state assessment scores

- Requires each public and chartered nonpublic school to provide a student's parent with the student's state assessment scores by June 30 of each year by mail, email, or secure online portal on the school's website.

XI. Career-technical education

Career-technical cooperative education districts

- Permits two or more city, local, or exempted village school districts to enter into an agreement to create a career-technical cooperative education district that consists of the combined territories of those districts.
- Requires a cooperative district to fund and provide students enrolled in grades 7-12 in member districts with a career-technical education adequate to prepare them for an occupation.
- Specifies that a cooperative district is not a joint vocational school district and, instead, requires the cooperative district to:

- Be considered a career-technical education compact for the purposes of state education law; and
- Serve as the lead district of a career-technical planning district composed of the cooperative district's member districts.

- Establishes a board of directors, composed of the superintendent of the cooperative district's member districts, to govern the cooperative district.
- Permits a board of directors to levy a voter-approved property tax of up to three mills and accept gifts, donations, bequests, and other grants of money.
- Requires the Department to compute and make payments to a cooperative district in the same manner as a lead district of a career-technical planning district.
- Permits the agreement establishing the cooperative agreement to specify how member districts contribute funding to the cooperative district.

Courses at Ohio Technical Centers

- Permits school districts, upon approval from the Department, to contract with Ohio Technical Centers (OTCs) to serve students in grades 7-12 enrolled in a career-technical education program at the district but cannot enroll in a course for specified reasons.
- Requires a district to award students high school credit for completion of a course at an OTC.
- Permits a district and an OTC that enter into an agreement to establish alternate amounts that the district must pay to the OTC.
- Permits the district to use career-technical education funds to pay for any costs incurred by students enrolling in courses at an OTC.
- Requires the Department to consider costs of a student enrolling in an OTC as an approved career-technical education expense.
- Permits an individual who holds an adult education permit issued by the State Board and is employed by an OTC to provide instruction to a student in grades 7-12 enrolled in a course at an OTC.

XII. Other

Literacy improvement grants

Professional development stipends

- Requires the Department to reimburse school districts, community schools, and STEM schools for stipends for teachers to complete professional development in the science of reading and evidence-based strategies for effective literacy instruction provided by the Department.
- Requires all teachers and administrators to complete the professional development not later than June 30, 2025, unless they have previously completed a similar course.

- Requires each district and school to pay teachers who complete the professional development stipends of $1,200 or $400 dependent upon subject and grade band.

Subsidies for core curriculum and instructional materials

- Requires the Department to subsidize the cost for school districts, community schools, and STEM schools to purchase high-quality core curriculum and instructional materials in English language arts and evidence-based reading intervention programs from the lists established by the Department under the bill.
- Requires the Department to conduct a survey to collect information on the core curriculum and instructional materials in English language arts in grades pre-K through 5 and the reading intervention programs in grades pre-K through 12 that are being used by public schools.

Literacy supports coaches

- Requires the Department to use funds for coaches to provide literacy supports to public schools with the lowest rates of proficiency in literacy based on their performance on the English language arts assessments.

Early literacy activities

- Requires the Department to use funds to support early literacy activities to align state, local, and federal efforts in order to bolster all students' reading success.

English learners

- Eliminates an exemption excusing English learners who have been enrolled in U.S. schools for less than a year from any reading, writing, or English language arts state assessments.
- Eliminates an exemption that excluded, except when required by federal law, English learners who have been enrolled in U.S. schools for less than a year from state report card performance measures.
- Requires English learners to be included in performance measures on the state report card in accordance with the state's federally approved plan to comply with federal law.
- Requires the State Board to adopt rules related to educating English learners that conform to the state's federally approved plan.

School emergency management plans

- Specifies that all records related to a school's emergency management plan and emergency management tests are security records and are not subject to Ohio's public records laws.
- Extends the annual deadline for a school administrator to submit the school district's or school's emergency management plan to the Director of Public Safety from July 1 to September 1.

Literacy instructional materials

- Requires the Department to compile a list of high-quality core curriculum and instructional materials in English language arts and a list of evidence-based reading intervention programs that are aligned with the science of reading and strategies for effective literacy instruction.
- Defines the science of reading as an interdisciplinary body of scientific evidence that meets certain conditions.
- Not later than the 2024-2025 school year, requires each school district, community, and STEM school to use the core curriculum, instructional materials, and intervention programs from the lists compiled by the Department.
- Prohibits a district or school from using the "three-cueing approach" to teach students to read unless the district or school receives a waiver from the Department, but permits waivers for individual students.
- Defines "three-cueing approach" as any model of teaching students to read based on meaning, structure and syntax, and visual cues.
- Requires the Department to identify vendors that provide professional development to educators, including pre-service teachers and faculty employed by educator preparation programs, on the use of high-quality core curriculum, instructional materials, and reading intervention programs.

Phonics standards

- Expands from three to five the grades in which the State Board of Education must prescribe standards for the teaching of phonics and in-service training programs for teachers.

EMIS reporting of literacy instructional materials

- Requires districts and schools to report to the Education Management Information System (EMIS) the English language arts curriculum and instructional materials it is using in each of grades pre-K-5 and the reading intervention programs being used in each of grades pre-K-12.

JCARR review of changes regarding community schools

- Subjects to Joint Committee on Agency Rule Review-approval any proposed changes to EMIS or the Department's business rules and policies that may affect community schools.

Quality Community School Support Program

- Continues the Quality Community School Support Program.
- Expands the program to include qualifying independent STEM schools.

Innovative Pilot Program waivers

- Prohibits waivers of the requirements associated with blended learning or operating an online learning school as part of an innovative education pilot program.

High-performing vulnerable student study

- Requires the Department to conduct a study of high-performing schools with sizable vulnerable student populations.

Academic distress commissions

- Prohibits the Superintendent of Public Instruction from establishing any new academic distress commissions (ADCs) for the 2023-2024 and 2024-2025 school years.
- Dissolves the Lorain City Schools academic distress commission (ADC) and academic improvement plan, and, upon dissolution of the ADC, requires the chief executive officer to relinquish management and control of the school district to the district board of education and the district superintendent.

State share of local property taxes in five-year forecasts

- Requires the Department and Auditor of State to label the property tax allocation projections in a school district's five-year forecast as the "state share of local property taxes."

Private before and after school care programs – licensure

- Authorizes a private before and after school care program that meets certain conditions to seek licensure as a school child program.

State Report Card Review Committee

- Eliminates the State Report Card Review Committee.

I. Transfer of state K-12 governance

Department of Education and Workforce

(R.C. 3301.07, 3301.111, 3301.13, 3301.137, and 3301.0138; Section 130.100 and 130.101; conforming changes in numerous R.C. sections)

The bill renames the Department of Education as the Department of Education and Workforce (DEW). It also creates the position of Director of Education and Workforce, who is appointed by the Governor with the advice and consent of the Senate, to oversee DEW and primary and secondary education in Ohio. To that end, the bill transfers to DEW, or where applicable the Director, most of the powers and duties assigned to the State Board of Education and the Superintendent of Public Instruction.

Examples of the powers and duties transferred include:

1. Adopting minimum education standards for elementary and secondary schools, and minimum operating standards for school districts;

2. Issuing and revoking state charters to school districts, school buildings operated by districts, and nonpublic schools that elect to seek a charter;

3. Developing state academic standards and model curricula;

4. Establishing the statewide program for assessing student achievement through standardized assessments;

5. Establishing the state report card system for school districts, community schools, STEM schools, and college-preparatory boarding schools;

6. Administering state scholarship programs;

7. Performing prescribed functions regarding the creation and operation joint vocational school districts;

8. Providing oversight to, and performing functions regarding, community schools, community school sponsors, and STEM schools; and

9. Calculating and distributing all foundation funding payments.

The State Board and the state Superintendent retain duties and broad powers regarding educator licensure, licensee disciplinary actions, school district territory transfers, and certain other areas. The bill transfers from the Department to the State Board any employees and assets necessary for the State Board to perform its retained powers and duties.

For more information about the role of the State Board and the state Superintendent under the bill, see "**State Board of Education**," below.

Organization of the Department

Under the bill, DEW consists of the Division of Primary and Secondary Education and the Division of Career-Technical Education. Each division is headed by a Deputy Director appointed by the Director with the advice and consent of the Senate. However, the bill does not prescribe specific functions for either division.

Rather, except for those duties and powers retained by the State Board and state Superintendent, the bill vests responsibility for primary, secondary, special, and career-technical education in the Director. The Director may delegate duties and powers to either division as the Director determines appropriate. The Director also is responsible for employing personnel to carry out the Department's powers and duties. The Director must exercise general supervision of the Department's employees and may appoint them, fix their salaries, and terminate their employment.

The bill expressly states that DEW is subject to all provisions of law pertaining to departments, offices, or institutions established for the exercise of any function of state government. It also subjects DEW to the Administrative Procedure Act.

Appointment of Director and Deputy Directors

Limits on interim officeholders

The bill expressly prohibits any individual from holding the office of, or serving on an interim basis for more than 45 days as, Director or Deputy Director without being appointed with the advice and consent of the Senate.

Deputy Director qualifications

The bill requires the Director to appoint an individual with appropriate educational, professional, or managerial experience, as determined by the Director, to be a Deputy Director.

Confirmation hearing

The bill requires the Senate Education Committee to hold at least one in-person hearing on the nomination of an individual to serve as Director or as a Deputy Director before the full Senate holds a confirmation vote on that nomination.

Director's rulemaking authority

Under the bill, the Director is responsible for adopting DEW's administrative rules. However, it expressly limits the Director's rulemaking authority to the Director's or DEW's statutorily prescribed powers and duties. It also permits the General Assembly, in accordance with continuing law, to adopt a concurrent resolution to rescind or invalidate any administrative rule adopted by the Director. The Director is not authorized to adopt rules regarding the State Board's or state Superintendent's retained powers.

(The bill also addresses providing information about rulemaking in "**Public presentation requirement**" below.)

Rules regarding minimum education standards

Under current law, when the State Board adopts rules to prescribe minimum education standards, the State Board may include in those standards any factor it determines necessary. The bill eliminates that authority and, instead, specifies that the Director, when adopting minimum education standards, is limited to the powers and duties that are expressly prescribed and authorized in statute.

Stakeholder outreach and rulemaking

The bill requires DEW to establish a stakeholder outreach process for use when it engages in rulemaking. DEW must establish a method under which stakeholders may elect to participate in the process. The process must include both a notice and an opportunity for stakeholder feedback prior to DEW initiating rulemaking and submitting a proposed rule to the Joint Committee on Agency Rule Review (JCARR). The process also may include stakeholders meetings, questionnaires for stakeholders, or stakeholder advisory groups.

The bill expressly states that a notice under the process is a not a public notice, but rather it is a courtesy for stakeholders. DEW also is not required to send draft rules out to, nor negotiate draft rule language with, stakeholders.

Prior to initiating rulemaking

Prior to conducting a five-year review, adopting a new rule, or amending or rescinding an existing rule, DEW must notify stakeholders of its intent to initiate rulemaking and provide an explanation of the rationale for doing so. The notice must include:

1. For a five-year review in which DEW decides not to make any changes to an existing rule, a statement that the rule is not being changed;

2. For a new rule or an amendment or rescission of an existing rule, information explaining the rationale for the new rule or rule change, including any state or federal law changes that make it necessary; and

3. A link to a webpage on DEW's website that provides an opportunity to:

a. Review the existing rule, if one exists;

b. Submit public comments for a period of time established by DEW; and

c. Provide, as part of the public comment system, a chance to submit information that might aid DEW in preparing a business impact analysis, if one is required.

DEW must consider each submitted comment provided during the public comment period. However, it is not required to respond to them.

Prior to submitting a proposed rule to JCARR

Prior to submitting a proposed rule to JCARR, DEW must post the draft rule and a completed business impact analysis, if one is required, on DEW's website and notify stakeholders that they have been posted. The notice must include a link to a webpage on DEW's website that provides the opportunity to review the draft rule, and the business impact analysis if required, and submit public comments for a period established by DEW. DEW must consider each comment it receives and may revise the draft based on them. If the Department determines further outreach is necessary, it must hold stakeholder meetings, send questions to stakeholders, or create stakeholder advisory groups.

Public presentation requirement

The bill requires the Director, or the Director's designee, to convene a public meeting at least every other month. DEW employees must conduct a presentation at each meeting that addresses any new information DEW has about:

1. Any of its significant new or existing initiatives, policies, or guidelines;

2. Any change to state or federal law that affects DEW or education stakeholders; and

3. Any rule the Director intends to adopt, amend, or rescind.

At the conclusion of a presentation, the Director, or designee, must provide an opportunity for public discussion on the information in the presentation or other appropriate topics, as determined by the Director or designee. DEW must make available via the internet an audio recording of each meeting within five days after its conclusion.

Under the bill, any nonemergency rule adopted after the bill's effective date is void unless the rule was included in a presentation conducted in one of these presentations.

In addition, the bill requires the Director to schedule meetings for FY 2024 in a timely manner.

Limits on DEW policies and guidance

The bill establishes that any policy adopted or guidance issued by the Director or DEW that is not expressly authorized or required by state or federal statute is advisory in nature. Furthermore, it also establishes that they are nonbinding on schools and educators and do not have the force and effect of law.

Exchange of information with the State Board

The bill authorizes DEW and the State Board to exchange necessary information and documentation upon request to enable both agencies to effectively perform their functions under state or federal law, including sharing proprietary and confidential information. The agency receiving proprietary or confidential information cannot disclose that information and must adopt safeguards to prevent disclosure.

The bill expressly states that the purpose of the authorization to exchange information is to best serve the interests of primary and secondary information and workforce development in Ohio and to maximize efficiencies and operations.

State Board of Education

(R.C. 3301.111)

Duties and powers

The State Board and the state Superintendent retain their duties and broad powers under continuing law regarding:

1. Educator licensure and licensee disciplinary actions;

2. School district territory transfer determinations;

3. The teacher and school counselor evaluation systems;

4. The annual teacher recognition program; and

5. The Educator Standards Board (ESB).

However, the bill designates the Director of Education and Workforce, or the Director's designee, as a nonvoting, ex officio member of the ESB and its subcommittees.

The bill expressly reserves responsibility for the adoption of requirements for educator licensure and licensee disciplinary actions with the State Board, and largely excludes the Director and DEW from that process. The bill requires the State Board to adopt those requirements as rules in accordance with the Administrative Procedure Act.

Finally, the bill requires the State Board to make recommendations to the Director regarding priorities for primary and secondary education. It also permits the state Superintendent to serve as an adviser to the Director.

Administration

Under current law, the Department of Education is the organizational unit through which the state Superintendent administers the policies and statutorily prescribed powers and duties of the State Board and the state Superintendent. With the transfer of control over the Department from the State Board to the Director, the bill establishes a separate administrative structure for the State Board and state Superintendent's powers and duties. That structure is similar to current law.

Specifically, the bill expressly states that, in accordance with the Ohio Constitution, the state Superintendent remains an appointee of the State Board. It further states that, in accordance with continuing law, the state Superintendent remains the State Board's secretary and executive officer.

The State Board remains subject to all provisions of law regarding state departments, offices, or institutions. The State Board must employ personnel to carry out its duties and powers. Subject to the State Board's policies, rules, and regulations, the state Superintendent exercises general supervision of those employees and may appoint them, fix their salary, and terminate their employment.

Finally, the State Board may request DEW's assistance in exercising the State Board's powers and duties. To the extent the Director determines that assistance necessary and practicable, DEW must provide the requested assistance.

State Board of Education Licensure Fund

(R.C. 3319.51)

The bill expands the uses of the State Board of Education Licensure Fund to pay the State Board's operating expenses, including any cost incurred to perform a duty prescribed by law, in addition to the cost of administering requirements related to the issuance and renewal of educator credentials as under current law. Prior law limited the use of that fund solely for the cost of administering requirements related to the issuance and renewal of licenses, certificates, and permits.

Implementation deadline

The bill requires the Director, Department, State Board, and state Superintendent to complete any action necessary to implement the transfer of powers within 90 days of the bill's effective date.

Background – State Board of Education

The Ohio Constitution provides that there must be a State Board of Education and a Superintendent of Public Instruction appointed by the State Board. The selection and terms of members of the State Board, as well as the powers and duties of the State Board and the Superintendent, must be prescribed by law.[56]

[56] Ohio Const., art. VI, sec. 4.

Under law unaffected by the bill, the voting membership of the State Board is 19 members, 11 of whom are elected from specified electoral districts (each consisting of three state Senate districts) and 8 of whom are appointed by the Governor. The chairpersons of the Senate and House Education committees serve as nonvoting ex officio members.[57]

Workforce Development

(R.C. 3313.6020, 6301.04, 6301.11, 6301.111, and 6301.112)

Career opportunity informational materials

The bill requires DEW to develop and make available informational materials for seventh and eighth graders about career opportunities available to them, including in-demand jobs. The materials also must address how a career-technical education may help those students satisfy state high school graduation requirements.

In-demand jobs list

The bill requires DEW to participate in the process established under continuing law to identify and publicize in-demand jobs. Specifically, the bill:

1. Adds DEW to the entities required to develop a methodology to identify in-demand jobs and use that methodology to create an in-demand jobs list;

2. Requires DEW to post the in-demand jobs list on its website;

3. Adds DEW to the entities required to conduct a survey of employers about in-demand jobs and use the survey's results to update the in-demand jobs list; and

4. Adds DEW to the entities required to establish the OhioMeansJobs website.

Continuing law requires the Governor's Executive Workforce Board, in connection with the Department of Job and Family Services and higher education institutions, to develop a methodology for identifying in-demand jobs. The Department of Job and Family Services and higher education institutions, in consultation with the Board, must use that methodology to create a list of in-demand jobs, which the Department must post that list on its website.

In addition, the Governor's Office of Workforce Transformation, in conjunction with the Department of Job and Family Services, must conduct a survey of employers regarding in-demand jobs every two years and update the in-demand jobs list with the survey's results. The Office of Workforce Transformation, in collaboration with the Department of Job and Family Services and the Department of Higher Education, also must create and publish an OhioMeansJobs website that includes the in-demand jobs list.

Governor's Executive Workforce Board

The bill requires the Governor to appoint the Deputy Director of Primary and Secondary Education and the Deputy Director of Career-Technical Education to the Governor's Executive Workforce Board.

[57] R.C. 3301.01, not in the bill.

The federal Workforce Innovation and Opportunity Act (WIOA) requires the Governor to establish a state workforce development board to carry out prescribed functions. WIOA prescribes specific requirements for the board's composition, but it permits the Governor to appoint state agency officials responsible for education programs to it.[58]

Nonchartered nonpublic schools

(R.C. 3301.0731 and 3301.132)

As discussed above, the bill transfers the responsibility for adopting minimum education standards from the State Board of Education to the Director of Education and Workforce. However, the bill also codifies the State Board's administrative rule establishing standards for nonchartered nonpublic schools and expressly requires the Director to comply with it. Furthermore, the bill requires the Director, within 90 days of the bill's effective date, to amend or rescind any rules necessary to conform to those changes. Thereafter, it prohibits the Director and DEW from adopting any additional rules for nonchartered nonpublic schools.

Nonchartered nonpublic schools, which are also referred to as nonchartered nontax-supported schools, are private schools that choose not to not seek a state charter because of truly held religious belief. They do not receive any state funds. Students enrolled in them though may participate in extracurricular activities offered by their resident school district and the College Credit Plus Program.

Minimum education standards compliance report

The bill requires each nonchartered nonpublic school to annually certify in a report to the parents of its students that the school meets the minimum education standards for nonchartered nonpublic schools. The school must file a copy of that report with DEW by September 30 of each year.

Hours of instruction

A nonchartered nonpublic school must be open for instruction the same number of hours as schools operated by a school district, with students in attendance for:

1. 455 hours for students in half-day kindergarten;

2. 910 hours for students in full-day kindergarten through grade 6;

3. 1,001 hours for students in grades 7-12.

Attendance report

The bill requires the parent of a student to report to the student's resident school district the student's enrollment or withdrawal from a nonchartered nonpublic school. The bill permits but does not require the nonchartered nonpublic school, as a matter of convenience, to report to the treasurer on behalf of the parents.

Each attendance report must include the name, age, and place of residence of each student below 18 years of age. The report must be made within the first two weeks of the

[58] See 29 U.S.C. 3111(b)(1)(C)(iii)(II)(dd).

beginning of each school year. When a student withdraws or enrolls during the school year, that notice must be given within the first week of the next school month.

Teachers and administrators – educational requirements

The bill requires teachers and administrators at nonchartered nonpublic schools to hold at least a bachelor's degree, or the equivalent, from a recognized college or university.

Continuing law, unchanged by the bill, requires teachers, supervisors, and administrators in nonchartered nonpublic schools to receive a certificate from the State Board. The State Board must issue a certificate to any individual who has received:

1. A bachelor's degree from an accredited college or university in the United States;

2. At the State Board's discretion, a degree from a foreign college or university that is equivalent to a bachelor's degree from an accredited U.S. college or university;

3. A diploma from a bible college or bible institute.

Curriculum requirements

Each nonchartered nonpublic school must include in its curriculum the study of:

1. Language Arts;

2. Geography, U.S. history, and national, state, and local government;

3. Mathematics;

4. Science;

5. Health;

6. Physical Education;

7. The fine arts, including music;

8. First aid, safety, and fire prevention;

9. Other subjects as determined by the school.

Grade promotion

Each chartered nonpublic school must also follow regular procedures for promotion from grade to grade for students who have met the school's educational requirements.

Health and safety

The bill specifies that each nonchartered nonpublic school must comply with all applicable health, fire, and safety laws.

Transportation, auxiliary services, and administrative cost reimbursement

Finally, the bill clarifies that students attending nonchartered nonpublic schools are not entitled to transportation or auxiliary services, and that nonchartered nonpublic schools are not entitled to reimbursement for administrative costs.

Home education

(R.C. 3301.132 and 3321.042; conforming changes in numerous R.C. sections)

The bill exempts from the compulsory school attendance law any child who is receiving a home education in the subject areas of English language arts, math, science, history, government, and social studies. For the purposes of the provision, a "home education" is the education of a child between 6 and 18 years old that is directed by the child's parent, so long as that child is not enrolled full time in a public or chartered nonpublic school.

A child's parent or guardian must transmit a notice to the superintendent of the child's school district of residence within five days of commencing home education, moving into a new school district, or withdrawing from a public or nonpublic school and by August 30 of each year thereafter. The notice must provide the parent's name and address, the child's name, and an assurance that the child will receive an education in the required subject areas. The child's exemption is effective immediately upon receipt of the notice.

The superintendent must provide the parent or guardian with a written acknowledgement of the superintendent's receipt of the notice within 14 calendar days after receiving the notice. A child with an exemption is not required to receive an excuse for the purposes of home instruction under continuing law.

A child who is enrolled in a public school after any period of home education must be placed in the appropriate grade level, without discrimination or prejudice, based on the policies of the child's district of residence.

The bill expressly states that the law regarding exemptions for the purposes of home education is not subject to any rules adopted by the Department of Education and Workforce or the Director of Education and Workforce. It also requires the Director to rescind any rules regarding the issuance of excuses from compulsory attendance for the purposes of home education.

However, if there is evidence that a child who has received an exemption is not receiving an education in the required subject areas, that child may be subject to state truancy law.

II. School finance

Funding for FY 2024 and 2025

(R.C. 3314.08, 3317.011, 3317.012, 3317.014, 3317.016, 3317.017, 3317.018, 3317.019, 3317.0110, 3317.02, 3317.021, 3317.022, 3317.024, 3317.026, 3317.0212, 3317.0213, 3317.0215, 3317.0217, 3317.0218. 3317.051, 3317.11, 3317.16, 3317.162, 3317.20, 3317.201, 3317.25, and 3326.44; Sections 265.280 and 265.290)

The bill extends the operation of the current school financing system to FY 2024 and FY 2025, but with the following changes:

1. Updates the data used to calculate the base cost from FY 2018 data to FY 2022 data;

2. Requires the use of FY 2024 statewide average base cost per pupil in FY 2024 and FY 2025;

3. Requires the use of FY 2024 statewide average career-technical base cost per pupil in FY 2024 and FY 2025;

4. Increases the general phase-in and disadvantaged pupil impact aid phase-in percentages from 33.33% in FY 2023 to 50% in FY 2024 and 66.67% in FY 2025;

5. Increases the minimum state share percentage from 5% to 10% for FY 2024 and FY 2025;

6. Increases the minimum transportation state share percentage from 33.33% in FY 2023 to 37.5% in FY 2024 and 41.67% in FY 2025;

7. Increases the career awareness and exploration per pupil amount from $5 in FY 2023 to $7.50 in FY 2024 and $10 in FY 2025;

8. Increases the gifted professional development per pupil amount from $14 in FY 2023 to $21 in FY 2024 and $28 in FY 2025;

9. Eliminates the payment of supplemental targeted assistance to school districts;

10. Requires a district's local per pupil capacity amount to be based 60% on valuation per pupil and 40% on federal adjusted gross income (FAGI) per pupil, rather than 60% on valuation per pupil, 20% on FAGI per pupil, and 20% on adjusted FAGI per pupil as under current law;

11. Requires open enrollment students to be counted in the ADM in their educating districts, rather than their resident districts as under current law, for the purposes of determining a district's weight wealth per pupil in the calculation of targeted assistance;

12. Clarifies that a school district's building operations cost in the aggregate base cost calculation does not use a six-year average of the average building square feet per pupil and average cost per square foot for all districts in the state but instead uses only FY 2018 data;

13. Requires the payment of English learner funds to internet- or computer-based community schools (e-schools); and

14. Renames the "threshold catastrophic cost" for special education students as the "threshold cost" for special education students.

In addition, the bill extends to FY 2024 and FY 2025 the payment of school transportation temporary transitional aid to school districts based on a FY 2020 funding base.

The bill also establishes the payment of transitional aid in FY 2024 and FY 2025 to districts, community schools, and STEM schools based on an FY 2023 funding base, calculated as follows:

1. For a district, the aid is equal to the difference between the district's FY 2023 funding base and its payments for the current fiscal year;

2. For a community or STEM school, the aid is equal to the product of the number of students in the school's enrolled ADM for the current fiscal year multiplied by the difference between its FY 2023 per pupil payment for FY 2023 and its current fiscal year per pupil payment.

A district's FY 2023 funding base is the sum of the districts payments for FY 2023 under the school financing system, temporary transitional aid, and the formula transition supplement.

A community or STEM school's FY 2023 payment is the quotient calculated by dividing the sum of the school's payments for FY 2023 under the school financing system and the formula transition supplement by the school's FY 2023 enrolled ADM.

For background information on the current school financing system, see the LSC Final Analysis (PDF) for H.B. 110 of the 134th General Assembly, which enacted the system, and the LSC Final Analysis (PDF) for H.B. 583 of the 134th General Assembly, which made a number of corrective and technical changes to it. Both final analyses are available on the General Assembly's website: legislature.ohio.gov.

Student wellness and success funds

(R.C. 3317.26)

Spending requirements

The bill codifies provisions of the student wellness and success funds (SWSF) that require the Department to notify, in each fiscal year, each school district, community school, and STEM school, of the portion of the district or school's state share of the base cost that is attributable to the staffing cost for the student wellness and success component of the base cost.

It also codifies the provision that requires districts and schools to spend SWSF it receives on the same initiatives for which schools must spend disadvantaged pupil impact aid (DPIA) funds. (See "**Disadvantaged pupil impact aid**," below). Of those initiatives, the bill further requires districts and schools to spend at least 50% of SWSF for either physical or mental health based initiatives, or a combination of both. Current law does not prescribe requirements on which districts and schools must spend SWSF.

Additionally, districts and schools must develop a plan to use SWSF in coordination with both: (1) a community mental health prevention or treatment provider or their local board of alcohol, drug addiction and mental health services, and (2) a community partner identified under continuing law. Within 30 days of the completion or amendment of this plan, the bill requires districts and schools to share the plan at a meeting of a public district board of education or governing authority and post it to the district or school's website.

At the end of each fiscal year, each district and school must submit a report to the Department, in a manner determined by the Department, describing the initiative or initiatives on which the district or school's SWSF were spent during that fiscal year.

Unexpended funds

The bill requires that any SWSF allocated in any of FYs 2020 through 2023 be expended before June 30, 2025, and requires any unexpended funds to be repaid to the Department.

Beginning in FY 2024, the bill requires all SWSF to be spent by the end of the following fiscal year and, again, requires any unexpended funds to be repaid to the Department.

The bill permits the Department to develop a corrective action plan if it determines that a district or school is not spending the SWSF funds correctly and further permits the Department to withhold SWSF if a district or school is found to be out of compliance with the action plan.

Disadvantaged pupil impact aid

(R.C. 3317.25)

Under current law, disadvantaged pupil impact aid (DPIA) is calculated based on the number and concentration of economically disadvantaged students enrolled at each school and district. H.B. 110 of the 134th General Assembly required that a district must develop a plan for utilizing its DPIA in coordination with one of the following: a board of alcohol, drug, and mental health services, an educational service center (ESC), a county board of developmental disabilities, a community-based mental health treatment provider, a board of health of a city or general health district, a county department of job and family services, a nonprofit organization with experience serving children, or a public hospital agency.

Current law prescribes initiatives upon which DPIA must be spent. The bill makes changes to some of those initiatives. The table below illustrates the current initiatives and the changes made by the bill (these changes apply to both DPIA funds and SWSF):

Initiatives	
Current law	**The bill**
Extended school day and school year	No change
Reading improvement and intervention	Requires reading improvement and intervention to be aligned with the science of reading and evidence-based strategies for effective literacy instruction
Instructional technology or blended learning	No change
Professional development in reading instruction for teachers of students in kindergarten through third grade	Requires professional development be aligned with the science of reading and evidence-based strategies for effective literacy instruction
Dropout prevention	No change
School safety and security measures	No change
Community learning centers that address barriers to learning	No change
Academic interventions for students in any of grades six through twelve	No change
Employment of an individual who has successfully completed the bright new leaders for Ohio schools program as a principal or an assistant principal	No change

Initiatives	
Current law	**The bill**
Mental health services, including telehealth services	Adds community-based behavioral health services, and recovery supports
Culturally appropriate, evidence-based or evidence-informed prevention education, including youth-led programming and social and emotional learning curricula to promote mental health and prevent substance use and suicide	Changes prevention "education" to prevention "services" and removes the requirement that prevention services include social and emotional learning, but adds trauma-informed services
Services for homeless youth	No change
Services for child welfare involved youth	No change
Community liaisons or programs that connect student to community resources, including city connects, communities in schools, and other similar programs	Adds behavioral wellness coordinators as a possible liaison
Physical health care services, including telehealth services	Requires physical health care service initiatives to include community-based health services
Family engagement and support services	No change
Student services provided prior to or after the regularly scheduled school day or any time school is not in session, including mentoring programs	No change

Background

H.B. 110 of the 134th General Assembly repealed the requirement for the Department to pay SWSF and enhancement funds to school districts, community schools, and STEM schools and the spending requirements for those funds, but applied similar spending requirements to disadvantaged pupil impact aid. However, that act included district's staffing cost for SWSF in the calculation of a district or school's base cost.

Gifted funding requirements

(R.C. 3317.022, 3324.05, and 3324.09)

The bill makes permanent, and in some cases revises, a series of requirements regarding gifted student funding that, under current law, apply only to FYs 2022 and 2023. Those requirements include how school districts spend gifted funding, how the Department reduces

funding for noncompliance, and what information is included in reports regarding services for gifted students.

Spending requirements

The bill makes permanent the requirement that a school district only spend its gifted funding on:

1. The identification of gifted students;

2. Gifted coordinator services;

3. Gifted intervention specialist services;

4. Other service providers approved by the Department; and

5. Gifted professional development.

Reduction of funds for noncompliance

The bill also makes permanent a requirement that the Department, if it determines a district did not spend its gifted funding on authorized services and providers, reduce the district's state funding for the fiscal year by the misspent amount. In addition, the bill requires the Department to reduce a district's state funding within 90 days after the end of the fiscal year.

Reporting and auditing requirements

The bill makes permanent the requirement that each school district include the number of students identified in each gifted category in its annual report to the Department regarding the screening, assessment, and identification of gifted students.

In addition, the bill makes permanent the requirement that the Department annually publish data submitted by districts regarding services offered to gifted students and the district's number of gifted intervention specialists and coordinators. Furthermore, the bill requires the Department to report the services offered in grade bands of K-2, 3-6, 7-8, and 9-12, rather than K-3, 4-8, and 9-12 as under current law for FY 2022 and 2023.

The bill also makes permanent the requirement that the Department annually publish on its website a district's gifted funding for the prior fiscal year and each district's expenditure of those funds. It eliminates a separate report that required the Department, for FY 2024 and each year thereafter, that the Department publish on its website only the district's expenditure of funds for the previous fiscal year.

Finally, the bill makes permanent the requirement that, when the Department audits a school district's identification numbers as required under continuing law, it also audit the district's service numbers.

Jon Peterson Special Needs Scholarship amounts

(R.C. 3317.022)

The bill increases the base and category amounts for the Jon Peterson Special Needs Scholarship (JPSN) Program for FY 2024 in proportion to the bill's estimated proposed increase

of 12.1% to the statewide average base cost per pupil and also establishes amounts for FY 2025. The base and category amount increases are as follows:

1. Increases the base amount from $6,414 to $7,190 for FY 2024;

2. Increases the Category 1 amount from $1,562 to $1,751 for FY 2024, and $2,395 for FY 2025;

3. Increases the Category 2 amount from $3,963 to $4,442 for FY 2024, and $5,280 for FY 2025;

4. Increases the Category 3 amount from $9,522 to $10,673 for FY 2024, and $11,960 for FY 2025;

5. Increases the Category 4 amount from $12,707 to $14,243 for FY 2024, and $15,787 for FY 2025;

6. Increases the Category 5 amount from $17,209 to $19,290 for FY 2024, and $21,197 for FY 2025;

7. Increases the Category 6 amount from $25,370 to $28,438 for FY 2024, and $30,469 for FY 2025.

The bill also increases the maximum scholarship award for the JPSN Program from $27,000 to $30,000 for FY 2024, and $32,445 for FY 2025.

The bill maintains current law requirements with regard to how scholarships under the program are determined, limiting a scholarship to the least of (a) the fees charged by the student's alternative public provider or registered private provider, (b) the sum of the base amount and the student's category amount, and (c) the maximum amount.

Background

The Jon Peterson Special Needs Scholarship Program provides scholarships to eligible students in grades K through 12 who have an Individualized Education Program (IEP) established by their resident school districts. The amount of each scholarship "category" is based on the primary disability condition identified on the student's Evaluation Team Report (ETR).

Payment for districts with decreases in utility TPP value

(Section 265.310)

The bill requires the Department to make a payment, for FY 2024 and FY 2025, to each city, local, exempted village, or joint vocational school district that has at least one power plant within its territory and that experiences a 10% or greater decrease in the taxable value of utility tangible personal property (TPP) and an overall negative change in TPP subject to taxation. To qualify for the FY 2024 payment, a district must have experienced this decrease between tax years 2017 and 2023 or tax years 2022 and 2023. To qualify for the FY 2025 payment, a district must have experienced this decrease between tax years 2017 and 2024 or tax years 2023 and 2024.

Eligibility determination

The Tax Commissioner must determine which districts are eligible for this payment no later than May 15, 2024 (for the FY 2024 payment) or May 15, 2025 (for the FY 2025 payment). For each eligible district, the Commissioner must certify the following information to the Department:

1. If the district is eligible for the FY 2024 payment, its total taxable value for tax year 2023 and the change in taxes charged and payable on the district's total taxable value for tax years 2017 and 2023; and

2. If the district is eligible for the FY 2025 payment, its total taxable value for tax year 2024 and the change in taxes charged and payable on the district's total taxable value for tax years 2017 and 2024; and

3. If the district is eligible for either payment, the taxable value of the utility TPP decrease and the change in taxes charged and payable on the change in taxable value.

Payment amount

The bill requires the Department, for purposes of computing the payment, to replace the three-year average valuations used in computing a district's state education aid for FY 2019 with the district's total taxable value for tax year 2023 (for the FY 2024 payment) or tax year 2024 (for the FY 2025 payment). It then must recompute the state education aid for FY 2019 without applying any funding limitations enacted by the General Assembly.

The amount of a district's payment is the *greater* of 1 or 2 as described below:

1. The lesser of either:

a. The positive difference between the district's state education aid for FY 2019 prior to the recomputation and the district's recomputed state education aid for FY 2019; or

b. The absolute value of the change in taxes charged and payable on the district's total taxable value for tax years 2017 and 2023 (for the FY 2024 payment) or for tax years 2017 and 2024 (for the FY 2025 payment).

2. 0.50 times the absolute value of the change in taxes charged and payable on the district's total taxable value for tax years 2017 and 2023 (for the FY 2024 payment) or for tax years 2017 and 2024 (for the FY 2025 payment).

Payment deadline

The Department must make FY 2024 payments between June 1 and June 30, 2024, and must make FY 2025 payments between June 1 and June 30, 2025.

Codified law payment

The bill prohibits the Department from calculating or making a similar payment prescribed under codified law for FY 2024 and FY 2025.[59]

Newly chartered nonpublic school auxiliary services funds

(R.C. 3317.024)

The bill permits a newly chartered nonpublic school, within ten days of receiving a notification of the approval and issuance of its charter, to elect to receive auxiliary services funds directly. Under the bill, a chartered nonpublic school that does not make an election will receive auxiliary services funds paid to the school district in which the chartered nonpublic school is located. Law unchanged by the bill permits chartered nonpublic schools to choose whether to receive auxiliary services funds directly from the Department. Otherwise, by default a school receives those funds through the school district in which it is located.

Under law unchanged by the bill, a chartered nonpublic school may later elect to directly receive funds by notifying the Department and school district in which the school is located by April 1 of each odd-numbered year and submitting an affidavit certifying that the school will use the funds for auxiliary services in the manner required by law. Similarly, a chartered nonpublic school may rescind its election to receive funds directly by notifying the Department and school district in which the school is located by April 1 in an odd-numbered year. Election changes take effect on July 1 following the submitted change.

Auxiliary services funds are used to purchase goods and services for students who attend chartered nonpublic schools, such as textbooks, digital texts, workbooks, instructional equipment, library materials, or tutoring and other special services.[60]

Community school equity supplement

(Sections 265.285 and 265.290)

The bill requires the Department to pay an equity supplement in FY 2024 and 2025 to each community school that is not an internet- or computer-based community school (e-school). The Department must calculate a community school's equity supplement for a fiscal year by multiplying the number of students in the school's enrolled ADM by $400.

Additionally, the bill requires the Department to include a community school's equity supplement in the school's payments for the fiscal year when the Department calculates the schools transitional aid.

[59] R.C. 3317.028, not in the bill.

[60] See R.C. 3317.06 and 3317.062, neither in bill.

DOPRs and career-technical programs

(R.C. 3317.161)

The bill adds dropout prevention and recovery programs (DOPRs) of school districts, community schools, and STEM schools to the approval process for state funding for career-technical education programs.

It also requires the Department to authorize a payment for any DOPR offering career-technical education that is in its first year of operation and that submits an application for approval after the May 15 deadline established under continuing law for the fiscal year for which the application was submitted.

DOPR community school credential-only programs

(R.C. 3317.163)

The bill addresses how dropout prevention and recovery (DOPR) community schools that operate credential-only programs are funded and how those funds may be used. For the purposes of the provision, a "credential-only program" is an industry-approved credentialing program, or series of programs, offered by a DOPR community school that:

1. Enrolls students in grades 11-12;

2. Permits students to earn an industry-recognized credential;

3. Aligns with an approved career-technical education program; and

4. Is offered using classroom teachers employed by the DOPR community school.

The bill requires the Department to adjust the career-technical education ADM of a DOPR community school that offers a credential-only program so that each student enrolled in that program is included in the school's category one career-technical education ADM. In addition, the bill requires the Department to count each student enrolled in a credential-only program as a full-time student.

Finally, the bill permits a DOPR community school that offers a credential-only program to provide support services to its graduates to assist them in securing post-secondary placement opportunities, including careers with state, regional, and local labor organizations. For that purpose, it authorizes a school to use a portion of its career-technical education funds to provide recent graduates, in the year following their graduation, with short-term, emergency financial assistance related to childcare, housing, food insecurity, transportation, and services including healthcare, dental care, mental health care, and addiction treatment.

DOPR e-school funding pilot program

(R.C. 3317.22)

The bill makes permanent and revises the operation of the pilot program to provide additional funding to eligible dropout prevention and recovery (DOPR) internet- or computer-based community schools (e-schools). Specifically, the bill:

1. Expands eligibility to participate in the program to any DOPR e-school, rather than only DOPR e-schools that participated in FY 2021;

2. Requires a DOPR e-school to notify the Department of its intent to participate in the program by February 1 of the school year in which the e-school wishes to participate;

3. Requires the Department to calculate a DOPR e-school's funding under the program using the statewide average base cost per pupil, rather than the formula amount prescribed under prior law;

4. Eliminates, or in some cases updates, obsolete language; and

5. Eliminates the Department's authority to require a participating DOPR e-school to create a debt reduction plan approved by the school's sponsor.

H.B. 123 of the 133rd General Assembly established the pilot program to provide additional funding to eligible DOPR e-schools on a per-pupil basis for school's students in grades eight through 12. H.B. 110 of the 133rd General Assembly extended the pilot program's operation to FY 2022 and FY 2023 and limited participation only to those DOPR e-schools that participated in FY 2021.

For additional information on the program, see the LSC Final Analysis (PDF) for H.B. 123 of the 133rd General Assembly, which is available on the General Assembly's website: legislature.ohio.gov.

School funding based on updated TY 2021 data

(Section 265.560)

The bill addresses the Department's computation of state foundation aid for a school district whose property tax information was incorrectly reported in tax year 2021. The adjustment applies to a district located in a county that reported incorrect tax data that year for public utility property valued at more than $14 million.

The bill allows the county auditor to certify the corrected property tax data to the Department of Taxation within 15 days after the provision's effective date. The Department of Taxation must recertify the school district's updated data to the Department of Education and Workforce, which will adjust the district's state foundation aid accordingly.

III. Student transportation

School district schedule

(R.C. 3313.48)

The bill eliminates requirements for a city, local, or exempted village school district to consider, notify, and consult with each joint vocational school district (JVSD), community school, and chartered nonpublic school whose students the district transports when the district changes its school schedule. The bill also eliminates requirements that a school district planning to change its school schedule enter into a written agreement prescribing reasonable accommodations to meet the scheduling needs of a JVSD or community school whose students the district transports prior to implementation of the schedule change.

The bill instead requires approval from each JVSD, community school, and chartered nonpublic school whose students the district is required to transport before making changes to the hours of days of instruction for the district.

The bill further provides that if a community or chartered nonpublic school enrolls students who receive transportation from different school districts, then the school district that provides transportation to the greatest number of students enrolled at the community or chartered nonpublic school is responsible for coordinating school hours or days with the other school districts.

Transportation communication schedule

(R.C. 3327.016)

The bill includes new requirements that community schools and chartered nonpublic schools must follow related to student transportation. Current law requires each community and chartered nonpublic school to establish the school's start and end times for the upcoming school year by April 1 of each year and provide those times to each school district that the school expects will be responsible to provide transportation services for its students. The bill adds the following communication duties for community schools and chartered nonpublic schools:

- By April 1 of each year, provide the school's contact names, telephone numbers, and electronic mail addresses for the summer and upcoming school year and the home addresses of enrolled students to the school districts expected to provide student transport.
- By May 1 of each year, provide initial lists of students requiring transportation services to the appropriate school districts.
- By July 1, and again on September 1, schools must provide updated lists to those school districts.
- Finally, on the first day of September, December, March, and June, or within ten days of a new student enrolling in the community or chartered nonpublic school, the school must provide additional updated lists of students requiring transportation to the appropriate school districts.

Under the bill's communication schedule, by August 1 of each year, school districts must provide transportation plans to the community or chartered nonpublic schools whose students the district is transporting.

Transportation dispute resolution timeline

(R.C. 3327.02 and 3327.021)

Mediation timeline

Beginning with requests for mediation regarding disputes on determinations of impracticality for student transportation received by the Department after December 1, 2023, the bill requires the Department to take initial action on the mediation within 30 days of receiving the request. However, the Department may delay the initial action to within 45 days of receiving

a request if the Department notifies all affected parties in advance of the delay. Current law does not set a timeline for mediation.

Under continuing law, a school district may determine that it is impractical to transport a student who is eligible for school transportation, based on the time and distance required to provide the transportation, the number of students to be transported, the cost of providing transportation, whether similar or equivalent service is provided to other eligible students, whether and to what extent the additional service unavoidably disrupts current transportation schedules, and whether other reimbursable types of transportation are available. After a school district's board passes a resolution declaring the impracticality of transportation, the school board must offer to provide payment to the student's parents in lieu of transportation. A parent may reject the payment in lieu and request the Department to conduct mediation procedures over the determination of impracticality.

District noncompliance determination timeline

Beginning with disputes regarding determinations of school district noncompliance with transportation obligations arising after December 1, 2023, the bill requires the Department to issue a determination within 30 days of receiving a dispute. However, the Department may delay a determination to within 45 days of receiving a dispute notice if the Department notifies all affected parties in advance that the determination will be delayed.

Under continuing law, the Department must monitor each school district's compliance with its transportation obligations and penalize school districts that are out of compliance with those obligations.

Pending transportation disputes

(Section 265.580)

The bill requires the Department to process and resolve any disputes pending on the section's effective date regarding declarations of impracticality to provide transportation or determinations regarding transportation noncompliance by December 1, 2023.

Prohibition on late drop-off

(R.C. 3327.01)

The bill specifically prohibits transportation operators from delivering students late to school. Current law already prohibits operators of every school bus or motor van owned and operated by a school district or educational service center (ESC), or privately owned and operated under contract with any school district or ESC in the state to deliver students to their respective public and nonpublic schools not sooner than 30 minutes prior to the beginning of school and to be available to pick them up not later than 30 minutes after the close of their respective schools each day.

Payment in lieu – determinations of impracticality

(R.C. 3327.02)

Under continuing law, a school district, or a community school that has accepted responsibility to provide transportation, may offer a parent payment instead of transportation,

if it determines that transporting a particular student is impractical. Statutory law prescribes the factors that districts and schools must consider in making that determination on a student-by-student basis. A district or school must make a determination regarding whether to provide payment in lieu of transportation for a student not later than 30 calendar days prior to the district's or school's first day of instruction. For students who enroll within that 30-day period or after the first day of instruction, the district or school must make the determination within 14 calendar days after a student's enrollment. A district superintendent may make that determination, but requires that it be formalized at the next meeting of the school district board of education or community school governing authority. Additionally, the district or school must issue to a student's parent or guardian, the student's nonpublic or community school, and the State Board a letter with a detailed description of the reasons why the payment in lieu determination was made.

The bill requires that determinations of impracticality of transportation be re-evaluated at least every other year and be reconsidered in each year if a parent or guardian has a change of circumstance and requests transportation. The bill sets the maximum amount of a payment in lieu of providing transportation at $2,500. Under current law, the maximum amount is the average cost of pupil transportation for the previous school year. In FY 2023, the minimum amount of payment in lieu is $539, and the maximum is $1,077.

Under current law, a school district may offer a parent payment instead of transportation, if it determines that transporting a particular student is impractical. District boards are required to consider a number of factors in making such decisions related to time and distance of travel and whether other reimbursable types of transportation are available.

Out of compliance definition and penalties

(R.C. 3327.021)

The bill defines what constitutes noncompliance with school transportation law and specifies how the Department must calculate amounts to be withheld for noncompliance.

Current law requires the Department to deduct a portion of a school district's state transportation funding if the Department determines that the district has consistently, or for a prolonged period, been out of compliance with certain statutory obligations regarding student transportation. If the Department determines a consistent or prolonged period of noncompliance by a district to meet those obligations, it must deduct from the district's state transportation funding the total daily amount of that funding for each day the district is noncompliant.

The bill makes changes to that requirement. First, it defines "out of compliance" as a period of five consecutive school days or more than ten school days within a school year in which any of the following occur for each of those days:

1. Students arrive more than 30 minutes late to school;

2. Students are picked up more than 30 minutes after the end of the school day;

3. Students do not receive any transportation at all due to the failure of the bus to arrive; or

4. Noncompliance with any other student transportation requirements under continuing law. The bill makes an exemption for days in which inclement weather caused any of the above to occur from counting toward the period of noncompliance.

Next, the bill requires the Department to withhold, instead of deduct, transportation payment from a district that is found to be out of compliance. Under the bill, the Department must calculate, for each day after that the district is found to be out of compliance, including the initial period of noncompliance, the daily amount of that payment on a per-pupil basis. The Department must then disburse that per-pupil amount to the district or school in which the pupil is enrolled. The district or school must then remit those funds to the parent or guardian of each student who did not receive proper transportation while the district was out of compliance. The bill specifically requires that these payments come from the amount that the Department withholds for noncompliance.

For further information on student transportation, see the LSC Members Brief, Transportation of Students (PDF), which is available on LSC's website, lsc.ohio.gov.

Bus Driver Flex Career Path Model

(R.C. 3327.102)

The bill requires the Department to develop the Bus Driver Flex Career Path Model to create a pathway for bus drivers to work as educational aides or student monitors at districts and schools.

In developing the model, the Department must do all of the following:

1. Ensure that bus drivers work an eight to ten hour shift by doing either a morning or afternoon bus route and spend the remainder of the work day working as an educational aide or student monitor at a school;

2. Make recommendations on how to seamlessly implement the model, including who would be responsible for paying wages in the most efficient way, whether proportional share or not; and

3. Ensure that the model does not adversely impact a bus driver's pension.

Nine-passenger vehicles

(R.C. 4511.76)

The bill authorizes a school district to use a vehicle designed to carry nine passengers or less (not including the driver) to transport students to and from a chartered nonpublic school and a community school for regularly scheduled school sessions if both of the following apply:

1. The number of students transported is nine or less; and

2. The district regularly transports students to that chartered nonpublic school or community school.

Currently, under the Department's rules, the vehicles described above cannot be used routinely for regularly scheduled school sessions, except for transporting preschool children,

special needs children, homeless children, foster children, children who are inaccessible to school buses, students placed in alternative schools, or for work programs.[61]

Current law also includes a general exception to the Department's rules regarding nine-passenger vehicles by allowing a chartered nonpublic school to use such vehicles to transport its students when either:

1. The local school district has declared transportation of the student impractical; or

2. The student lives more than 30 minutes away from the school.

The bill extends this exception to community schools. It also authorizes a chartered nonpublic school and a community school to use the vehicles to and from regularly scheduled school sessions whenever the school has offered to provide its own student transportation.

In any of the above circumstances, the bill requires that the following safety standards (many of which are currently part of the Department administrative rules) apply:

1. A qualified mechanic inspects the vehicle at least two times each year and determines that it is safe for pupil transportation; and

2. The driver of the vehicle does not stop on the roadway to load or unload passengers (i.e. the driver must pull into a driveway or parking lot instead).

3. The driver meets the standard Department requirements for a school bus or motor van driver (e.g., background checks and training), with the exception that the driver does not need to have a commercial driver's license. The driver must, however, have a current, valid driver's license and be accustomed to operating the vehicle that is transporting the students.

4. The driver and all passengers comply with the seat belt and child restraint system (e.g., booster seats) requirements.

Daily pre-trip school bus inspections

(R.C. 4511.765)

The bill requires the Superintendent of Public Instruction, with the advice of the Director of Public Safety, to modify their rules relating to daily pre-trip school bus inspections. The modification must remove the daily check of all of the following equipment before the school bus driver departs to pick up students for the day:

1. The turbo charger;

2. The alternator;

3. The belts;

4. The water pump;

5. The power steering pump;

[61] O.A.C. 3301-83-19.

6. The air pump;

7. Any part of the steering system;

8. Any part of the suspension;

9. Any part of the air brakes;

10. Any part of the brake equipment, including drums or rotors;

11. The springs and spring mounts; and

12. The air bags.

The bill specifies that while daily checks are eliminated, the State Highway Patrol must still check all of the above equipment in their regular school bus equipment inspections.

Private and community school pupil transportation – children with disabilities

(R.C. 3327.01)

The bill requires school districts to provide transportation as a related service to students with disabilities who live in the district but attend a nonpublic school if the school district is provided with supporting documentation in the student's individualized education program (IEP), individual service plan, or academic support plan.

Pilot program

(Section 265.550)

The bill requires the Department to establish a pilot program under which two educational service centers (ESCs) will provide transportation to students enrolled in participating community schools, STEM schools, and chartered nonpublic schools for the 2023-2024 school year, in lieu of the students receiving transportation from their resident school district.

By October 15, 2023, the Department must select one ESC in a county located in central Ohio with a population of 1,323,807, and one ESC in a county located in southwest Ohio with a population of 537,309, according to the 2020 United States census, to participate in the pilot program. The Department and the selected ESCs then jointly must identify a school district served by the service center and community schools and chartered nonpublic schools that enroll students from the district for whom the service center will provide transportation during the 2024-2025 school year. Under the bill, community schools and chartered nonpublic schools are not required to participate in the program. The bill requires the Department to deduct from the school district's transportation payment and pay to the ESC the amount the district would receive for each community and chartered nonpublic school student transported by the ESC.

The Department must evaluate the pilot program and issue a report of its findings not later than September 15, 2025, and participating schools and ESCs must submit data and other information to the Department for the evaluation.

Under the program, ESCs, for the 2023-2024 school year must arrange for the use of a sufficient number of school buses and bus drivers to transport all students from participating schools who qualify for transportation and the school district's transportation policy. Participating ESCs must collaborate with participating schools to designate daily start and end times for the 2024-2025 school year that will enable timely and efficient transportation of the schools' students. Further, on behalf of participating schools, ESCs must notify the school district that those schools will not require transportation for the 2024-2025 school year.

School districts and ESCs that participate in the program are exempt from penalties for consistent or prolonged noncompliance with the law requiring student transportation during the 2024-2025 school year with regard to students enrolled in participating schools. However, participating ESCs still must comply with all transportation requirements for students with disabilities as specified in the individualized education programs.

IV. Dyslexia screenings and interventions

Transfer students

(R.C. 3323.251)

The bill requires school districts and schools to administer tier one dyslexia screenings and intervention to students enrolled in any of grades K-6 who transfer into the district or school midyear. The dyslexia screenings must be aligned to the grade level in which the student is enrolled at the time the screening is administered. However, the bill exempts a district or school from administering a tier one dyslexia screening measure to a transfer student whose student record indicates that the student received a screening in that school year from the student's original school. Continuing law requires that districts and schools administer a tier one dyslexia screening to students in grades K-6 under prescribed conditions.

The bill prescribes the following administrations of a tier one dyslexia screening measure for transfer students:

1. For students enrolled in kindergarten, a district or school must administer a screening measure during the kindergarten class's regularly scheduled screening or within 30 days after the student's enrollment or after a parent, guardian, or custodian requests or grants permission for the screening;

2. For students enrolled in any of grades 1 through 6, a district or school must administer a screening measure within 30 days of a student's enrollment if required, or within 30 days after the student's parent, guardian, or custodian requests or grants permission for the screening.

Professional development

(R.C. 3319.077)

Continuing law requires teachers who teach grades K-3 or special education to grades 4-12 complete professional development regarding dyslexia. The bill specifically applies the phase-in model for dyslexia training as part of a teacher's approved professional development training to teachers employed by the district on April 12, 2021, and specifies the dates by which a teacher must complete the training as follows:

1. Not later than the beginning of the 2023-2024 school year, for each district teacher who provides instruction for students in grades K and 1, unchanged from continuing law;

2. Not later than September 15, 2024, for each district teacher who provides instruction for students in grades 2 and 3;

3. Not later than September 15, 2025, for each district teacher who provides special education instruction for students in grades 4 through 12.

Teachers employed after April 12, 2021, must complete the training by the later of two years after date of hire or the dates specified above for teachers employed prior to that date. However, this does not apply to teachers who already have completed the training while employed by a different district.

V. State scholarship programs

(R.C. 3310.03, 3310.032, 3310.035, 3310.08, 3310.13, 3310.16, 3310.41, 3310.52, 3310.581, 3313.13, 3313.975, 3313.976, 3313.978, 3365.07 and 3317.022; Sections 265.275, 265.277, 265.570, and 265.571)

Ed Choice Expansion eligibility and scholarship amounts

The bill expands eligibility for an Ed Choice Expansion scholarship to *any* student entering grades K-12 in the school year for which a scholarship is sought. It also establishes, in codified law, a logarithmic function formula to calculate scholarship award amounts for students who receive a first-time Ed Choice Expansion scholarship on and after the bill's effective date. The formula replaces the specific scholarship amounts set forth in current law. Recipients of the scholarship under the expansion prior to that date may continue to receive the amounts they received prior to the bills effective date. However, the bill permits the parent of any student who received an Ed Choice Expansion scholarship prior to that date to elect to receive the amount calculated under the new formula instead.

However, that formula will not be used for first-time scholarship recipients in the 2023-2024 school year for FY2024. Instead of amounts based on the formula, those students will receive specific scholarship amounts based on a student's family income. The bill does not affect the eligibility or amounts awarded under traditional scholarships.

Logarithmic function formula

Under the formula, any student with a family adjusted gross income at or below 450% of the federal poverty level (FPL) will receive the formula's base amount. The formula's base amount is the same scholarship amount that a traditional Ed Choice scholarship recipient receives. Scholarship amounts for students with a family adjusted gross income above 450% FPL are progressively reduced based on family adjusted gross income, with students with higher family incomes receiving smaller amounts. However, the formula establishes a minimum scholarship amount for an Ed Choice Expansion recipient that is equal to 10% of the formula's base amount.

The table below indicates the estimated scholarship amounts for new Ed Choice Expansion recipients under the formula. The first row indicates students who will receive the

formula's base amount, the second row indicates students who will receive 50% of the base amount, and the final row indicates students who will receive the formula's minimum amount.

Ed Choice Expansion scholarship amounts for first-time recipients under the formula		
Student's family income based on FPL[62]	**K-8 scholarship amount**	**9-12 scholarship amount**
At or below 450% FPL ($135,000 or less)	$6,165.00	$8,407.00
At 550% FPL ($165,000)	$3,082.50	$4,203.50
At or above 785% FPL ($235,500 or more)	$615.50	$840.70

Under the bill, the Department must require an applicant for an Ed Choice Expansion scholarship to submit documentation regarding the student's family adjusted gross income for the purposes of calculating the student's scholarship amount. The Department must use the documentation submitted for the first school year the student's has a scholarship calculated under the formula to calculate the student's scholarship amount for that school year and subsequent school years, unless a student's parent requests for the amount to be recalculated. In that case, the Department must recalculate the scholarship amount based on updated documentation provided by the parent.

The bill also requires the Department to provide an opportunity each fiscal year for the parent of a student who received an Ed Choice Expansion scholarship prior to the bill's effective date to elect to receive a scholarship amount calculated under the formula.

First-time scholarship recipients in the 2023-2024 school year

For FY 2024 only, the bill requires the Department to determine a scholarship amount for a student who receives a first-time Ed Choice Expansion scholarship based on the student's family income. A student with a family income at or below 450% FPL must receive the same scholarship amount as a Traditional Ed Choice scholarship recipient. For a student with a family income above 450% FPL, the bill prescribes specific scholarship amounts based on the student's family income.

[62] FPL dollar amounts are calculated based on the HHS Poverty Guidelines for 2023 for a family size of four issued by the federal Department of Health and Human Services, which are also available at aspe.hhs.gov.

The table below indicates the estimated scholarship amounts for students with a family income at or below 450% FPL and the specific prescribed amounts for students with a family income above 450% FPL.

Ed Choice Expansion scholarship amounts for first-time recipients in the 2023-2024 school year		
Student's family income based on FPL[63]	**K-8 scholarship amount**	**9-12 scholarship amount**
At or below 450% FPL ($135,000 or less)	$6,165	$8,407
Above 450% FPL, but at or below 500% FPL ($135,001 to $150,000)	$5,200	$7,050
Above 500% FPL, but at or below 550% FPL ($150,001 to $165,000)	$3,650	$5,000
Above 550% FPL, but at or below 600% FPL ($165,001 to $180,000)	$2,600	$3,550

[63] FPL dollar amounts are calculated based on the HHS Poverty Guidelines for 2023 for a family size of four issued by the federal Department of Health and Human Services, which are also available at aspe.hhs.gov.

Ed Choice Expansion scholarship amounts for first-time recipients in the 2023-2024 school year		
Student's family income based on FPL[63]	**K-8 scholarship amount**	**9-12 scholarship amount**
Above 600% FPL, but at or below 650% FPL ($180,001 to $195,000)	$1,850	$2,500
Above 650% FPL, but at or below 700% FPL ($195,001 to $210,000)	$1,300	$1,750
Above 700% FPL, but at or below 750% FPL ($210,001 to $225,000)	$900	$1,250
Above 750% FPL ($225,001 or more)	$650	$950

Elimination of priority order

The bill eliminates the provisions under current law that outlines the priority order for awarding Ed Choice expansion scholarships if the number of eligible students who apply for a scholarship exceeds the scholarship available based on the appropriation.

Ed Choice scholarship selection

(R.C. 3310.035)

The bill permits a student that qualifies for both an income-based and a performance-based Ed Choice scholarship to select which of those scholarships the student will receive. A student may change which scholarship they receive in each school year.

Under current law, a student that qualifies for both scholarships is required to select the performance-based scholarship.

Use of private scholarships for Ed Choice

(R.C. 3310.13)

The bill permits a chartered nonpublic school to accept scholarships issued by a scholarship granting organization as payment for the difference between the amount of a student's scholarship and the regular tuition charge of the school, as well as for any fees regularly charged by the school. Under continuing law, these schools may charge any student whose family income is above 200% of the federal poverty guidelines up to the difference between the amount of the student's scholarship and the regular tuition charge of the school.

A "scholarship granting organization" is an entity that is certified by the Attorney General as a nonprofit organization that primarily awards academic scholarships for primary and secondary school students and prioritizes awarding scholarships to low-income primary and secondary school students.[64]

Background

The Ed Choice Scholarship Program operates statewide in every school district except Cleveland to provide scholarships mainly for students who (1) are assigned or would be assigned to district school buildings that have persistently low academic achievement (known as "traditional" or "performance-based" Ed Choice) or (2) are from low-income families (known as "income-based" Ed Choice Expansion). Continuing law also qualifies for traditional Ed Choice scholarships certain other categories of students as well, including foster children. Students may use their scholarships to enroll in participating chartered nonpublic schools.

Autism Scholarship

Eligibility

(R.C. 3310.41)

The bill adds a new qualification as well as qualifies a child under one, instead of both, existing qualifications under current law.

As a result, the bill qualifies a child for the Autism Scholarship Program if any of the following apply to the child:

1. The school district in which the child is entitled to attend school has identified the child as autistic;

2. The school district in which the child is entitled to attend school has developed an individualized education program (IEP) for the child which specifically includes services related to autism; *or*

3. The child has been diagnosed as autistic by a physician or psychologist.

Under existing law, a child is eligible for the Autism Scholarship Program if, the school district identified the child as autistic, *and* the school district developed an IEP for the child.

[64] R.C. 5747.73.

The bill also requires school districts to develop an education plan for a child who is eligible for the Autism Scholarship Program based on an autism diagnosis who does not have an IEP.

Intervention services providers

(R.C. 3310.41 and 3310.43)

The bill qualifies certified Ohio behavior analysts as providers that may offer intervention services under the Autism Scholarship Program. The bill also qualifies registered behavior technicians to provide intervention services under the Autism Scholarship Program if the registered behavior technician works under the supervision and following the intervention plan of a certified Ohio behavior analyst or a behavior analyst certified by a nationally recognized organization that certifies behavior analysts.

Under current law, intervention services under the Autism Scholarship Program may be provided by a qualified, credentialed provider. The providers expressly qualified include certified behavior analysts, licensed psychologists, licensed school psychologists, individuals employed and supervised by such psychologists or school psychologists, unlicensed individuals holding a doctoral degree in psychology or special education from a program approved by the State Board, and other qualified individuals as determined by the State Board.

The bill also prohibits the State Board from requiring registered behavior technicians and certified Ohio behavior analysts to receive an instructional assistant permit to qualify to provide services to a child under the Autism Scholarship Program, including in-home services. Under current law, the Department issues one-year instructional assistant permits to individuals who meet qualifications and have been hired by a registered private provider under the Autism Scholarship Program.

State scholarships – general

Verification of income

The bill permits a student's parent or guardian to certify income eligibility for an Ed Choice expansion scholarship to the Department by submitting: (1) an affidavit affirming that the student's family income meets the income requirement, (2) proof of income eligibility under another state or federal program, or (3) other evidence determined appropriate by the Department.

Conversely, the bill prohibits the Department from generally requiring the parent of a student who is applying for, or receiving, a traditional Ed Choice, Autism, Jon Peterson Special Needs, or Cleveland scholarship from completing any kind of income verification regarding the student's family income. It is unclear how this provision will operate with the provisions related to tax returns described below.

However, a Department may require income verification to qualify low-income Ed Choice or Cleveland scholarship recipients for a waiver of any tuition, textbooks, or fees related to attending a private college through the College Credit Plus (CCP) Program.

Tax return information

The bill exempts an individual who is not required to file a state tax return under continuing law requirements from the requirement to certify income eligibility for an Ed Choice expansion scholarship. It also prohibits the Department from requiring the parent of a student to submit a complete copy of the parent's federal or state income tax return to determine the student's family income for the purposes of the Ed Choice or Cleveland Scholarship Program. Instead, the Department may require a partial federal or state tax return that only contains the minimum amount of information necessary to determine the student's family income.

Waiver of additional tuition

The bill removes the requirement under current law that a chartered nonpublic school participating in the Ed Choice Scholarship Program or a private school participating in the Cleveland Scholarship Program waive any additional tuition above a scholarship amount for a student with a family income at or below 200% FPL.

Reporting of tuition rates

The bill requires each of the following entities, by September 30, 2023, for the 2023-2024 school year and by June 30 prior to each following school year thereafter, to submit to the Department the entity's tuition rates for that year:

1. Chartered nonpublic schools enrolling Ed Choice scholarship recipients;

2. Private schools enrolling Cleveland scholarship recipients;

3. Alternative public or register private providers enrolling Autism scholarship recipients; and

4. Alternative public or registered private providers enrolling Jon Peterson Special Needs scholarship recipients.

Applications after the start of the school year

The bill delays the application deadline for receiving the full amount of an Ed Choice or Cleveland scholarship from July 1 to October 15 of the school year for which a scholarship is sought. The bill specifies that the Department prorate the amount of a student's scholarship for an application submitted on and after October 15 based on how much of the school year remains after the date of the student's enrollment in school.

Cleveland scholarship program restrictions

(R.C. 3313.976 and 3313.978)

The bill permits a student who resides in Cleveland Municipal School District to use the Cleveland Scholarship to attend any private school, without a restriction on location of that school. Under current law, depending on the grade levels offered and (in some cases) the population of the municipal corporation in which the school is located, the school must be located within the boundaries of Cleveland Municipal School District, within five miles of the border of Cleveland Municipal School District, or in the same county as Cleveland Municipal School District.

Family income disclosure

(R.C. 3310.13)

The bill prohibits a chartered nonpublic school participating in Ed Choice from requiring a student's parent to disclose, as part of the school's admission procedure, whether the student's family income is at or below 200% of the federal poverty level (FPL).

Continuing law prohibits a chartered nonpublic school from charging an Ed Choice scholarship recipient tuition exceeding the recipient's scholarship amount if the recipient's family income is at or below 200% FPL.

VI. Community schools

Community school sponsors

Sponsor evaluation framework

(R.C. 3314.016(B)(1)(a) and (b))

The bill makes two changes to the community sponsor evaluation framework that the Department must use annually to rate and assign an overall rating to each entity that sponsors a community school. Under continuing law, a sponsor's evaluation is based on three components − (1) academic performance of students enrolled in community schools sponsored by the same entity, (2) adherence to quality practices, and (3) compliance with applicable laws and rules.

Academic performance component

The bill requires the Department to use the higher of a sponsor's academic performance score for the schools in a sponsor's portfolio as determined by weighting each school based on enrollment or by weighting each school equally when calculating the academic performance component of the sponsor's evaluation.

Adherence to quality practices

The bill also requires each sponsor to submit documentation of the sponsor's adherence to quality practices by May 15 each year. A sponsor may participate in an interview with the party contracted by the Department to assess those practices. Following the interview, a sponsor may submit additional documentation as evidence of the sponsor's adherence.

Request for proposals to amend sponsor evaluation framework

(Section 733.90)

The bill requires the Department, by November 15, 2023, to issue a request for proposals, and by January 1, 2024, select from those proposals a third-party organization to assist in the development of a portfolio-based sponsor evaluation framework to determine the performance of community school sponsors. In developing the request for proposals, the Department must collaborate with community school stakeholders. The selected organization must have experience assessing the performance of sponsors in multiple states, be familiar with national quality standards and have demonstrated knowledge regarding the work done by sponsors.

The selected organization must collaborate with stakeholders to develop a framework that does at least the following: (1) provides meaningful differentiation of performance by sponsors through different overall ratings or performance levels, (2) includes specific performance indicators, metrics, and performance standards, (3) specifies the frequency of evaluations, and (4) includes incentives for high-performing sponsors and consequences for low performing sponsors. The organization must submit the proposed framework to the General Assembly by June 30, 2024.

Transitional evaluations

The bill requires that the Department post the evaluation system to be used for the 2023-2024 school year on its web site by October 1, 2023. For the 2024-2025 school year only, the Department must evaluate only (1) sponsors that received an overall rating of "ineffective" on their most recent evaluation and (2) new sponsors that have not been previously evaluated. While the bill does not require the Department to evaluate higher performing sponsors, such sponsors may elect to be evaluated during that period.

High performing sponsor incentives

(R.C. 3314.016(B)(7)(a)

The bill qualifies all "exemplary" sponsors for statutory incentives, rather than only sponsors rated "exemplary" for the two most recent school years. Under continuing law, those statutory incentives include the following:

1. Automatic renewal of the agreement with the Department;

2. The ability to extend the term of the sponsorship contract;

3. An exemption from the preliminary agreement and contract adoption and execution deadline;

4. An exemption from automatic contract expiration;

5. No limit on the number of community schools that can be sponsored;

6. No territorial restrictions on sponsorship.

Schools previously sponsored by Office of Ohio School Sponsorship

(R.C. 3314.016(B)(9))

The bill excludes from the performance rating of a community school sponsor that was rated "exemplary" on its three most recent evaluations, for the first two years of sponsorship, the academic performance of a community school with which the sponsor has entered into a contract. The performance of the community school may be excluded if the Department's Office of Ohio School Sponsorship was the school's most recent sponsor. However, the bill revokes this incentive if the sponsor receives a lower rating in the first two years of sponsorship.

Background

Under continuing law, the Department's Office of Ohio School Sponsorship is permitted to directly authorize the operation of a limited number of both new and existing community

schools rather than those schools being subject to the oversight of other public or private sponsors.[65] Additionally, in the event that the Department revokes a sponsor's approval to sponsor community schools, the Office may assume sponsorship of any schools with which that sponsor has contracted for two school years or until a new eligible sponsor is secured by the governing authority.[66]

Sponsor changing for schools that serve students with disabilities

(R.C. 3314.034)

The bill makes two changes to the general prohibition against lower-performing community schools entering into a contract with a new sponsor, both of which apply only to schools that primarily serve students with disabilities receiving special education and related services.

Request to change community school sponsors

First, the bill requires that the when the Department decides to approve a request to change sponsors from a community school that primarily serves students with disabilities it must at least consider the school's performance against the average performance of all other community schools that primarily serve students with disabilities.

Relief from requirement to submit request

Second, the bill permits a community school that primarily serves students with disabilities to enter into a contract with a new qualified sponsor without submitting a request if (1) the school received a rating of at least three stars for progress on its most recent report card and (2) as calculated for the most recent school year, the school's performance index score for students with disabilities is higher than that of the school district in which the school is located.

Background on changing sponsors

Generally, lower-performing community schools may enter into a contract with a new sponsor only if all of the following conditions are satisfied:

1. The proposed sponsor received a rating of "effective" or higher on its most recent evaluation or is the Office of Ohio School Sponsorship;

2. The school submits a request to enter into a new contract to the Department;

3. The school has not submitted a prior request to change sponsors that was granted; and

4. The Department grants the school's request.

A community school is considered lower-performing if either of the following conditions are true:

[65] R.C. 3314.029, not in the bill.

[66] R.C. 3314.015, not in the bill.

1. The community school has received a performance rating of less than three stars for both Achievement and Progress on the most recent state report card.

2. The community school primarily operates a dropout prevention and recovery program and has received a rating of "does not meet standards" for the annual student growth measure and combined graduation rates on the most recent state report card.

Community school FTE reporting

(Section 5 of H.B. 554 of the 134th G.A., amended in Sections 610.35 and 610.36)

The bill extends through the 2023-2024 and 2024-2025 school years the option for a qualifying community school to elect to report its number of enrolled students to the Department on a full-time equivalent basis using the lesser of:

1. The maximum full-time equivalency for the portion of the school year for which a student is enrolled in the school; or

2. The sum of 1/6 of the full-time equivalency based on attendance for the portion of the school year for which a student is enrolled and 1/6 of the full-time equivalency for each credit of instruction earned during the enrollment period, up to five credits.

For more information on the provision and the community schools that qualify under it, see the LSC Final Analysis (PDF) for H.B. 554 of the 134th General Assembly, which is also available at legislature.ohio.gov.

Dropout prevention and recovery schools

End-of-course exams for DOPR community schools

(R.C. 3301.0727)

Under the bill, a dropout prevention and recovery (DOPR) community school must do both of the following with regard to the administration of end-of-course exams:

1. In addition to the annual testing windows established by the Superintendent of Public Instruction, administer the exams in an online or paper format based on the needs of the student;

2. Adhere to security requirements prescribed under continuing law for those exams.

The Superintendent of Public Instruction must establish extended ten-week testing windows in the fall and spring for DOPR community schools so that exams may be administered in closer proximity to when students complete related coursework. The state Superintendent also must establish a summer testing window for students participating in summer instruction.

The bill expressly states this provision does not relieve a DOPR community school from its obligation to administer in-person testing as otherwise required under continuing law.

DOPR report cards

(R.C. 3314.017)

The bill requires the State Board of Education to base its rules for DOPR community schools prescribing the expected performance levels and benchmarks for performance

indicators, in part, on simulations created by the Department. The bill also requires the Department to gather and analyze data from prior school years, rather than leaving that to the Department's discretion. It removes several requirements related to developing the rating and report card systems, the timelines for which have passed.

DOPR Advisory Council

(R.C. 3314.381)

The bill establishes the DOPR Advisory Council to provide a forum for communication and collaboration between the Department and parties involved in the establishment and operation of DOPR community schools, including sponsors and operators. The Council consists of the following members appointed by the State Board of Education:

1. Two members of the State Board;

2. One employee of the Department who works directly with DOPR community schools;

3. Seven individuals with experience in DOPR community schools, their operators, and their sponsors that represent a diverse array of schools in terms of enrollment, programs, learning models, and methods of instruction.

The Advisory Council is required to collaborate with the State Board to review all existing rules and guidance previously developed or adopted by the Department imposing on a DOPR community school.

Rules and guidelines for DOPR community schools

(R.C. 3314.382)

The bill requires the Department to adopt rules in accordance with the Administrative Procedure Act to impose any requirement on a DOPR community school. It prohibits the Department from developing guidelines – rather than a formally adopted rule – imposing requirements on their general and uniform operation. Prior to adoption of any rules, the newly created DOPR Advisory Council must review those rules. On the bill's effective date, it voids any guidance document previously developed by the Department that establishes general and uniform operations for DOPRs.

E-school standards

(R.C. 3314.23)

The bill changes the source for the standards with which internet- or computer-based community schools (e-schools) must comply. It requires e-schools to comply with the National Standards for Quality Online Learning developed under a project led by a partnership between Quality Matters, the Virtual Learning Leadership Alliance, and the Digital Learning Collaborative, or any other successor organization. Current law requires that e-schools comply with standards developed by the International Association for K-12 Online Learning.

Community school closing audit bonds and guarantees

The bill removes provisions related to community school closing audit bonds. (For more information, see "**Community school closing audit bonds and guarantees**" in the Treasurer of State portion of this analysis.)

VII. School districts

Academic intervention services for qualifying students

(R.C. 3313.6030, 3302.03, 3314.03, and 3326.11)

The bill requires each school district, community school, and STEM school to provide academic intervention services, free of cost, to each student who demonstrates a limited level of skill on a state assessment in math, science, or English language arts. For purposes of this provision, "state assessment" means a standard achievement assessment or an end-of-course examination.

The district or school must provide the services directly or through a contracted vendor, rather than referring a student for tutoring or informally recommending that the student receive some other form of support without actually providing those services. The bill provides some examples of what constitutes appropriate academic intervention services, such as tutoring, additional instruction time, participation in a learning support program, or other academically centered support services designed to improve the student's academic performance.

Department monitoring and reporting

The Department is tasked with tracking and monitoring the academic progress of students receiving intervention services to determine whether each student makes progress toward demonstrating grade level proficiency and no longer needs intervention services. Each district and school must annually provide the Department with any information necessary to fulfil that responsibility. In addition to using the information provided by school districts and schools, the Department may index diagnostic assessments provided to the students.

The Department must also administer a self-reporting survey to all districts and schools with students receiving intervention services under the bill and prepare a report that includes a list of districts and schools that are providing services, a list of those districts and schools that are not providing services, and a list of districts and schools that fail to respond to the survey. By November 15 of each year, the Department must present that report to the standing committees of the House and Senate that consider primary and secondary education legislation, the Governor, and the Superintendent of Public Instruction.

Postsecondary readiness measure

The bill requires the Department to include a student who receives sufficient remediation under the bill's provisions in the postsecondary readiness measure used to calculate the College, Career, Workforce, and Military Readiness component on the state report card.

Intradistrict open enrollment

(R.C. 3313.984)

The bill requires each school district to report to the Department of Education and Workforce, in the manner prescribed by the Department, the number of students who attend a school building in the district that is different from the one to which the students are assigned.

In the case of a school district that conducts an enrollment lottery for students through an intradistrict open enrollment policy, the bill requires that the district conduct that lottery on the second Monday of June prior to the school year for which the student is seeking enrollment. Continuing law and administrative rule require that each board of education to adopt an intradistrict open enrollment policy, under which a resident student may enroll in a different school within the same district, but does not require a school district to assign placement to students based on a lottery system.[67]

Virtual education during school closure

(R.C. 3313.482)

The bill addresses how a school district, community school, STEM school, or chartered nonpublic school may make up hours of instruction during a period of school closure for disease epidemic, hazardous weather conditions, law enforcement emergencies, inoperability of school buses or other equipment, damage to a school building, or other temporary circumstances rendering a school building unfit for use.

The bill repeals the current law process under which a district, community school, or chartered nonpublic school may adopt a plan to require students to complete lessons posted on the district or school's website, or paper copies of those lessons distributed to students (known as "blizzard bags"), for making up the equivalent of up to three school days when a school is closed. Instead, it requires a district, community school, STEM school, or chartered nonpublic school to adopt a plan to provide instruction through a virtual education delivery model during school closure.

Under the bill, the governing body of each district or school must adopt a plan by August 1 of each school year to provide instruction via online delivery to make up the equivalent of up to three school days. A governing body does not have to adopt a plan for any school it operates that uses an online or blended learning model.

Each plan must ensure continuity of learning and contain the following:

1. A statement that the school, to the extent possible, will provide for teacher-directed synchronous learning in real-time on a virtual learning platform during the closure;

2. The school's attendance requirements, including how the school will document participation in learning opportunities and how the school will reach out to students to ensure engagement during the closure;

[67] R.C. 3313.97, not in the bill, and O.A.C. 3301-48-01.

3. A description of how equitable access to quality instruction will be ensured, including how the school will address the needs of students with disabilities, English learners, and other vulnerable student populations;

4. The process by which the school will notify staff, students, and parents that the school will be using online delivery of instruction;

5. Information on contacting teachers by telephone, email, or virtual learning platform during the closure;

6. A description of how the school will meet the needs of staff and students regarding internet connectivity and technology.

The bill requires that each adopted plan include the written consent of the respective teacher's union.

Joint vocational school districts

The board of education of any joint vocational school district, in addition to making up the three school days permitted under the bill's general provision, may include in its plan other options to make up any number of additional hours missed as a result of a permitted closure at one of its member school districts, including additional online lessons, planned student internships, and student projects.

Minimum number of hours compliance

If a district, community school, STEM school, or chartered nonpublic school implements a plan that complies with the bill's provisions, the district or school must not be considered to have failed to comply with the minimum number of hours required by continuing law with respect to the number of make-up hours for which the plan is utilized.

Seizure action plans

(R.C. 3317.7117, 3314.03, 3326.11, and 3328.24; Section 733.20)

The bill requires each public and chartered nonpublic school to create an individualized seizure action plan for each enrolled student who has an active seizure disorder diagnosis. It must be created by the school nurse, or another district or school employee if a school district or school does not have a school nurse, in collaboration with the student's parent or guardian.

Each plan must include:

1. A written request signed by a parent, guardian, or other person having care or charge of the student to have drugs prescribed for a seizure disorder administered to the student;

2. A written statement from the student's treating practitioner providing the drug information for each drug prescribed for the student for a seizure disorder; and

3. Any other component required by the State Board.

The plan is effective only for the school year in which a written request is submitted and must be renewed at the beginning of each school year. Plans must be maintained in the school

nurse's office, or school administrator's office if the school does not employ a full-time school nurse.

For each student who has a seizure action plan in force, a school nurse or school administrator must notify each school employee, contractor, and volunteer who (1) regularly interacts with the student, (2) has legitimate educational interest in the student, or (3) is responsible for the direct supervision or transportation of the student in writing regarding the existence and content of the student's plan.

Further, each school nurse or school administrator must identify each individual who has received training under the seizure action plan in the administration of drugs prescribed for seizure disorders (see below). A school nurse or another district employee also must coordinate seizure disorder care at each school and ensure that all required staff are trained in the care of students with seizure disorders.

Finally, a drug prescribed for a student with a seizure disorder must be provided to the school nurse or another person at the school who is authorized to administer it to the student. The drug also must be provided in the container in which it was dispensed by the prescriber or licensed pharmacist.

Training on seizure action plans

The bill requires districts and schools once every two years to train or arrange training for at least one employee at each school, aside from a school nurse, on the implementation of seizure action plans. Training must be consistent with guidelines and best practices established by a nonprofit organization that supports the welfare of individuals with epilepsy and seizure disorders, such as the Epilepsy Alliance Ohio, Epilepsy Foundation of Ohio, or other similar organizations as determined by the Department.

Training must address the following:

1. Recognizing the signs and symptoms of a seizure;

2. Appropriate treatment for a student exhibiting the symptoms of a seizure; and

3. Administering seizure disorder drugs prescribed for the student.

The bill limits a seizure training program to one hour and qualifies the required seizure disorder training as a professional development activity for educator license renewal. If the training is provided to a district or school on portable media by a nonprofit entity, the training must be provided free of charge.

Districts and schools also must require each person employed as an administrator, guidance counselor, teacher, or bus driver to complete a minimum of one hour of self-study or in-person training on seizure disorders within 12 months after the bill's effective date. Any such individual employed after that date must complete a training within 90 days of employment.

Qualified immunity

The bill provides a qualified immunity in a civil action for money damages for a school, school district, members of a school district board or school governing authority, and a district's or school's employees for injury, death, or other loss allegedly arising from providing care or

performing duties under the bill. The immunity does not apply if any act or omission constitutes willful or wanton misconduct.

Title

The bill entitles the provisions "Sarah's Law for Seizure Safe Schools Act."

School district property disposal

(R.C. 3313.41 and 3313.411)

Public auction

Public notice of property sale

The bill requires a school district, when it sells real property at a public auction, to advertise the auction on a major commercial web site at least 30 days prior to the auction. This is in addition to the continuing law requirements to provide notice of the proposed sale by newspaper and other means.

Minimum acceptable bid

The bill permits a district, in an auction for real property, to set a minimum acceptable bid amount that is not greater than the property's appraised fair market value. The district must disclose the minimum acceptable bid amount to all auction participants. The property's fair market value must be determined by a valuation that is less than one year old, performed by an appraiser, and based on reasonable assumptions about the property's use as a school.

Selection of winner

Finally, the bill prohibits a district from rejecting the bid of a community school, STEM school, college-preparatory boarding school, or a private person that proposes to make the property available to one of those schools, if the school or person complies with requirements for auction participants regarding proof of funds and similar matters and makes the highest bid.

Involuntary disposition of district property

The bill revises the law regarding involuntary disposition of school district property to community schools, STEM schools, and college-preparatory boarding schools. Under the involuntary disposition law, a district must offer to sell or lease its real property to those schools when that property meets the statutory definition of "unused school facilities."

Unused school facilities

(R.C. 3313.411(A)(5))

The bill expands the statutory definition of unused school facilities to include:

- A school building used for direct academic instruction, but the district has decided to demolish in whole or in substantial part;
- A school building that a district has otherwise decided to dispose of by selling it to specified entities, such as the Adjutant General or a public university, instead of selling it at public auction;

- A school building the district has otherwise decided to exchange for other real property needed for school purposes, instead of selling it at public auction.

Under continuing law, "unused school facilities" includes any real property that has been used for school operations since July 1, 1998, but which has not been used in that capacity for one year, and any school building that has been used for direct academic instruction, but less than 60% of that building was used for that purpose in the preceding school year.

Sale or lease of unused school facilities

(R.C. 3313.411(B)(1) and (F)(3))

The bill requires a school district to offer unused school facilities for sale or lease to all community, STEM, and college-preparatory boarding schools in the state. The offer must be advertised on a major commercial real estate website for at least 60 days. The bill also provides that the offer is irrevocable for sixty days. Current law only requires a district to make that offer to community, STEM, and college-preparatory boarding schools in the district's territory.

Sale or lease of facilities to community schools with expansion plans

(R.C. 3313.411(B)(2))

The bill requires a district offering unused school facilities for sale or lease to make an offer directly to a community school with an expansion plan stipulated in the school's contract. The type of expansion plans that trigger this requirement are any of the following:

- Opening a new community school in the district's territory
- Relocating the community school's operation to the district's territory;
- Adding facilities, to be located within the district's territory.

A community school that receives an offer under this provision must notify the selling district's treasurer, in writing, of an intent to purchase the property within 60 days after the district posts the offer on a major commercial real estate website.

Current law permits districts to offer unused school facilities to community schools with more limited types of expansion plans, but does not include a deadline by which interested community schools must state their intent to purchase.

Lease of facilities to high-performing community schools

(R.C. 3313.411(C)(3))

The bill eliminates the current law procedures regarding the leasing of unused school facilities when more than one high-performing community school expresses interest in the property and how a board should proceed when no high-performing community school expresses interest in leasing the property.

Challenging the appraisal

(R.C. 3313.411(C)(3) and (F)(3))

The bill provides a procedure for a community, STEM, or college-preparatory boarding school to challenge the appraised fair market value of the property for sale or lease. Within 60 days of the offer of unused school facilities is made, a school may notify the district treasurer of an intent to challenge the property's appraised fair market value. If one or more schools notify the treasurer, and no other school accepts the offer to purchase or lease, the district and schools must do as follows:

- The district must notify any school challenging the value that it has been challenged;
- Within 30 days after the notification of the challenge, the first school to challenge the value must select an appraiser to re-determine the property's fair market value;
- Within ten days after an appraiser is selected, the appraiser and the district's appraiser must confer and select third appraiser to re-determine the property's fair market value;
- Within ten days after the third appraiser is selected:
  - If all the appraisers reach a unanimous decision regarding the appraised fair market value of the property, notify the district and any school challenging the value in a timely manner of their decision;
  - If the appraisers do not agree, they must average their calculation of the fair market value, excluding any appraise with a value that is 10% higher or lower than the median fair market value among the three appraisals. The appraisers must then notify the district and the schools of the determined value.
- Once notified of the property's value, the district must then offer the property for sale or lease, at the fair market value determined by the appraisers, to any school that challenged the value. The district's offer is irrevocable for sixty days.

Following the challenge and redetermination of the property's fair market value, the process for continuing the sale is similar to that used if a challenge had not occurred:

- If, within 60 days, only one school who challenged the property's value notifies the district of an intent to purchase, the board must sell the property to that school for the value determined by the appraisers.
- If, again within 60 days, more than one school who challenged the property's value express an intent to purchase or lease to the district, the district must conduct a public auction at which only those qualified parties who challenged the value may participate. In an auction setting, the district is not obligated to accept any bid that is lower than the appraised fair market value determined by the appraiser team.

Calculation of lease price

(R.C. 3313.411(C)(4))

The bill eliminates a prohibition against a district offering a lease price that is higher than the fair market value for a leasehold on the property.

Disposition of property with no buyers

(R.C. 3313.411(C)(4))

The bill modifies the procedures if no community, STEM, or college-preparatory boarding school accepts a district's offer to sell unused school facilities. Under current law, if no school accepts the offer to buy the property, the district may offer the property to a much wider audience of possible buyers. The bill limits this procedure to sales, but not leases, of property. The bill also applies this to sales of property for which other schools challenged the property's fair market value, as described above.

Finally, the bill requires the district, if it still owns the property two years later and the property still meets the statutory definition of unused school facility, to start the involuntary disposition process over for that property.

Subsequent sale or lease of unused school facility

(R.C. 3313.411(E))

The bill modifies the limits placed on the sale of an unused school facility purchased by a community, STEM, or college-preparatory boarding school through the involuntary disposition law. First, a school is generally prohibited from re-selling the property within ten years of purchase, rather than within five years under current law. However, the bill generally retains a continuing law exception to that prohibition that allows a school to sell that property to another community, STEM, or college-preparatory boarding school within that time period.

In addition, the bill establishes a new exception to that general prohibition, under which a school may sell to another buyer who is not a community, STEM, or college-preparatory boarding school. Within ten years of the school's purchase of the property, the school may sell or lease the property to a different buyer if both:

- The potential purchaser/leaseholder arranges for the property to be used by a community, STEM, or college-preparatory boarding school for school operations; and
- The potential purchaser/leaseholder does not transfer or sell the property to an entity other than a community, STEM, or college-preparatory boarding school.

Prohibition on demolition of unused school facilities

(R.C. 3313.411(F)(1))

The bill prohibits a district from demolishing unused school facilities prior to offering the property for sale or lease through the involuntary disposition law.

Designation of unused school facilities

(R.C. 3313.411(F)(2))

Under the bill, any school building or property that is an unused school facility on or after January 1, 2023, must remain designated as an unused school facility until the district complies with the bill's provisions regarding the sale or lease of the property, unless the district has already complied with the involuntary disposition law as it existed prior to the bill's effective date.

Notification of unused school facility

(R.C. 3313.411(F)(4))

The bill permits a qualified party to notify a district treasurer if the party identifies a school building or property the party reasonably believes is an unused school facility. If the property is an unused school facility, the district is required to follow the bill's provisions for disposal.

Facilities construction projects – disposition or demolition

(R.C. 3318.08)

The bill eliminates an exception to a prohibition for the demolition of a facility to clear the site for a replacement facility included in the district's project. Under continuing law, a school district's school facilities construction project agreement with the Ohio Facilities Construction Commission must prohibit the Commission from approving a contract for the demolition of a facility until the district has complied with state law regarding the disposition of school property, including the involuntary disposition law. However, if the demolition of that facility is to clear a site for construction of a replacement facility included in the district's project, the Commission may approve the demolition without the district going through the disposition of property procedure. The bill eliminates that exception.

Cash payments for school-affiliated events

(R.C. 3313.5319)

The bill requires qualifying schools to accept cash payments for tickets and concessions at school-affiliated events.

The bill defines qualifying schools as a school district or chartered nonpublic school that elects to participate in athletic events regulated by an interscholastic conference or an organization that regulates interscholastic conferences. The bill also defines school-affiliated events as athletic events, plays, musicals, or other school-affiliated events or activities that a district or school conducts, sponsors, or participates in and for which a district or school charges admission to attend. The bill explicitly exempts events conducted in a public facility leased by a professional sports team or a privately owned facility from the cash requirement.

Regarding the sale of concessions specifically, the bill requires qualifying schools that offers concessions for sale at a school-affiliated event to provide at least one location where an individual may pay cash for concessions. If concessions are sold on multiple floors, the bill requires that at least one location on each floor accept cash payments.

Free feminine hygiene products

(R.C. 3313.6413; conforming changes in 3314.03, 3326.11, and 3328.24)

The bill requires all public and private schools that enroll girls in grades six through 12 to provide free feminine hygiene products for those students. The bill further permits schools to offer free feminine hygiene products to students below sixth grade if they so choose. Schools must determine where the products are to be kept in the school. The bill specifies that all such products are for use on school premises.

Auxiliary services personnel

(R.C. 3317.06)

The bill prohibits school districts from denying a nonpublic school's request for personnel to provide auxiliary services who are properly licensed by a state board or agency.

Auxiliary services reimbursement for educational service centers

(R.C. 3317.06)

The bill specifies that if a school district contracts with an educational service center (ESC) to provide auxiliary services, only the ESC may be reimbursed for administrative costs incurred in providing those services.

Pecuniary interest of school board members

(R.C. 3313.33)

The bill creates an additional exception to the general rule that no member of a school district or educational service center board of education may have, directly or indirectly, any pecuniary interest in any contract of the board or be employed in any manner for compensation by the board of which the person is a member.

Under the new exception, a member of the board may have a pecuniary interest in a contract of the board if the member is employed by a private institution of higher education that is contracting with the board, if other requirements are met. Consistent with the requirements of this section under continuing law, the member may not participate in any discussion or debate regarding the contract, nor may the member vote on the contract. Finally, the member is required to file with the school district treasurer an affidavit stating the member's exact employment status with the private institution of higher education.

VIII. Diplomas and graduation requirements

FAFSA graduation requirement

(R.C. 3313.618 and 3313.619)

The bill establishes a new requirement that each student must provide evidence of having completed and submitted the Free Application for Federal Student Aid (FAFSA). However, the bill exempts a student from meeting this requirement if either the student's:

1. Parent or guardian, or the student if the student is at least 18 years old, has submitted a written letter, in a manner prescribed by the Department of Education and Workforce, to the student's district or school stating the student will not complete and submit the FAFSA; or

2. District or school has made a record, in a manner prescribed by the Department, describing circumstances that make it impossible or impracticable for the student to complete the FAFSA.

Financial literacy instruction in lieu of social studies

(R.C. 3313.603)

The bill permits a student to substitute one-half unit of financial literacy instruction in lieu of one-half unit of social studies instruction to satisfy the financial literacy education curriculum requirement for graduation.

Under continuing law, a student may substitute one-half unit of financial literacy instruction for one-half unit of math or one-half unit of an elective course to satisfy the financial literacy education curriculum requirement for graduation.

Competency-based diploma pilot program

(Section 733.50)

The bill requires the Department to operate a competency-based diploma pilot program in FY 2024 and FY 2025 for students who are at least 18 years old, but under 22 years old. The pilot program must be aligned to the rules and standards prescribed for the 22+ Adult High School Diploma Program under continuing law. In addition, the bill requires the Department to issue a report on the pilot program by July 30, 2025. The report must be posted on the Department's publicly available website.

Adult Diploma Pilot Program minimum age

(R.C. 3313.902)

The bill lowers the minimum age to participate in the Adult Diploma Pilot Program from 20 to 18. The program provides job training and an alternative pathway for adults who have not received a high school diploma or certificate of high school equivalence to earn an industry-recognized credential aligned to one of Ohio's in-demand jobs and earn a state-issued high school diploma.

IX. Educator and other school employee licensing and permits

Ohio Teacher Residency Program

(R.C. 3319.223)

The bill makes changes to the three components of the Ohio Teacher Residency (OTR) program: (1) mentoring, (2) counseling, and (3) measures of appropriate progression through the program (successful completion of the Resident Educator Summative Assessment (RESA)).

Mentoring

The bill specifically permits both online and in-person mentoring to participants. It also requires the Department to provide participants and mentors with no-cost access to online professional development resources and sample videos of Ohio classroom lessons submitted for the RESA.

Counseling

The bill requires the Department to provide to each participant who does not receive a passing score on the RESA the opportunity to meet online with an instructional coach who is a certified assessor of the RESA to review the participant's results and discuss improvement strategies and professional development. These participants must receive the training at no cost.

Participants who choose to meet with an instructional coach must select from an online pool of instructional coaches who have completed training and are approved by the Department. The characteristics of each coach's school or district, including its size, typology, and demographics, must be made available. However, participants are not required to choose an instructional coach from a similar district and school.

The bill also permits participants who have not taken the RESA to meet with Department-approved coaches if the participant's district or school pays the costs associated with the meetings.

Measures of progression

Under administrative rule, participants are prohibited from attempting the RESA more than three times. The bill, however, prohibits the State Board from limiting the number of attempts participants have to successfully complete the RESA.

The bill creates a window of time within which participants may submit their RESA. Participants may send their RESA submissions to the Department between the first Tuesday of October and the first Friday of April of participants' second year in the program. The results of each RESA must be returned within 30 days after submission unless a new assessor is contracted by the Department. In that case, the results of each RESA must be returned within 45 days.

Background

The Ohio Teacher Residency program is an entry-level support program that both resident educator and alternative resident educator license holders must complete to qualify for a professional educator license. Effective in 2023, H.B. 442 of the 133rd General Assembly reduced the program from four years to two.

Alternative resident educator license

(R.C. 3319.26)

The bill reduces the length of the alternative resident educator license from four to two years and reduces the number of years that an individual must teach under the alternative resident educator license before receiving a professional educator license from four to two years. The bill also makes the alternative resident educator license renewable generally, rather than

renewable only for reasons determined by the State Board or as necessary to complete the Ohio Teacher Residency Program.

An alternative resident educator license is an entry-level license for a teacher who has not completed a traditional teacher preparation program, but who instead meets other specified education and testing requirements and agrees to complete other conditions while teaching under the license.

The bill also permits the holder of an alternative resident educator license to teach preschool students. Under current law, the State Board is required to adopt rules establishing the standards and requirements for obtaining an alternative resident educator license for teaching in grades K to 12 a designated subject area. The bill does not make changes to eligibility requirements to obtain such a license.

Conversion to alternative educator license

The bill removes participation in the Ohio Teacher Residency Program from the conditions of holding an alternative resident educator license. Instead, the bill permits the holder of an alternative resident educator license to convert that license to a renewable alternative educator license, provided the license holder (1) shows satisfactory progress in taking and successfully completing professional development provided by a teacher preparation program that has been approved by the Chancellor of Higher Education and (2) passes an assessment of professional knowledge in the second year of teaching under the alternative resident educator license.

An alternative resident educator license holder may still apply for and receive a professional educator license after completing certain prescribed requirements unchanged by the bill, including completion of the Teacher Residency Program.

Substitute teacher license

(R.C. 3319.102; Sections 107.30 and 107.31)

The bill makes permanent a provision permitting a school district, community school, STEM school, chartered nonpublic school, or educational service center to hire a substitute teacher that does not hold a post-secondary degree, provided that the teacher is of good moral character, meets the district's or school's own set of educational requirements, and passes a background check. (A similar provision of law applied for the 2021-2022, 2022-2023, and 2023-2024 school years only.) The bill also establishes a one-year temporary substitute teaching license for individuals who meet the specified criteria and requires the State Board of Education to establish procedures and criteria under which that license may be renewed.

Out-of-state teacher license

(R.C. 3319.2210)

The bill permits an applicant for a one-year nonrenewable out-of-state teaching license who passes Ohio's Foundations of Reading Exam on the first try to forgo the required completion of coursework in the teaching of reading. Continuing law, unchanged by the bill, requires an applicant for a resident educator license designated for teaching children in grades K-6 or the equivalent to have successfully completed at least six semester hours, or the equivalent, of

coursework in the teaching of reading that includes at least one separate course of at least three semester hours, or the equivalent, in the teaching of phonics in the context of reading, writing, and spelling. In addition, subsequent issuance of a professional educator license is contingent upon the applicant having completed six additional semester hours or the equivalent of coursework in the teaching of reading.

Licensure grade bands

(R.C. 3319.22)

The bill amends the grade bands for which an individual may receive a resident educator license, professional educator license, senior professional educator license, or a lead professional educator license to pre-K through 8 or grades 6 through 12. However, the bill permits a school district or community school to employ a licensed educator to teach not more than two grade levels outside of the grade band designated on that educator's license for not more than two school years at a time. The school district superintendent or community school governing authority may opt to renew the educator's eligibility to teach outside of grade band every two years.

Under current law, the grade bands for licensure are pre-K through 5, grades 4 through 9, or grades 7 through 12.

Pre-service teaching for compensation

(R.C. 3319.0812 and 3319.088; conforming changes in R.C. 3314.03 and 3326.11)

The bill creates a three-year pre-service teaching permit for student teachers. Under the permit, student teachers may substitute teach and receive compensation for it. The bill requires the State Board to adopt rules establishing a new three-year pre-service teacher permit for students enrolled in educator preparation programs. Students must obtain the permit to student teach, participate in other training experiences, and serve as substitute teachers. A permit holder may substitute teach for up to one full semester, and be compensated for that service.

The bill permits the school district or school employer to approve one or more additional subsequent semester-long period of teaching for the permit holder. It also permits the Department, on a case-by-case basis, to extend the permit's duration to enable the permit holder to complete the educator preparation program in which the permit holder is enrolled.

Applicants for a pre-service teacher permit must submit to a criminal records check and be enrolled in the retained applicant fingerprint database (RAPBACK) in the same manner as any other licensed teacher. The bill requires the Department to notify an educator preparation program if an applicant has been arrested or convicted and authorizes the school district or school to take any action prescribed by law. Upon receiving that notice, the educator preparation program must provide to the Department a list of all school districts and schools to which the pre-service teacher has been assigned as part of the program.

The bill eliminates provisions of law that conflict with the bill's changes. Namely, it eliminates the law that prohibits requiring students preparing to become licensed teachers or educational assistants from holding an educational aide permit or paraprofessional license when

they are assigned to work with a teacher in a school district. The bill also eliminates the prohibition from those students receiving compensation.

Computer science educator licensure

(R.C. 3319.22 and 3319.236; Section 610.120, amending Section 733.61 of H.B. 166 of the 133rd General Assembly)

40-hour license for industry professionals

Under continuing law, an individual generally must hold a valid license in computer science, or have a licensure endorsement in computer technology and a passing score in a computer science content exam, to teach computer science courses.

As an exception to that general requirement, the bill requires the State Board to create a teaching license for industry professionals to teach computer science courses for up to 40 hours each week. A license holder may not teach any other subject. The Superintendent of Public Instruction must consult with the Chancellor of Higher Education in revising the requirements for licensure in computer science.

Continuing law prescribes a separate exception to the general requirement. Under that exception, a school district may employ an individual who holds any valid educator license if that individual has received a supplemental teaching license in computer science. An individual qualifies for a supplemental license by passing a computer science content exam and meeting other requirements established by the State Board.

Grade band specifications

The bill requires that each license for teaching computer science specify whether the educator is licensed to teach in grades K-12, pre-K-5, 4-9, or 7-12.

Temporary exemption from licensure

The bill extends through the 2024-2025 school year an exemption that permits a public school to permit an individual who holds a valid teaching license to teach computer science in any of grades K-12, if, prior to teaching the course, the individual completes a professional development course that provides computer science content knowledge. The superintendent or principal must approve any professional development program endorsed by the College Board, the organization that creates and administers the national Advanced Placement examinations, as appropriate for the course the individual will teach. The individual may not teach a computer science course in a school district or school other than the one that employed the individual when the individual completed the professional development program. Beginning July 1, 2025, a district or school may allow an individual to teach a computer science course only if the individual satisfies the requirements of permanent law.

It also extends the grade bands for which a license holder who takes advantage of the exemption must be licensed to teach from any of grades 7-12 to any of grades K-12.

Financial literacy license validation

(R.C. 3319.238 and 3319.239)

The bill exempts all chartered nonpublic schools from the general requirement that teachers who provide high school financial literacy instruction have a financial literacy license validation. Current law exempts only chartered nonpublic schools accredited through the Independent Schools Association of the Central States (ISACS) and nonchartered nonpublic schools that do not accept students with state scholarships. The bill also disqualifies chartered nonpublic schools from receiving state reimbursement for costs associated with financial literacy license validation for teachers.

School counselor licensure

(R.C. 3319.2213)

The bill codifies the requirements currently in rule for an initial five-year professional pupil services license in school counseling.[68] Specifically, it requires an applicant to complete an approved school counselor preparation program, pass an exam prescribed by the State Board, attain a master's degree, and complete a 600-hour internship.

In addition to those requirements, the bill requires an applicant to complete six hours of training about the building and construction trades and available apprenticeships. Those six hours may count toward meeting the 600-hour internship requirement.

Under the bill, the State Board also must require an individual who holds a valid professional pupil services license in school counseling to complete four hours of training in the building and construction trades and available apprenticeships. This training may be conducted and approved by a member of the building and construction trades. Those four hours may count toward meeting continuing education unit requirements established by the State Board for licensure renewal.

The training in the building and construction trades, for both an initial license and a license renewal, must be completed at a construction site or a training facility for the building and construction trades. The training must include information about:

1. The pay and benefits available to people who work in the building and construction trades in the individual's community; and

2. Job opportunities for boilermakers, electrical workers, bricklayers, insulators, laborers, iron workers, plumbers and pipefitters, roofers, plasterers and cement masons, sheet metal workers, painters and glaziers, elevator constructors, operating engineers, teamsters, and carpenters.

[68] O.A.C. 3301-24-05(C)(1)(b).

Community school employee misconduct

(R.C. 3314.03 and 3314.104)

The bill prohibits a community school from employing a person if the State Board permanently revoked or denied the person's educator license or if the person entered into a consent agreement in which the person agreed not to apply for an educator license in the future. It also requires that each community school sponsorship contract include the same prohibition.

Private school educator certification

(R.C. 3301.071)

The bill makes explicit that the State Board must issue teaching certificates to private school administrators, supervisors, and teachers who hold master's degrees from an accredited college or university without further educational requirements. Current law already requires the same for individuals who hold bachelor's degrees.

Veterans teaching without a license

(R.C. 3319.283, 3319.074, and 3319.291; Section 265.120)

The bill expands the eligibility of veterans to teach without a license. Current law permits school districts to employ as a teacher an eligible veteran who was honorably discharged within three years of June 30, 1997, who does not hold an educator license. The veteran also must have had meaningful teaching or other instructional experience while in the armed forces and at least a bachelor's degree. The bill removes the time requirement and permits an eligible veteran to teach regardless of when the veteran was honorably discharged. The bill also permits community and STEM schools to employ eligible, unlicensed veterans to teach.

The bill requires districts and schools employing eligible veterans as teachers to subject the veterans to a criminal records check, submit the criminal records check to the Department of Education and Workforce, and register with the Department during the period in which the veteran is employed by the school district or school. The Department must use the submitted information to enroll the veteran in the Ohio Bureau of Criminal Investigation's Retained Applicant Fingerprint Database (RAPBACK) in the same manner as any licensed educator.

As with licensed educators, the Department must promptly notify the school district or school if the Department receives notification of the arrest or conviction of a veteran who is registered as a teacher. In response to the arrest or conviction notification, the Department may take any authorized action regarding licensure and investigations that the Department considers appropriate. The Department is prohibited from accepting the application of any veteran teacher if the Department learns that the veteran has pleaded guilty to, has been found guilty by a jury or court of, or has been convicted of any absolute bar offense for teaching.[69]

[69] See R.C. 3319.31, not in the bill.

The bill also permits an eligible veteran to teach a core subject area. Core subject areas include reading and English language arts, mathematics, science, social studies, foreign language, and fine arts.

RAPBACK and criminal records checks

(R.C. 3319.316, 3319.391, and 3327.10)

Nonlicensed school employees

The bill requires the State Board of Education, rather than the Department on behalf of the State Board, to enroll the following individuals employed by or engaged in providing services to a school district, educational service center (ESC), or chartered nonpublic school in the Retained Applicant Fingerprint Database:

1. Any nonlicensed employee, including a bus driver;

2. Any contractor not licensed by the State Board;

3. Any contractor that holds a position that does not require a registration issued by the State Board.

The bill authorizes and requires the State Board to promptly transmit any notification received regarding a person subject to RAPBACK to the person's employer. To facilitate that process, the Bureau of Criminal Identification and Investigation (BCII) must first make the initial criminal records check requested by an employer available to the State Board. The bill requires the State Board to use that information to enroll the person in RAPBACK in the same manner as all other licensed teachers. If the State Board is unable to enroll the person because the person has not satisfied enrollment requirements, the State Board must notify the employer of the person's failure to satisfy those requirements. BCI is not required to make available to the State Board the records check of anyone who is already enrolled in RAPBACK on the date the person's employer requests a records check. The bill requires the State Board to inform the employer of any arrest, guilty plea or conviction of any person subject to the bill's RAPBACK provisions.

The bill requires that when the most recent criminal records check requested for a person subject to the bill's RAPBACK provisions was completed more than one year prior to the date of the most recent request, or if the records check does not include adequate information, the employer must request a new criminal records check that includes all required information, by a date prescribed by the State Board and every six years thereafter.

School volunteers

The bill specifically excludes from RAPBACK enrollment and criminal records checks any person who volunteers at a school building within a district, ESC, or chartered nonpublic school, including a parent volunteer in a student's classroom.

Background

When a person applies to the State Board of Education for issuance of an educator license or permit, the State Board must request a criminal records check that includes information from both the state Bureau of Criminal Identification and Investigation (BCII) and the Federal Bureau

of Investigation (FBI).[70] Additionally, when a person applies for renewal of an educator license or permit, the person generally must undergo a new criminal records check.

In addition to submitting to criminal records checks, each licensed Ohio educator is required by state law to be enrolled in a system called RAPBACK, an Ohio database that gives the Department of Education daily updates on any new criminal charges, arrests, or convictions of licensed educators. Educators must disclose any past professional discipline of any professional certificates, licenses, registrations or permits. This could include discipline on a nursing, law, education or other type of license from Ohio or any other state.

Educators must disclose all their criminal convictions on every licensure application and renewal submitted to the Department, even if the educator has reported the information on a previous application.

X. Student performance data

Online high school graduation rates

(R.C. 3302.0310)

The bill requires the Department to include a modified graduation rate measure on the state report card issued for an online high school operated by a school district or an internet- or computer-based community school ("e-school"), including dropout prevention and recovery schools. However, the modified graduation rate is a performance measure without an assigned performance rating, meaning the graduation rate is used as an indicator of the school's performance but is not factored into the school's report card rating.

The modified graduation rate is calculated in the same manner as the four-year adjusted cohort graduation rate, except that it only includes students who are deemed "graduation eligible students." Graduation eligible students are students who, when enrolling in the school for the first time, are in the twelfth grade and have earned as least 15 high school credits. The modified calculation does not include students who are automatically withdrawn from the online school due to an unexcused failure to participate in learning opportunities for 72 consecutive hours and who do not re-enroll in a school from the modified graduation rate's calculation.

Except as required by federal law, the Department must report the modified graduation rate as data without an assigned performance rating beginning with the report card for the 2023-2024 school year.

Individual student performance reports on value-added data

(R.C. 3302.021)

The bill requires the Department to make individual student performance data reports available to districts and schools that have an overall value-added progress dimension score calculated on the state report card. The reports must include data regarding student level percentiles, normal curve equivalents, unique identifiers, and other data each school year that a

[70] R.C. 3319.291, not in the bill.

district or school has an overall value-added progress dimension score calculated. The bill also requires the Department to make available the data used to calculate the district's or school's overall growth rating. The reports must be made available in an electronic spreadsheet form, as soon as practicable each school year. Finally, the bill explicitly subjects the data sharing requirements to state and federal student privacy laws.

Under continuing law, the value-added progress dimension is a measure of academic gain for a student or group of students over a specific period of time that is calculated by applying a statistical methodology to individual student achievement data derived from the achievement assessments. The overall value-added progress dimension score is used to determine a school's Progress component on the state report card.

Report of state assessment scores

(R.C. 3313.6029; conforming changes in R.C. 3314.03, 3326.11, and 3328.24)

The bill requires each public and chartered nonpublic school, by June 30 of each school year, to provide a student's parent with the student's score on any state assessment administered to the student in that year. Specifically, the school must mail or email the scores to the parent or post them in an accessible portal on the school's website.

XI. Career-technical education

Career-technical cooperative education districts

(R.C. 3313.831, 5705.2114, and 5705.01)

Establishment and purpose

The bill authorizes the boards of education of two or more city, local, or exempted village school districts, by adopting identical resolutions, to enter into an agreement to create a career-technical cooperative education district ("cooperative district"). The purpose of a cooperative district is to fund and provide students enrolled in grades 7-12 in member districts with a career-technical education adequate to prepare them for an occupation.

A cooperative district is not a joint vocational school district. Rather, it must be considered a career-technical education compact for the purposes of state education law. The cooperative district must be a lead district of a career-technical planning district and provide career-technical education leadership to its member districts. The Department of Education and Workforce must create an internal retrieval number for the cooperative district.

An agreement establishing a cooperative district ("district agreement") may be amended under terms and procedures mutually agreed to by member districts. A cooperative district's territory is composed of the combined territories of its member districts. Services funded by a cooperative district must be available to all individuals enrolled in member districts.

Governance

Board of directors

Each cooperative district is governed by a board of directors. The superintendent of each member district must serve on the board of directors. The board of directors is a public body for

the purposes of Ohio's open meetings law. Its records and the cooperative district's records are public records. The cooperative district is a public office and its directors are public officials with respect to the Ohio law that grants the Auditor of State authority to conduct audits of public offices. The district is also a political subdivision for the purposes of state law governing political subdivision tort liability.

The board of directors is a body corporate and politic. The board of directors is capable of suing and being sued, contracting within the limits of the provision and the district agreement, and accepting gifts, donations, bequests, or other grants of money.

Directors cannot receive compensation, but must be reimbursed for reasonable and necessary expenses incurred in the performance of their duties of the cooperative district. The district agreement must provide for the terms of office of directors, the conduct of the board's initial organizational meeting, the frequency of subsequent meetings, and quorum requirements. The board of directors, at its first meeting, must designate from among its members a president and secretary, in a manner provide in the district agreement.

The district agreement must require the board of directors to designate a permanent location for its office and meeting place. The agreement also may provide for the use of facilities and property for the provision of services by the agencies with which the board of directors contracts to provide services.

Fiscal officer

The district agreement must provide for the manner of appointment of an individual or entity to perform the duties of fiscal officer for the cooperative district. The agreement must specify the length of time an individual or entity must perform those duties and whether the individual or entity may be reappointed upon completion of a term. The fiscal officer may receive compensation for performing those duties and be reimbursed for reasonable expenses related to performing those duties from the cooperative district's special fund.

Legal adviser

The prosecuting attorney of the most populous county containing a cooperative district's member district must serve as the cooperative district's legal adviser. The prosecuting attorney must prosecute all actions against a member of the board of directors for malfeasance or misfeasance in office. Additionally, the prosecuting attorney must be legal counsel for the board of directors and its members in all other actions brought by or against them and conduct those actions in the prosecuting attorney official capacity. A prosecuting attorney cannot receive compensation in addition to the prosecuting attorney's regular salary.

Insurance

The board of directors of a cooperative district must procure a policy or policies of insurance insuring the board, its fiscal officer, and its legal representative against liability on account of damage or injury to persons and property. Before procuring such insurance, the board of directors must adopt a resolution setting forth the amount of insurance to be purchased, the necessity of the insurance, and a statement of its estimated premium cost. The procured

insurance must be from one or more recognized insurance companies authorized to do business in Ohio. The cost of the insurance must be paid from the district's special fund.

Career-technical education services

To provide career-technical education services, the board of directors of a cooperative district must provide for the hiring of employees or contract with one or more entities, including a cooperative district's member district, an educational service center, or a state institution of higher education. The district agreement must:

1. Provide for the distribution of services provided by the cooperative district and a resident district. The agreement must specify which services will be provided by the employees of member districts and which will be provided by the cooperative district.

2. Include a statement of how transportation of students to and from school will be provided by the cooperative district. The statement must include at least both of the following:

a. How special education students will be transported as required by their individualized education program; and

b. Whether the transportation to and from school will be provided to any other students of the cooperative district and, if so, the manner in which transportation will be provided.

Funding

In addition to its authority to accept gifts, donations, bequests, and other grants of money, the bill authorizes a cooperative district to levy voter-approved property taxes throughout the district. To do so, a majority of the boards of education of the school districts that make up the district must approve of the levy proposal before the board of directors may adopt a resolution to submit the question to the voters. The question may be submitted at a general or primary election at least 90 days after the resolution is certified to the county board of elections. The resolution must specify the rate or amount of the tax, up to three mills, and either the number of years that the tax will be levied or that the tax will be levied for a continuing period of time. The tax may be renewed by and must otherwise follow procedures applicable to other, similar tax levies. The board of directors must create a special fund to hold the proceeds of its property tax levy and its gifts, donations, bequests, and other grants.

The bill also requires the Department to compute and make payments to a cooperative district in the same manner as it makes payments to a lead district of a career-technical planning district.

Addition of a new member district

The board of education of a school district may join an existing cooperative district by adopting a resolution requesting to join and upon approval by the boards of education of current member districts. If the cooperative district has levied a property tax in the district, a board of education may join the district only after a majority of qualified electors in the school district voting on the question vote in favor of levying the tax throughout the district. A board of education joining an existing cooperative district must have the same powers, rights, and obligations under the district agreement as other member districts.

Withdrawal of a member district

The bill permits the board of education of a member district to withdraw that district from a cooperative district by adopting a resolution. The resolution must take effect on the date provided in the resolution. If a property tax is levied on the cooperative district, the resolution must take effect no later than the first day of January following the resolution's adoption. Beginning with the first day of January following the resolution's adoption, any property tax levied by the cooperative district cannot be levied in the withdrawing district.

Any tax collected in the territory of the withdrawing district that has not been settled and distributed when the resolution takes effect must be credited to the district's special fund.

Dissolution of a cooperative district

A district agreement must provide for the manner of the cooperative district's dissolution. The cooperative district must cease to exist when no more than one member district remains in the district and the property tax levied cannot be extended beginning the year after the district's dissolution. The district agreement must provide that, upon dissolution of the district, an unexpended balance in the district's special fund must be divided among the member districts party to the agreement immediately before dissolution of the district, in proportion to the taxable valuation of the taxable property in the member districts, and credited to their respective general funds.

Courses at Ohio Technical Centers

(R.C. 3313.901)

Upon approval by the Department, the bill permits school districts to contract with an Ohio Technical Center (OTC) to serve students in grades 7-12 who are enrolled in a career-technical education program at the district but cannot enroll in a course at the district due to one of the following reasons:

1. The course is at capacity and cannot serve all students who want to enroll in the course.

2. The student has a scheduling conflict that prevents the student from taking the course at the time offered by the district.

3. The district does not offer the course due to lack of enrollment, lack of a qualified teacher, or lack of facilities.

4. Any other reason determined by the Department.

Districts must apply to the Department for approval to contract with an OTC by submitting a plan describing how the district and the OTC will establish a collaborative partnership to provide career-technical education to students.

The bill also requires a district approved by the Department to do all of the following:

1. Award a student high school credit for completion of a course at an OTC;

2. Report students taking classes at OTCs to the education management information system (EMIS) as enrolled for the time the student is taking a course at an OTC indicating as such. However, the bill prohibits the district from counting a student taking a course at an OTC as more

than one full-time equivalent student, unless the student is enrolled full-time in the district during the regularly scheduled school day and takes the course at the OTC during time outside of normal school hours;

3. Pay to the OTC, per student, the lesser of the standard tuition charged for the course at the OTC or one of the following:

a. If the OTC is located on the same campus as the student's high school, the statewide average base cost per pupil and the amount applicable to the student for the portion of the full-time equivalency the student is enrolled in the course, without applying the district's state share percentage; or

b. If the OTC is not located on the same campus as the student's high school, $7,500.

The bill permits a district and an OTC to enter into an agreement to establish alternate amounts that the district must pay to the OTC.

Under the bill, districts may use career-technical education funds to pay for any costs incurred by students enrolling in courses at an OTC. Further, the Department must consider the cost of student OTC enrollment as an approved career-technical education expense. Finally, the bill permits an individual who holds an adult education permit issued by the State Board and is employed by an OTC to provide instruction to a student in grades 7-12 enrolled in a course at an OTC.

OTCs are career-technical centers and schools that provide adult education and are recognized as such by the Chancellor of Higher Education. There are currently 49 OTCs in the state.[71]

XII. Other

English learners

(R.C. 3301.0711, 3301.0731, and 3302.03; conforming in R.C. 3313.61, 3313.611, 3313.612, and 3317.016)

The bill eliminates an exemption that excused English learners who have been enrolled in a school in the United States for less than a full school year from being required to take any reading, writing, or English language arts assessment. The bill maintains an exemption for English learners who have been enrolled in a U.S. school for less than two years and for whom no appropriate accommodations are available.

The bill also eliminates an exemption that excluded, except as required by federal law, English learners who have been enrolled in a U.S. school for less than one school year from state report card performance measures. It requires English learners to be included on the state report card in accordance with the state's federally approved plan to comply with federal law.

Finally, the bill requires the State Board to adopt rules regarding the identification, instruction, assessment, and reclassification of English learners. The rules must conform to the

[71] See the Ohio Technical Centers website at ohiotechnicalcenters.com for more information.

Department's plan, as approved by the U.S. Secretary of Education, to comply with the federal "Elementary and Secondary Education Act of 1965."

School emergency management plans

(R.C. 5502.262)

The bill clarifies that all records *related to* a school's emergency management plan and emergency management tests are security records and are not subject to Ohio's public records laws. Current law specifies that copies of the emergency management plan and all of the following information incorporated into the plan are security records and are not subject to Ohio's public records laws:

1. Protocols for addressing serious threats to the safety of property, students, employees, or administrators;

2. Protocols for responding to any emergency events that occur and compromise the safety of property, students, employees, or administrators;

3. A threat assessment plan;

4. Protocols for school threat assessment teams; and

5. Information posted to the Contact and Information Management System.

The bill extends the deadline for a school administrator to submit the school district's or school's annual emergency management plan to the Director of Public Safety from July 1 to September 1.

Literacy improvement grants

(Section 265.330)

Professional development stipends

The bill requires the Department to use up to $43 million from funds appropriated for literacy improvement in each fiscal year to reimburse school districts, community schools, and STEM schools for stipends for teachers to complete professional development in the science of reading and evidence-based strategies for effective literacy instruction. It requires the Department to provide the professional development courses.

Under the bill, district and schools must require all teachers and administrators to complete a course provided by the Department, not later than June 30, 2025, except that any teacher or administrator who has previously completed similar training, need not complete the course. Teachers must complete the course at a time that minimizes disruptions to normal instructional hours. Teachers and administrators must complete the professional development course as follows:

1. First, all of the following:

a. All teachers of grades K through 5;

b. All English language arts teachers of grades 6 through 12;

c. All intervention specialists, English learner teachers, reading specialists, and instructional coaches who serve any of grades pre-K through 12.

2. Second, all teachers who teach a subject area other than English language arts in grades 6 through 12;

3. Third, all administrators.

The bill requires each district and school to pay a stipend to each teacher who completes a professional development course. The stipend must be $1,200 for each individual listed under (1) and $400 for each individual listed under (2). Each district and school may apply to the Department for reimbursement of the cost of the stipends. The bill prohibits the Department from providing reimbursement to an administrator to complete a professional development course.

The bill further requires the Department to work with the Department of Higher Education, institutions of higher education that offer educator preparation programs, and local professional development committees, to help teachers and administrators who complete a professional development course to earn college credit or to apply the coursework towards licensure renewal requirements. Additionally, the Department must collaborate with the Department of Higher Education, and institutions of higher education that offer educator preparation programs to align the coursework of the programs with the science of reading and evidence-based strategies for effective literacy instruction.

Subsidies for core curriculum and instructional materials

The bill requires the Department to use up to $64 million from funds appropriated for literacy improvement to subsidize the cost for school districts, community schools, and STEM schools to purchase high-quality core curriculum and instructional materials in English language arts and evidence-based reading intervention programs from the lists established by the Department.

Further, the Department must conduct a survey to collect information on the core curriculum and instructional materials in English language arts in grades pre-K through 5 and the reading intervention programs in grades pre-K through 12 that are being used by public schools. Each school district, community school, and STEM school must participate in the survey and provide the information requested by the Department.

Literacy supports coaches

The bill requires the Department to use up to $6 million in FY 2024 and up to $12 million in FY 2025 from funds appropriated for literacy improvement for coaches to provide literacy supports to school districts, community schools, and STEM schools with the lowest rates of proficiency in literacy based on their performance on the English language arts assessments. These coaches must have training in the science of reading and evidence-based strategies for effective literacy instruction and intervention and must implement “Ohio’s Coaching Model,” as described in Ohio’s Plan to Raise Literacy Achievement. The coaches will be under the direction of, but not employed by, the Department.

Early literacy activities

The bill requires the Department to support early literacy activities to align state, local, and federal efforts in order to bolster all students' reading success. The Department must distribute these funds to educational service centers (ESCs) to establish and support regional literacy professional development teams consistent with current law requirements. A portion of the funds may be used by the Department for program administration, monitoring, technical assistance, support, research, and evaluation.

Literacy instructional materials

(R.C. 3313.6028)

The bill requires the Department to compile a list of high-quality core curriculum and instructional materials in English language arts and a list of evidence-based reading intervention programs that are aligned with the science of reading and strategies for effective literacy instruction.

The bill defines the "science of reading" to mean an interdisciplinary body of scientific evidence that meets all of the following conditions:

1. Informs how students learn to read and write proficiently;

2. Explains why some students have difficult with reading and writing;

3. Indicates that all students benefit from explicit and systematic instruction in phonemic awareness, phonics, vocabulary, fluency, comprehension, and writing to become effective readers;

4. Does not rely on any model of teaching students to read based on meaning, structure and syntax, and visual cues, including a three-cueing approach.

Beginning not later than the 2024-2025 school year, each school district, community school, and STEM school must use core curriculum, instructional materials, and intervention programs only from the lists compiled by the Department.

The bill prohibits a district or school from using the "three-cueing approach" to teach students to read unless that district or school receives a waiver from the Department permitting them to do so. The bill defines "three-cueing approach" as any model of teaching students to read based on meaning, structure and syntax, and visual cues.

The bill further permits a district or school to apply for a waiver on an individual student basis to use curriculum, materials or an intervention program that uses the "three-cueing approach." However, students who have an individualized education program (IEP) that explicitly indicates use of the three-cueing approach and students who have a reading improvement and monitoring plan under the Third Grade Reading Guarantee do not need a waiver to receive instruction in the "three-cueing approach."

Prior to approval of a waiver, the Department must consider that district or school's performance on the state report card, including its score on the early literacy component.

Professional development

The bill requires the Department to identify vendors that provide professional development to educators, including pre-service teachers and faculty employed by educator preparation programs, on the use of high-quality core curriculum, instructional materials, and reading intervention programs from the list compiled by the Department that are aligned with the science of reading and strategies for effective literacy instruction.

The bill further requires a professional development committee to qualify any completed professional development coursework in literacy instruction provided by a vendor identified by the Department and coursework completed through literacy improvement stipends paid to teachers for professional development in the science of reading and evidence-based strategies for effective literacy instruction to count toward professional development coursework requirements for teacher licensure renewal. Each committee must permit a teacher roll over to the next licensure renewal period any hours earned over the minimum amount required for professional development coursework related to literacy.

Phonics standards

The bill expands from kindergarten through three to kindergarten through five the grades for which the State Board of Education must prescribe standards for the teaching of phonics. The bill commensurately expands the grade bands for which the State Board must provide in-service training programs for teachers on the use of phonics as a technique in the teaching of reading.

EMIS reporting of literacy instructional materials

(R.C. 3301.0714)

The bill requires each district and school to report to the education management information system (EMIS) the English language arts curriculum and instructional materials it is using for each of grades pre-K-5 and the reading intervention programs being used in each of grades pre-K-12.

JCARR review of changes regarding community schools

(R.C. 3301.85)

The bill requires the Department of Education and Workforce to submit to the Joint Committee on Agency Rule Review (JCARR) any proposed changes to the Education Management Information System (EMIS) or the Department's "business rules and policies" that may affect community schools. Once submitted, JCARR must hold public hearings regarding the changes, consider testimony, and vote to determine whether community schools can reasonably comply with those changes.

The bill also prohibits the Department from implementing any changes to EMIS or its business rules and policies that may affect community schools unless and until JCARR issues a determination that community schools can reasonably comply with the proposed changes.

Quality Community and Independent STEM School Support Program

(Sections 265.430, 265.431, and 265.432)

Continuation

The bill continues the Quality Community School Support Program. Under the program, the Department must pay each community school that is designated as a "Community School of Quality" up to $3,000 per fiscal year for each student identified as economically disadvantaged and up to $2,250 per fiscal year for each student who is not identified as economically disadvantaged.

However the bill changes the payment determination for a fiscal year based on current student enrollment instead of the final adjusted enrollment for the prior fiscal year. The bill also designates the Controlling Board, rather than the Director of Budget and Management, as the entity responsible for authorizing expenditures in excess of amounts appropriated under the program.

"Community School of Quality" designation

Under the bill, to be a "Community School of Quality," the community school must meet at least one of the following sets of conditions:

1. The community school meets all of the following:

a. The school's sponsor was rated "exemplary" or "effective" on its most recent evaluation;

b. The school received a higher performance index score than the school district in which it is located on the two most recent report cards issued;

c. The school either:

i. Received a performance rating of four stars or higher for the value-added progress dimension on its most recent report card; or

ii. Is a school where a majority of its students are either enrolled in a dropout prevention and recovery program operated by the school or are children with disabilities receiving special education and related services, and the school did not receive a rating for the value-added progress dimension on the most recent report card; and

d. At least 50% of the students enrolled in the school are economically disadvantaged, as determined by the Department.

2. The community school meets all of the following:

a. The school's sponsor was rated "exemplary" or "effective" on its most recent evaluation;

b. The school is either:

i. In its first year of operation; or

ii. Opened as a kindergarten school, has added one grade per year, and has been in operation for less than four school years;

c. The school is replicating an operational and instructional model used by a community school that qualifies as a Community School of Quality under the first set of conditions; and

d. If the school has an operator, its operator received a "C" or better on its most recent performance report.

3. The community school meets all of the following:

a. The school's sponsor was rated "exemplary" or "effective" on its most recent evaluation;

b. The school satisfies either of the following:

(i) The school contracts with an operator that operates schools in other states and meets at least one of the following:

(I) The operator has operated a school that received a grant funded through the federal Charter School Program established under 20 U.S.C. 7221 within the five years prior to the date of application or receiving funding from the Charter School Growth Fund;

(II) The operator meets all of the following:

- One of the operator's schools in another state performed better than the school district in which the school is located, as determined by the Department;

- At least 50% of the total number of students enrolled in all of the operator's schools are economically disadvantaged, as determined by the Department;

- The operator is in good standing in all states where it operates schools, as determined by the Department; and

- The Department has determined that the operator does not have any financial viability issues that would prevent it from effectively operating a community school in Ohio; and

(ii) The school is in its first year of operation.

A school that is designated as a Community School of Quality maintains that designation for the two fiscal years following the fiscal year it is designated. Such a school may also seek to renew its designation each year, which extends the designation for the two fiscal years following the renewal. Schools that were designated as a Community School of Quality based on the report cards issued for the 2017-2018 and 2018-2019 school years may renew their designation in this manner. Furthermore, a school that was designated as a Community School of Quality for the first time for the 2022-2023 school year maintains that designation through the 2027-2028 school year and may renew its designation each year.

Merged community schools

The bill specifically qualifies for the program the surviving community school of a merger that takes place on or after June 30, 2022, provided it otherwise qualifies as a Community School of Quality under one of the sets of criteria described above. Payment for these schools is calculated using the adjusted full-time equivalent number of students enrolled in the school for the fiscal year as of the date the payment is made, as reported by the surviving community school, regardless of whether those students were previously enrolled in a community school that was dissolved as part of the merger.

Finally, the bill qualifies a school dissolved under the merger that otherwise qualified for the program to receive and retain funds received under the program prior to the bill's effective date.

Expansion to include independent STEM schools

The bill expands the Quality Community Schools Support program to include a STEM school that:

1. Operates autonomously;

2. Does not have a STEM school equivalent designation;

3. Is not governed by a school district;

4. Is not a community school;

5. Cannot levy taxes or issue tax-secured bonds;

6. Satisfies continuing law requirements for STEM schools; and

7. Satisfies the requirements described in the Quality Model for STEM and STEAM Schools established by the Department.

Innovative Pilot Program waivers

The bill prohibits waivers of the requirements associated with blended learning or operating an online learning school as part of an Innovative Education Pilot Program. Under continuing law, a school district, ESC, or chartered nonpublic school may submit an application to the State Board of Education proposing an Innovative Education Pilot Program, the implementation of which requires exemptions from specific statutory provisions and rules.

High-performing vulnerable student study

(Section 733.40)

The bill requires the Department to contract with a third party to conduct a study of schools that serve sizable populations of vulnerable students and demonstrate high performance. For purposes of the study, the vulnerable students may include students who are economically disadvantaged, English learners, students with disabilities, highly mobile students, or students who are otherwise considered vulnerable by the Department.

The bill requires the Department to include in the study, to the extent possible, schools representing different typologies, regions of the state, and grade levels. Upon completion of the

study, the bill requires the Department to develop an informational guide based on the study's results with best practices and to share the guide with school districts.

Academic distress commissions

Moratorium

(Section 265.540)

The bill prohibits the state Superintendent from establishing any new academic distress commissions (ADCs) for the 2023-2024 and 2024-2025 school years. Otherwise, under continuing law, the state Superintendent must establish an ADC for certain school districts with persistently low academic performance to guide actions to improve their performance. That law requires each ADC to appoint a chief executive officer (CEO) who has substantial powers to manage the operation of a qualifying district and prescribes progressive consequences for the district, including possible changes to collective bargaining agreements and eventual mayoral appointment of the district board.[72]

H.B. 110 of the 134th General Assembly established a moratorium on the establishment of new ADCs for the 2021-2022 and 2022-2023 school years, which the bill extends. H.B. 110 also established a process by which school districts subject to an existing ADC may make an early transition out of ADC oversight prior to meeting the conditions for transitioning out of the oversight of an ADC. For a detailed description of this process, see the LSC's Final Analysis for H.B. 110.[73]

Lorain City School District

(R.C. 3302.111)

The bill dissolves the Lorain City School District academic distress commission (ADC) and academic improvement plan immediately following the bill's effective date. It requires that upon dissolution of the ADC, the chief executive officer relinquish management and control of the school district to the district board of education and the district superintendent.

The Lorain City School districts has been subject to an ADC since 2013.

State share of local property taxes in five-year forecasts

(R.C. 5705.391)

Beginning with FY 2024, the bill requires the Department and Auditor of State to label the property tax allocation projections in a school district's five-year forecast as the "state share of local property taxes."

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[72] R.C. 3302.10, not in the bill.

[73] See H.B. 110 of the 134th General Assembly Final Analysis (PDF) at pp. 211-213, available at: legislature.ohio.gov.

Each fiscal year a school district must submit a five-year projection of its operational revenues and expenditures to the Department and Auditor of State. The property tax allocation projection accounts for the reimbursements a district may receive from the state for property tax rollbacks, the homestead exemption, and tangible personal property tax losses.[74]

State Report Card Review Committee

(R.C. 3302.039)

The bill eliminates the State Report Card Review Committee which is required to be established on July 1, 2023. Accordingly, the bill also eliminates the requirement that the Committee conduct a study of the state report card and submit a report by June 30, 2024, with its findings and recommendations for improvements, corrections, and clarifications to the state report card.

Private before and after school care programs – licensure

(R.C. 3301.52, 3301.57, and 3301.58)

At present, before and after school child care programs must be licensed as child care by the Department of Job and Family Services; however school child programs subject to licensure by the Department of Education are exempt.[75] The bill allows an "authorized private before and after school care program" to obtain from the Department of Education and Workforce a school child program license. Current law authorizes each of the following entities to obtain such a license: a school district board of education, county board of developmental disabilities, community school, or eligible nonpublic school.

Under the bill, an authorized private before and after school care program is a child care program operated only for school children that is all of the following:

- Operated by a nonprofit or for-profit private entity;
- Operated under a contract with a school district board of education, community school, or eligible nonpublic school;
- Conducted only outside of school hours and in a building owned or operated by the contracting board or school.

[74] See How to Read a Five-Year Forecast (PDF), available at the Department's website: education.ohio.gov.

[75] R.C. 5104.02(B)(6).

BOARD OF EMBALMERS AND FUNERAL DIRECTORS

- Reestablishes the requirement that an individual obtain a crematory operator permit to perform cremations.
- Corrects an error in the law prohibiting the unauthorized removal of items from a body before or after cremation.

Reinstate crematory operator permit

(R.C. 4717.01, 4717.02, 4717.03, 4717.04, 4717.06, 4717.07, 4717.08, 4717.09, 4717.11, 4717.13, 4717.15, 4717.36, and 4717.41; Sections 2, 3, and 8 of H.B. 509 of the 134th G.A., amended in Sections 125.11 to 125.13)

The bill reestablishes the requirement that an individual obtain a crematory operator permit in order to perform cremations in Ohio. H.B. 509 of the 134th General Assembly repealed the permit, effective December 31, 2024, and instead required that a crematory operator maintain, and file with the Board of Embalmers and Funeral Directors, an active certification from a national crematory operator certification program. The bill reverses that future repeal and the associated national certification requirement. It extends application of current law, which requires a prospective crematory operator to apply to the Board, submit an initial permit fee, prove that they are at least 18 years old, and provide evidence of completing a Board-approved crematory operation certification program.

Removal of items before or after cremation

(R.C. 4717.26)

Continuing law prohibits a crematory facility from removing dental gold, body parts, organs, or other items of value from a body before or after cremation, unless the removal is authorized by the cremation authorization form. The bill corrects an error in the law by adding a missing word.

ENVIRONMENTAL PROTECTION AGENCY

OEPA policies

- Revises the statute governing Environmental Protection Agency (OEPA) policies to ensure that those policies are consistent with, and not more stringent than, Ohio's environmental protection laws and rules adopted under them.
- Prohibits a policy from establishing any substantive duty, obligation, prohibition, or regulatory burden not imposed by a statute or rule.

E-Check extension

- Extends the motor vehicle inspection and maintenance program (E-Check) in the counties where this program is implemented by:
  - Authorizing the OEPA Director to request the Director of Administrative Services (DAS Director) to extend the existing contract with the contractor that conducts the program, beginning July 1, 2023, for a period of up to 24 months through June 30, 2027; and
  - Requiring the OEPA Director, before the contract extension expires, to request the DAS Director to enter into a contract (with a vendor to operate a decentralized program) through June 30, 2027, with an option to renew the contract for up to 24 months through June 30, 2029.

Solid waste transfer and disposal fees

- Revises and reallocates the current solid waste transfer and disposal fees (while maintaining the total fees charged at $4.75 per ton) as follows:
  - Reduces a 90¢ per ton fee to 71¢ per ton and allocates the proceeds as follows:
    - 11¢ per ton, rather than 20¢ per ton, to the Hazardous Waste Facility Management Fund, which must be used by OEPA to administer the hazardous waste program;
    - 60¢ per ton, rather than 70¢ per ton, to the Hazardous Waste Clean-Up Fund, which must be used by OEPA to administer hazardous waste clean-up programs.
  - Increases, from 75¢ per ton to 90¢ per ton, the fee that is deposited in the Waste Management Fund, which is used by OEPA to administer and enforce laws governing solid and infectious waste and construction and demolition debris;
  - Reduces, from $2.85 per ton to $2.81 per ton, the fee that is deposited in the Environmental Protection Fund, which is used by OEPA to administer and enforce environmental protection laws;
  - Maintains the current 25¢ per ton fee that is used to provide assistance to soil and water conservation districts;

- Imposes a new additional fee on the transfer or disposal of solid waste of 8¢ per ton, through June 30, 2026, which must be deposited in the National Priority List Remedial Support Fund created by the bill.

- Extends the sunset on all four existing solid waste transfer and disposal fees from June 30, 2024 to June 30, 2026.

- Requires the OEPA Director to use money in the new fund for the state's removal action and remedial action and long term operation and maintenance costs or applicable cost shares for actions taken under the federal "Comprehensive Environmental Response, Compensation, and Liability Act."

- Authorizes the Director to use money in the new fund to contract with federal, state, or local government agencies, nonprofit organizations, colleges, and universities to carry out the responsibilities specified above on behalf of OEPA.

Construction and demolition debris (C&DD) fees

- Reallocates the 50¢ per cubic yard or $1 per ton disposal fee charged for construction and demolition debris (C&DD) by:

  - Reducing the portion of the fee (currently 37.5¢ per cubic yard or 75¢ per ton) that is for recycling and litter prevention by 2.5¢ per cubic yard and 5¢ per ton, respectively; and

  - Allocating the reduced amount (2.5¢ per cubic yard and 5¢ per ton) for waste management under the solid, hazardous, and infectious waste and C&DD laws.

Environmental fee sunsets

- Extends all of the following fees, which remain unchanged by the bill, for two years:

  - The sunset on the annual emissions fees for synthetic minor facilities;

  - The sunset of the annual discharge fees for holders of National Pollution Discharge Elimination System (NPDES) permits issued under the Water Pollution Control Law;

  - The sunset of the $200 application fee for an NPDES permit and the decrease of that fee to $15 at the end of two years;

  - 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 annual discharge fees paid by the holder of an NPDES permit and the surcharge paid by holders of NPDES permits that are major dischargers;

  - The sunset of initial and renewal license fees for public water system licenses issued under the Safe Drinking Water Law;

  - The levying of higher fees, and the decrease of those fees at the end of the two years, for plan approvals for public water supply systems under the Safe Drinking Water Law;

- 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 and examinations for certification as operators of water supply systems or wastewater systems under the Safe Drinking Water Law or the Water Pollution Control Law; 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.

Scrap tires

- Reduces the financial assurance amount that a person must submit to the OEPA Director to obtain a registration to transport scrap tires from at least $20,000 to $10,000 or less.
- Eliminates the (up to) $300 fee currently charged to a person registering for and renewing a certificate to transport scrap tires.
- Exempts certain nonprofit, governmental, educational, and civil organizations from the scrap tire transporter registration requirements if the organization is conducting a scrap tire clean up event or community tire amnesty collection event that has received written concurrence from the OEPA.
- Expands the allowable uses of the Scrap Tire Grant Fund.
- Removes the requirement that a person who has been issued an order by the Director to remove scrap tires do so within 120 days after the issuance of the order, and instead requires that person to comply with each milestone established in the order within the timeframe specified in the order.
- Allows the Director, when performing a scrap tire removal action, to remove, transport, and dispose of any additional solid wastes or construction and demolition debris (C&DD) that was illegally disposed of on the land named in a removal order.

Original signatories to environmental covenant

- Authorizes an applicable agency that is party to an environmental covenant to determine that the signature of a person who originally signed the covenant is not necessary in order to amend or terminate it.
- Eliminates the need to provide notice to an original signatory specified above when an environmental covenant is subject to termination or amendment via an eminent domain proceeding.
- Retains the ability of an original signatory to an environmental covenant who is not a current owner of the subject property in fee simple to file a civil action to enforce the covenant.

Advanced recycling

- Exempts advanced recycling conducted at an advanced recycling facility from regulation under the Solid Waste Law, rather than solely exempting the process of converting post-use polymers and recoverable feedstocks using gasification and pyrolysis as in current law.
- Specifies that "advanced recycling" generally means a manufacturing process for the conversion of post-use polymers and recovered feedstocks into basic raw materials, feedstocks, chemicals, and other products.
- Specifies that an "advanced recycling facility" generally means a manufacturing facility that stores and converts post-use polymers and recovered feedstocks it receives using advanced recycling.
- Expands the processes by which post-use polymers and recovered feedstocks may be converted to include depolymerization, catalytic cracking, reforming, hydrogenation, solvolysis, chemolysis, and other similar technologies.
- Retains pyrolysis and gasification as mechanisms by which post-use polymers and recovered feedstocks may be converted, but alters the meaning of those terms.
- Exempts legitimate recycling from solid waste disposal regulations.
- Exempts depositing of waste at a legitimate recycling facility or at an advanced recycling facility from open dumping penalties.
- Subjects disposing of scrap tires in a nonlicensed building, vehicle, or trailer to open dumping penalties.
- Makes additional definitional changes necessary for the expanded exemption established by the bill.

Coal combustion residuals

- Requires the OEPA Director to establish a program for the regulation of coal combustion residuals (CCR) storage and disposal.
- Requires the Director to adopt rules for the program that are no more stringent than federal requirements governing CCR.
- Requires the rules to address siting criteria and ground water monitoring, financial assurance, design and construction, and closure and post-closure requirements governing CCR units, which generally include CCR landfills and CCR surface impoundments.
- Exempts CCR units from laws governing solid, hazardous, and infectious waste.
- Exempts CCR units from specific prohibitions under the water pollution control law, but allows the Director to require the owner or operator of a CCR unit to obtain a permit to install or an NPDES permit under that law.
- Authorizes the Director to cooperate with other local, state, or federal government entities to carry out the program purposes.

OEPA policies

(R.C. 3745.30)

The bill revises the statute governing OEPA policies to ensure that those policies are consistent with, and not more stringent than, Ohio's environmental protection laws and rules adopted under them. Specifically, it prohibits a policy from establishing any substantive duty, obligation, prohibition, or regulatory burden not imposed by a statute or rule, or from impairing any right or permitted conduct. It also declares that a policy has no force *or effect* of law, rather than declaring that it does not have the force of law as in current law. Further the bill states that:

1. OEPA may exercise quasi-legislative, quasi-judicial, permitting, enforcement, or other regulatory functions based only on an applicable statute or valid rule;

2. The application of a policy by OEPA in a manner that makes the policy the functional equivalent of, or a substitute for, a statute or rule, or that effectively alters or amends a statute or rule, or that assumes powers not plainly delegated to OEPA by statute, is prohibited; and

3. Each policy must be displayed on, and searchable through, OEPA's website, and proposed policies must be advertised on the website.

The bill retains current law that states that a policy must comply with the statutes and rules that are in existence at the time the policy is established and that a policy may not establish a new requirement.

The bill expands the meaning of the term policy to include any clarification, explanation, or interpretation of a statute or rule, or elaboration based on OEPA authority or expectations, that is initiated or used by OEPA for regulatory purposes, but that is not a rule. It also stipulates that a policy includes documents, manuals, advisories, protocols, forms, and other written or electronic materials provided to the public, a regulated party, or OEPA personnel regarding substance, requirements, procedures, or interpretation of a statute or rule. The bill specifies that a policy does not include:

1. Any matters relating only to OEPA's internal management;

2. Any final adjudicatory order applicable only to specific parties; or

3. An emergency order.

Current law, eliminated by the bill, also specifies that a policy does not include educational guidelines, suggestions, or case studies regarding how to comply with a statute or rule or any document or guideline regarding the internal organization or operation of OEPA.

E-check extension

(R.C. 3704.14)

The bill extends the motor vehicle inspection and maintenance program (E-Check) in the seven counties (Cuyahoga, Geauga, Lake, Lorain, Medina, Portage, and Summit) where this program is implemented by:

1. Authorizing the OEPA Director to request the Director of Administrative Services (DAS Director) to extend the existing contract (with the contractor that conducts the program) beginning July 1, 2023, for a period of up to 24 months through June 30, 2027; and

2. Requiring the OEPA Director, before the contract extension expires, to request the DAS Director to enter into a contract (with a vendor to operate a decentralized program) through June 30, 2027, with an option to renew the contract for up to 24 months through June 30, 2029.

The bill retains the requirement that the new contract ensure that the program achieves at least the same emissions reductions achieved under the prior contract. It also retains the requirement that the DAS Director must use a competitive selection process when entering into a new contract with a vendor. Last, the bill retains all statutory requirements governing the program, including requirements that E-Check be a decentralized program (meaning tests do not take place at dedicated testing centers) and include a new car exemption for motor vehicles that are up to four years old.

Solid waste transfer and disposal fees

(R.C. 3734.57 and 3734.579)

The bill revises and reallocates the current fees collected on the transfer or disposal of solid waste and imposes one new fee, while maintaining the current total per ton charge collected at $4.75 per ton. The table below illustrates the revisions to each fee and the imposition of one new fee:

Fee under current law	Fee under the bill
The 90¢ fee, collected until June 30, 2024, is currently allocated as follows: ▪ 20¢ per ton, to the Hazardous Waste Facility Management Fund, which must be used by OEPA to administer the hazardous waste program; ▪ 70¢ per ton, to the Hazardous Waste Clean-Up Fund, which must be used by OEPA to administer hazardous waste clean-up programs.	The bill extends the sunset of the fee to June 30, 2026, reduces the fee to 71¢ per ton, and allocates the proceeds as follows: ▪ 11¢ per ton to the Hazardous Waste Facility Management Fund; ▪ 60¢ per ton to the Hazardous Waste Clean-Up Fund.
The 75¢ per ton fee, collected until June 30, 2024, is deposited in the Waste Management Fund, which is used by OEPA to administer and enforce laws governing solid and infectious waste and construction and demolition debris.	The bill increases the fee to 90¢ per ton and extends the sunset of the fee to June 30, 2026.
The $2.85 per ton fee, collected until June 30, 2024, is deposited in the Environmental Protection Fund, which is used by OEPA to administer and enforce environmental protection laws.	The bill reduces the fee to $2.81 per ton and extends the sunset of the fee to June 30, 2026.

Fee under current law	Fee under the bill
The 25¢ per ton fee, collected until June 30, 2024, is used to provide assistance to soil and water conservation districts.	The bill maintains the 25¢ fee and extends the sunset of the fee to June 30, 2026.
Not applicable: this fee is not collected under current law.	The bill imposes a new 8¢ per ton fee, until June 30, 2026, which must be deposited in the National Priority List Remedial Support Fund created by the bill. The OEPA Director must use the fund for the state's removal action and remedial action and long term operation and maintenance costs or applicable cost shares for actions taken under the federal "Comprehensive Environmental Response, Compensation, and Liability Act" (CERCLA). The Director may use money in the fund to contract with federal, state, or local government agencies, nonprofit organizations, colleges, and universities to carry out those responsibilities on behalf of OEPA.

Construction and demolition debris (C&DD) fees

(R.C. 3714.073)

The bill reallocates the disposal fee charged for both construction and demolition debris (C&DD) and asbestos or asbestos-containing materials. Currently, the disposal fee charged to a person disposing of C&DD or asbestos is 50¢ per cubic yard or $1 per ton and that fee is allocated as follows:

1. 12.5¢ per cubic yard or 25¢ per ton is used for soil and water conservation districts; and

2. 37.5¢ per cubic yard or 75¢ per ton is used for recycling and litter prevention.

The bill retains the overall amount charged for disposal (50¢ per cubic yard or $1 per ton), but reallocates the proceeds distribution by:

1. Reducing the portion of the fee (currently 37.5¢ per cubic yard or 75¢ per ton) that is for recycling and litter prevention by 2.5¢ per cubic yard and 5¢ per ton, respectively; and

2. Allocating the reduced amount (2.5¢ per cubic yard and 5¢ per ton) for waste management under the solid, hazardous, and infectious waste and C&DD laws.

Environmental fee sunsets

(R.C. 3745.11 and 3734.901)

The bill extends the period of validity for various OEPA-administered fees that remain unchanged under the laws governing air pollution control, water pollution control, safe drinking water, and scrap tires. The following table sets forth each fee, its purposes, and the time period OEPA is authorized to charge the fee under current law and the bill:

Type of fee	Description	Fee under current law	Fee under the bill
Synthetic minor facility: emission fee	Each person who owns or operates a synthetic minor facility must pay an annual fee in accordance with a fee schedule that is based on the sum of the actual annual emissions from the facility of particulate matter, sulfur dioxide, nitrogen dioxide, organic compounds, and lead. 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 source 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.	The fee is required to be paid through June 30, 2024.	The bill extends the fee through June 30, 2026.
Wastewater treatment works: plan approval application fee	A person applying for a plan approval for a wastewater treatment works is required to pay one of the following fees depending on the date: ▪ A tier one fee of $100 plus 0.65% of the estimated project cost, up to a maximum of $15,000; or ▪ A tier two fee of $100 plus 0.2% of the estimated project cost, up to a maximum of $5,000.	An applicant is required to pay the tier one fee through June 30, 2024, and the tier two fee on and after July 1, 2024.	The bill extends the tier one fee through June 30, 2026; the tier two fee begins on or after July 1, 2026.
Discharge fees for holders of NPDES permits	Each NPDES permit holder that is a public discharger or an industrial discharger with an average daily discharge flow of 5,000 or more gallons per day must pay an annual discharge fee based on the average daily	The fees are due by January 30, 2022, and January 30, 2023.	The bill extends the fees and the fee schedules to January 30, 2024,

Type of fee	Description	Fee under current law	Fee under the bill
	discharge flow. There is a separate fee schedule for public and industrial dischargers.		and January 30, 2025.
Surcharge for major industrial dischargers	A holder of an NPDES permit that is a major industrial discharger must pay an annual surcharge of $7,500.	The surcharge is required to be paid by January 30, 2022, and January 30, 2023.	The bill extends the fee to January 30, 2024, and January 30, 2025.
Discharge fee for specified exempt dischargers	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.	The fee is due by January 30, 2022, and January 30, 2023.	The bill extends the fee to January 30, 2024, and January 30, 2025.
License fee for public water system license	A person is prohibited from operating or maintaining a public water system without an annual license from OEPA. 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.	The fee for an initial license or a license renewal applied through June 30, 2024, and is required to be paid annually in January.	The bill extends the initial license and license renewal fee through June 30, 2026.
Fee for plan approval to construct, install, or modify a public water system	Anyone who intends to construct, install, or modify a public water supply system must obtain approval of the plans from OEPA. The fee for the plan approval is $150 plus 0.35% of the estimated project cost. However, continuing law sets a cap on the fee.	The cap on the fee is $20,000 through June 30, 2024, and $15,000 on and after July 1, 2024.	The bill extends the cap of $20,000 through June 30, 2026; the cap of $15,000 applies on and after July 1, 2026.

Type of fee	Description	Fee under current law	Fee under the bill
Fee on state certification of laboratories and laboratory personnel	In accordance with two schedules, OEPA charges a fee for evaluating certain laboratories and laboratory personnel. An additional provision states 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 $500 for each additional survey requested.	The schedule with higher fees applied through June 30, 2024, and the schedule with lower fees applied on and after July 1, 2024. The $500 additional fee applied through June 30, 2024.	The bill extends the higher fee schedule through June 30, 2026; the lower fee schedule applies on and after July 1, 2026. The bill extends the additional fee through June 30, 2026.
Fee for examination for certification as an operator of a water supply system or wastewater system	A person applying to OEPA to take an examination for certification as an operator of a water supply system or a wastewater system (class A and classes I-IV) must pay a fee, at the time an application is submitted, in accordance with a statutory schedule.	A schedule with higher fees applied through November 30, 2024, and a schedule with lower fees applied on and after December 1, 2024.	The bill extends the higher fee schedule through November 30, 2026; the lower fee schedule applies on and after December 1, 2026.
Application fee for a permit (other than an NPDES permit), variance, or plan approval	A person applying for a permit (other than an NPDES permit), a variance, or plan approval under the Safe Drinking Water Law or the Water Pollution Control Law must pay a nonrefundable fee.	If the application is submitted through June 30, 2024, the fee is $100. The fee is $15 for an application submitted on or after July 1, 2024.	The bill extends the $100 fee through June 30, 2026; the $15 fee applies on and after July 1, 2026.
Application fee for an NPDES permit	A person applying for an NPDES permit must pay a nonrefundable application fee.	If the application is submitted through June 30, 2024, the fee is $200. The fee is $15 for an application submitted on or after July 1, 2024.	The bill extends the $200 fee through June 30, 2026; the $15 fee applies on and after July 1, 2026.

Type of fee	Description	Fee under current law	Fee under the bill
Fees on the sale of tires	A base fee of 50¢ per tire is levied on the sale of tires to assist in the cleanup of scrap tires. An additional fee of 50¢ per tire is levied to assist soil and water conservation districts.	Both fees are scheduled to sunset on June 30, 2024.	The bill extends the fees through June 30, 2026.

Scrap tires

(R.C. 3734.74, 3734.822, 3734.83, and 3734.85)

The bill reduces the financial assurance amount that a person must submit to the OEPA Director to obtain a registration to transport scrap tires. Under current law, prior to the Director issuing the registration, a transporter must submit a surety bond, a letter of credit, or other financial assurance acceptable to the Director of *at least $20,000*. The bill reduces this amount to *$10,000 or less*. The Director, consistent with current law, determines the exact amount by considering what is necessary to cover:

1. The costs of cleanup of tires improperly accumulated or discarded by the transporter; and

2. Liability for sudden accidental occurrences that result in damage or injury to persons or property or to the environment.

The bill eliminates the (up to) $300 fee currently charged to a person registering for and renewing a certificate to transport scrap tires. Current law requires the proceeds of the $300 fee to be deposited in the Scrap Tire Management Fund.

It also exempts from the scrap tire transporter registration requirements any of the following entities conducting a scrap tire clean up event or community tire amnesty collection event that has received written concurrence from the OEPA:

1. A nonprofit organization;

2. A federal, state, or local government;

3. A university; or

4. Other civic organization.

In addition, it allows the Scrap Tire Grant Fund to be used for both of the following:

1. Scrap tire amnesty and cleanup events hosted or sponsored by a state agency or political subdivision (e.g., a county, municipal corporation, and township); and

2. A scrap tire amnesty and cleanup event hosted by a solid waste management district, in addition to an event sponsored by a district as under current law.

Under current law, the Scrap Tire Grant Fund may be used to support market development activities for scrap tires and synthetic rubber from tire manufacturing processes and tire recycling processes. It also may be used to support scrap tire amnesty cleanup events sponsored by solid waste management districts.

The bill removes the requirement that a person who has been issued an order by the Director to remove scrap tires do so within 120 days after the issuance of the order. Instead, it requires a person to comply with each milestone established in the order within the timeframe specified in the order. Under continuing law, if the person who has been issued the order fails to comply with the order, the Director may then perform scrap tire removal and the person is liable to the Director for the costs associated with the removal. The bill allows the Director, when performing a scrap tire removal action, to also remove, transport, and dispose of any additional solid wastes or construction and demolition debris (C&DD) that was illegally disposed of on the land named in a removal order if the removal of the waste or debris is required by the order. However, the Director cannot record the cost of any solid waste and C&DD removal as a lien against the property. Under current law retained by the bill, the Director is required to record the costs of the scrap tire removal operation at the county recorder of the county in which the accumulation of scrap tires was located.

Original signatories to environmental covenant

(R.C. 5301.90 and 5301.91)

The bill authorizes an applicable agency (for example, OEPA) that is party to an environmental covenant to determine that the signature of a person who originally signed the covenant is not necessary in order to amend or terminate it. Under current law, an environmental covenant may only be amended or terminated by consent and with the signature of all of the following:

- The applicable agency;
- The current owner in fee simple of the real property that is subject to the covenant (unless waived by the agency);
- Each original signer of the covenant, unless:
  - The person waived in a signed record the right to consent; or
  - A court finds the person no longer exists or cannot be located.

As a result, the bill eliminates the need to provide notice to an original signatory (who the agency determines is not necessary to amend or terminate the environmental covenant) when the environmental covenant is subject to termination or amendment via an eminent domain proceeding. However, the bill retains the ability of an original signatory who is not a current owner of the subject property in fee simple to file a civil action to enforce the covenant.

Advanced recycling and legitimate recycling

(R.C. 3734.01)

The bill exempts advanced recycling of post-use polymers and recovered feedstocks conducted at an advanced recycling facility that is subject to OEPA regulations for air, water, waste, and land use from solid waste regulation under the Solid Waste law. Advanced recycling generally involves a manufacturing process for the conversion of post-use polymers and recovered feedstocks into basic raw materials, feedstocks, chemicals, and other recycled products. Under the bill, the conversion of these materials may be conducted via pyrolysis, gasification, depolymerization, catalytic cracking, reforming, hydrogenation, solvolysis, chemolysis, and other similar technologies. An advanced recycling facility includes any manufacturing facility that stores and converts post-use polymers and recovered feedstocks for advanced recycling. However, an advanced recycling facility does not include any of the following:

1. A solid waste facility;

2. A solid waste disposal facility;

3. A solid waste management facility;

4. A solid waste processing facility;

5. A solid waste recovery facility;

6. An incinerator;

7. A waste-to-energy facility; or

8. A legitimate recycling facility.

Under the bill, a legitimate recycling facility is any site, location, tract of land, installation, or building that (1) is used or intended to be used for processing, storing, or recycling solid waste that was generated off the premises of the facility, (2) at least 60% of the weight of solid waste received in any nine months during a rolling 12-month period is recycled monthly as shown by records, and (3) the receipt, storage, and processing activities do not cause a nuisance, do not pose a threat from vectors, or do not adversely impact public health, safety, or the environment, or cause or contribute to air or water pollution.

Under current law, only the process of converting post-use polymers and recoverable feedstocks using gasification or pyrolysis is exempt from the Solid Waste Law. Thus, the bill expands the processes by which these materials may be converted and still be exempt under that law.

Under the bill, a post-use polymer generally includes a plastic derived from industrial, commercial, agricultural, or domestic activities, and includes pre-consumer recovered materials and post-consumer materials that are processed at an advanced recycling facility or held at the facility prior to processing. Its intended use must be for use as a feedstock for the manufacturing of feedstocks, raw materials, other intermediate products, or final products using advanced recycling. Post-use polymers must be sorted from solid waste and other regulated waste, but

may contain incidental contaminants or impurities. Additionally, post-use polymers cannot be mixed with solid waste or hazardous waste on site during processing at the advanced recycling facility and cannot be accumulated before being recycled. Under current law, post-use polymers are plastic polymers that are derived from any source and are not being used for their intended purpose. The intended use for post-use polymers must be to manufacture crude oil, fuels, other raw materials, and other products using pyrolysis or gasification. Thus, the bill appears to expand the scope of what is considered a post-use polymer.

The bill specifies that a recovered feedstock is a post-use polymer or nonwaste (as designated by USEPA) that has not been mixed with solid or hazardous waste on-site or during processing at an advanced recycling facility and has been processed for use as a feedstock in a gasification facility. A recovered feedstock does not include unprocessed municipal solid waste. Under current law, a recoverable feedstock is the same as under the bill, except that it does not include the specification that it cannot be mixed with solid or hazardous waste.

The bill alters the meaning of pyrolysis and gasification as follows:

Process changes		
Process	**Current law**	**H.B. 33**
Pyrolysis	A process through which post-use polymers are heated in the absence of oxygen until melted and thermally decomposed, and are then cooled, condensed, and converted into oil, fuel, feedstocks, diesel and gasoline blendstocks, chemicals, waxes, or lubricants.	A manufacturing process that melting and thermally decomposing post-use polymers may occur either noncatalytically or catalytically. The bill expands the types of materials that may result from pyrolysis, including valuable raw materials, intermediate products, or final products, plastic monomers, chemicals, naphtha, waxes, or plastic and chemical feedstocks that are returned to economic utility in the form of raw materials and products.
Gasification	A process through which feedstocks are heated and converted into a fuel gas mixture in an oxygen deficient atmosphere, and the mixture is converted into fuel, chemicals, or other chemical feedstocks.	A manufacturing process through which post-use polymers or recovered feedstocks are heated in an oxygen-controlled atmosphere and converted into syngas. Following that conversion, the process involves conversion into valuable raw, intermediate, and final products, including plastic

Process changes		
Process	**Current law**	**H.B. 33**
		monomers, chemicals, waxes, lubricants, coatings, and plastic and chemical feedstocks that are returned to economic utility in the form of raw materials or products.

The bill further defines various terms for purposes of the expanded exemption established by the bill. Those changes are as follows:

Terminology added by H.B. 33	
Term	**Explanation**
Depolymerization	A manufacturing process where post-use polymers are broken into smaller molecules such as monomers and oligomers or raw, intermediate, or final products, plastics and chemical feedstocks, basic and unfinished chemicals, waxes, lubricants, and coatings.
Solvolysis	A manufacturing process to make useful products (products produced through solvolysis, including monomers, intermediates, valuable chemicals, plastics and chemical feedstocks, and raw materials) through which post-use polymers are purified by removing additives and contaminants with the aid of solvents and are heated at low temperatures or pressurized. "Solvolysis" includes hydrolysis, aminolysis, ammonoloysis, methanolysis, and glycolysis.
Mass balance attribution	A chain of custody accounting methodology with rules defined by a third-party certification system that enables the attribution of the mass of advanced recycling feedstocks to one or more advanced recycling products.
Recycled plastic	Products that are produced from either of the following: 1. Mechanical recycling of pre-consumer recovered feedstocks or plastics, and post-consumer plastics; 2. The advanced recycling of pre-consumer recovered feedstocks or plastics, and post-consumer plastics via mass balance attribution under a third party certification system.

Terminology added by H.B. 33	
Term	**Explanation**
Recycled products	Products produced at advanced recycling facilities including, monomers, oligomers, recycled plastics, plastic and chemical feedstocks, basic and unfinished chemicals, waxes, lubricants, coatings, and adhesives. Products sold as fuel are not recycled products.
Legitimate recycling	Processing, storing, or recycling of solid waste and returning the material to commerce as a commodity for use in a beneficial manner, including as a raw ingredient in a manufacturing process or as a legitimate fuel that does not constitute disposal.

Additionally, the bill expands the types of activities that are exempt from solid waste disposal regulations to include all of the following:

1. A disposition or placement of wastes that constitutes legitimate recycling; and

2. Advanced recycling or the storage of post-use polymers and recovered feedstocks prior to conversion through advanced recycling.

Current law exempts the process of converting post-use polymers and recoverable feedstocks using gasification or pyrolysis.

Finally, the bill also expands the types of activities that are exempt from solid waste open dumping regulations (and thus not subject to open dumping penalties) to include the depositing of wastes at a legitimate recycling facility or advanced recycling facility. However, it subjects the disposal of scrap tires in a trailer, vehicle, or nonlicensed building to open dumping regulations and penalties.

Coal combustion residuals

(R.C. 3734.48)

The bill requires the OEPA Director to establish a program for the regulation of the storage and disposal of coal combustion residuals (CCR). CCR includes fly ash, boiler slag, and flue gas desulfurization materials generated from burning coal for generating electricity by electric utilities and independent power producers.

To implement the program, the Director must adopt rules governing CCR storage, treatment, and disposal sites referred to as "CCR units." These units include any CCR landfill, CCR surface impoundment (e.g., a topographic depression or manmade excavation), including any lateral expansion of a CCR unit, or a combination thereof. A CCR landfill is an area of land that receives CCR (that is not a CCR impoundment), an underground injection well, a salt dome or salt bed formation, an underground or surface mine, or a cave. CCR landfills include sand and gravel pits and quarries that receive CCR, CCR piles (noncontainerized accumulations of solid CCR), and any practice that does not include the beneficial use of CCR.

The rules adopted by the Director must be no more stringent than federal requirements governing CCR and must address the following:

1. Siting criteria;

2. Ground water monitoring requirements;

3. Design and construction requirements;

4. Financial assurance requirements;

5. Closure and post-closure requirements; and

6. Any other requirement that the Director determines is necessary for the program, including any additional term definitions.

CCR units, as regulated under the bill, are not subject to regulation under the laws governing solid, hazardous, and infectious waste. Further, the bill exempts these units from prohibitions under the law governing water pollution control specifically related to the discharge of pollution into the waters of the state. However, it states that the Director may require the owner or operator of a unit to obtain a water pollution control facility permit-to-install and a discharge permit (known as a National Pollutant Discharge Elimination [NPDES] permit) under the Water Pollution Control Law. Thus, a violation of any of the terms and conditions of those permits could result in criminal and civil penalties under that law.

The Director must prescribe and furnish any forms necessary to administer and enforce the program. Further, the Director may cooperate with and enter into agreements with other local, state, or federal government entities to carry out the purposes of the program.

FACILITIES CONSTRUCTION COMMISSION

- Abolishes the Community School Classroom Facilities Loan Guarantee Program and Community School Classroom Facilities Loan Guarantee Fund.

Community School Classroom Facilities Loan Guarantee

(Repealed R.C. 3318.50 and 3318.52; conforming changes in R.C. 3314.08)

The bill abolishes the Community School Classroom Facilities Loan Guarantee Program and Fund.

Under current law, the Ohio Facilities Construction Commission is authorized to partially guarantee loans made by the governing authority of a community school to assist it in acquiring, improving, or replacing classroom facilities for the community school. Under the program, community schools may apply for loan guarantees for up to 15 years on 85% of the principal and interest on loans to acquire buildings.

GOVERNOR

- Requires the Small Business Advisory Council to meet at the Director of the Common Sense Initiative Office's discretion, instead of at least quarterly as under current law.

Small Business Advisory Council meetings

(R.C. 107.63)

The bill alters when the Small Business Advisory Council must meet by requiring it to meet at the Director of the Common Sense Initiative Office's (CSIO) discretion. Current law requires the Council to meet at least quarterly. Under continuing law, the Council advises the Governor, Lieutenant Governor, and CSIO on the adverse impact that draft and existing rules might have on Ohio small businesses.

DEPARTMENT OF HEALTH

Infant mortality scorecard

- Requires the Department of Health (ODH) to automate its infant mortality scorecard to refresh data in real time on a publicly available data dashboard, as opposed to updating the scorecard quarterly.

Newborn safety incubators

- Authorizes remote monitoring of newborn safety incubators under limited circumstances.
- Permits video surveillance of newborn safety incubator locations but provides that the footage can be reviewed only when a crime is suspected to have been committed within view of the surveillance system.

Newborn screening – Duchenne muscular dystrophy

- Requires the ODH Director to specify in rule Duchenne muscular dystrophy as a disorder for newborn screening.

WIC vendors

- Requires ODH to process and review a WIC vendor contract application within 45 days of receipt under specified circumstances.

Program for Children and Youth with Special Health Care Needs

- Changes the name of ODH's Program for Medically Handicapped Children to the Program for Children and Youth with Special Health Care Needs.

Dentist Loan Repayment Program

- Requires ODH to designate clinics and dental practices that serve a high proportion of individuals with developmental disabilities as dental health resource shortage areas under the existing Dentist Loan Repayment Program.
- Authorizes dentists who work at those clinics or practices to participate in the program.

Parkinson's Disease Registry

- Requires the Director to establish and maintain a Parkinson's Disease Registry.
- Requires health care professionals and facilities to report cases of Parkinson's disease and Parkinsonisms to the Registry.
- Creates the Parkinson's Disease Registry Advisory Committee to assist with the development and maintenance of the Registry.
- Requires the Director to submit an annual report to the General Assembly regarding the prevalence of Parkinson's disease in Ohio by county.

- Requires the Director to create the Ohio Parkinson's Disease Research Registry website to provide information regarding Parkinson's disease and the Registry.

Plasmapheresis supervision

- Revises the law governing the operation of ODH-certified plasmapheresis centers, by expanding the types of health care providers who must attend, supervise, and maintain sterile technique during plasmapheresis.

Regulation of surgical smoke

- Requires ambulatory surgical facilities and hospitals to adopt and implement policies designed to prevent human exposure to surgical smoke during planned surgical procedures.

HIV testing

- Eliminates law that authorizes HIV testing only if necessary to provide diagnosis and treatment of an individual.
- Instead, authorizes HIV testing if the individual, or the individual's parent or guardian, has given general consent for care and has been notified that the test is planned.
- Eliminates law requiring that individuals be notified of the right to an anonymous HIV test, but retains the right to anonymous testing.

Admission and medical supervision of hospital patients

- Cancels the scheduled repeal of statutory law governing the admission and medical supervision of hospital patients, including admissions initiated by advanced practice registered nurses and physician assistants.

Hospital price transparency

- Repeals existing hospital price transparency requirements and instead requires hospitals to comply with federal law.
- Requires the ODH Director to refer alleged violations of the federal price transparency law to the U.S. Centers for Medicare and Medicaid Services (CMS).
- Requires the Director to create a public list of hospitals not in compliance with the price transparency requirements.

Nursing home change of operator

- Adds additional circumstances that constitute a change of operator of a nursing home.
- Eliminates a requirement that an individual or entity submit specified documentation to the ODH Director when a nursing home undergoes a change of operator and instead requires an entering operator to complete a nursing home change of operator license application.

- Specifies the type of information that must be provided to ODH as part of a nursing home change of operator license application and the procedures ODH must follow when granting or denying a license application.

Certificates of need – maximum capital expenditures

- Eliminates laws that (1) prohibit the holder of a certificate of need (CON) from obligating more than 110% of an approved project's cost (without obtaining a new CON) and (2) authorize penalties of up to $250,000 for violations.
- Specifies that the CON changes apply to currently valid CONs, pending CON applications, and pending actions for imposing sanctions.

Fees for copies of medical records

- Makes the following changes regarding costs that a health care provider may charge for copies of medical records requested by a patient or patient's personal representative:
  - Generally eliminates specific dollar caps and instead specifies that costs must be reasonable and cost-based, and can include only costs that are authorized under federal laws and regulations; also specifies such costs cannot exceed limits under existing law when records are requested by other individuals;
  - Caps the cost at $50 for requests for electronic access and transmission of records;
  - Adds that an individual authorized to access a patient's medical records through a valid power of attorney is subject to the same cost provisions as the patient and the patient's personal representative.

Second Chance Trust Fund Advisory Committee

- Removes the term limits for members of the Second Chance Trust Fund Advisory Committee (currently limited to two consecutive terms, whether full or partial).
- Removes the requirement that the Committee's election of a chairperson from among its members be annual, instead leaving the details of a chairperson's term to Committee rules.

Home health licensure exception

- Creates an exception from home health licensure for individuals providing self-directed services to Medicaid participants.

Home health screening pilot program

- Requires the ODH Director to establish a two-year home health screening pilot program in collaboration with CareStar Community Services.
- Requires the Medicaid Director to enter into a data sharing agreement with the ODH Director regarding the pilot program.
- Appropriates $1 million in GRF funds in FY 2024 and FY 2025 to be distributed to CareStar Community Services for the purposes of the pilot.

Smoking and tobacco

Minimum age to sell tobacco products

- Prohibits tobacco businesses from allowing an employee under 18 to sell tobacco products.

Shipment of vapor products and electronic smoking devices

- Prohibits shipment of vapor products and electronic smoking devices to persons other than licensed vapor distributors, vapor retailers, operators of customs bonded warehouses, and state and federal government agencies or employees.
- Prohibits shipping vapor products or electronic smoking devices in packaging other than the original container unless the packaging is marked with the words "vapor products" or "electronic smoking devices."

Delivery services

- Prohibits a delivery service from accepting, transporting, delivering, or allowing pick-up of tobacco products other than cigarettes, alternative nicotine products, or papers used to roll cigarettes to or from a person under 21, as evidenced by proof of age.

Other tobacco law changes

- Specifies that only electronic smoking liquids containing nicotine are subject to the law governing the giveaway, sale, and other distribution of tobacco products.
- Prohibits a vendor selling a flavored electronic liquid unless that flavored electronic liquid has first received a marketing order from the United States Food and Drug Administration (FDA).
- Requires tobacco product vendors to verify proof of age prior to selling or otherwise distributing tobacco products.
- Explicitly prohibits giving away or otherwise distributing free samples of cigarettes, other tobacco products, alternative nicotine products, or coupons redeemable for such products to persons under 21 and without first verifying proof of age.
- Modifies an existing exemption from the Smoke Free Workplace Law for retail tobacco stores.

Moms Quit for Two

- Continues the Moms Quit for Two grant program for the delivery of tobacco cessation interventions to women who are pregnant or living with children and reside in communities with the highest incidence of infant mortality.

Sudden Unexpected Death in Epilepsy Awareness Day

- Designates October 26 as "Sudden Unexpected Death in Epilepsy Awareness Day."

Infant mortality scorecard

(R.C. 3701.953)

The Ohio Department of Health (ODH) is required to create and publish an infant mortality scorecard tracking statewide data related to infant mortality. Current law requires it to publish the scorecard on its website and update the data quarterly. The bill requires ODH instead to build and automate a publicly available data dashboard that refreshes data in real time.

Newborn safety incubators

(R.C. 2101.16, 2151.3515, 2515.3516, 2151.3517, 2151.3518, 2151.3527, 2151.3528, 2151.3532, and 2151.3533)

Regarding Ohio's Safe Haven Law, the bill establishes an option for remote monitoring of newborn safety incubators. Under current law, ODH has rulemaking authority to set monitoring standards for newborn safety incubators. Current ODH rules require in person monitoring by an individual who is present and on duty in the facility where the incubator is located at all times, 24 hours a day, seven days a week.[76] The bill instead permits peace officers, peace officer support employees, emergency medical service workers, and certain hospital employees to either (1) monitor an incubator directly, or (2) be designated as an alternate, to be dispatched when an infant is placed in the incubator and the incubator is not directly monitored. Additionally, the bill provides that persons authorized to take possession of a newborn from a newborn safety incubator are not liable for failure to respond to the incubator's alarm within a reasonable time, unless the failure was willful or wanton misconduct.

The bill also provides that a facility that has installed a newborn safety incubator may use video surveillance to monitor the area where the incubator is located, but may review the footage only when a crime is suspected to have been committed within view of the video surveillance system.

Ohio's Safe Haven Law authorizes a parent to voluntarily and anonymously surrender the parent's newborn child – who is not more than 30 days old – by delivering the child to any of the following:

- A law enforcement agency or peace officer employed by the agency;
- A hospital or individual practicing at or employed by the hospital;
- An emergency medical service organization or emergency medical service worker employed by or providing services to the organization;
- A newborn safety incubator provided by a law enforcement agency, hospital, or emergency medical service organization.

[76] O.A.C. 3701-86-03(B) and (F).

Newborn screening – Duchenne muscular dystrophy

(R.C. 3701.501)

The bill requires the ODH Director to specify in rule Duchenne muscular dystrophy as a disorder for newborn screening beginning 240 days after the bill's effective date. Generally, existing law requires that each newborn be screened for the disorders specified in rules adopted by the ODH Director. Statutory law requires the rules to specify Krabbe disease, spinal muscular atrophy, and X-linked adrenoleukodystrophy for screening. To assist the Director in determining other disorders for which a newborn must be screened, Ohio law has established the Newborn Screening Advisory Council (NSAC). As part of this law, the NSAC is to evaluate disorders and make recommendations to the Director.

WIC vendors

(Section 291.40)

The bill maintains a requirement in uncodified law that ODH process and review a WIC vendor contract application pursuant to existing ODH regulations within 45 days after receipt if the applicant is a WIC-contracted vendor and (1) submits a complete application and (2) passes the required unannounced preauthorization visit and completes the required in-person training within that 45-day period. If the applicant fails to meet those requirements, ODH must deny the application. After denial, the applicant may reapply during the contracting cycle of the applicant's WIC region.

WIC is the Special Supplemental Nutrition Program for Women, Infants, and Children. WIC helps eligible pregnant and breastfeeding women, women who recently had a baby, infants, and children up to five years of age. It provides nutrition education, breastfeeding education and support; supplemental, highly nutritious foods and iron-fortified infant formula; and referral to prenatal and pediatric health care and other maternal and child health and human service programs.

Program for Children and Youth with Special Health Care Needs

(R.C. 3701.023 with conforming changes in numerous other R.C. sections)

The bill changes the name of the Program for Medically Handicapped Children to the Program for Children and Youth with Special Health Care Needs.

The program is administered by ODH and serves families of children and young adults with special health care needs, including AIDS, hearing loss, cancer, juvenile arthritis, cerebral palsy, metabolic disorders, cleft lip/palate, severe vision disorders, cystic fibrosis, sickle cell disease, diabetes, spina bifida, scoliosis, congenital heart disease, hemophilia, and chronic lung disease.

Dentist Loan Repayment Program

(R.C. 3702.87)

The bill authorizes dentists who work at dental clinics and practices that serve a high proportion of individuals with developmental disabilities to apply to participate in the existing

Dentist Loan Repayment Program. Under the bill, ODH must designate such clinics and practices as "dental health resource shortage areas."

Under continuing law, the program provides loan repayment on behalf of individuals who agree to provide dental services in dental health resource shortage areas. Expenses that may be repaid under the program include tuition, books and other educational expenses, and room and board.[77] The bill does not modify any other provisions of the program, including related to eligibility requirements or the application process.

Parkinson's Disease Registry

(R.C. 3701.25 to 3701.255)

The bill requires the ODH Director to establish and maintain a Parkinson's Disease Registry for the collection and monitoring of Ohio-specific data related to Parkinson's disease and Parkinsonisms. Parkinson's disease is a chronic and progressive neurological disorder resulting from a deficiency of the neurotransmitter dopamine as a consequence of specific degenerative changes in the area of the brain called the basal ganglia. It is characterized by tremor at rest, slow movements, muscle rigidity, stooped posture, and unsteady or shuffling gait. Parkinsonisms are conditions related to Parkinson's disease that cause a combination of the movement abnormalities seen in Parkinson's disease that often overlap with and can evolve from what appears to be Parkinson's disease. Parkinsonisms can include multiple system atrophy, dementia with Lewy bodies, corticobasal degeneration, and progressive supranuclear palsy.

The data collected by the Registry must be included in the Ohio Public Health Information Warehouse.

Health care provider reporting

The bill requires each individual case of Parkinson's disease or a Parkinsonism to be reported to the Registry by the certified nurse practitioner, clinical nurse specialist, physician, or physician assistant who diagnosed or treated the individual's Parkinson's disease or Parkinsonism, or by the group practice, hospital, or other health care facility that employs that health care professional.

When a patient is first diagnosed or treated for Parkinson's disease, the medical professional must inform the patient of the Registry and of the patient's right to not participate. If a patient chooses not to participate in the Registry, the medical professional or health care facility must report the existence of a Parkinson's disease or Parkinsonism case and no other information. The bill does not require a patient to submit to any medical examination or supervision by ODH or a researcher.

The Director or a representative of the Director may inspect a representative sample of the medical records of patients with Parkinson's disease at a health care facility.

[77] R.C. 3702.85, not in the bill.

Each medical professional or health care facility that reports to the Registry is not liable in any cause of action that originates from the submission of the report.

Timeline

Within 30 days of the bill's effective date, the Director must publish the reporting requirements on ODH's website. The Director must establish the Parkinson's Disease Registry within one year of the bill's effective date. Medical professionals and health care facilities must begin reporting data to the Registry within 30 days of the Registry's establishment, and at least quarterly thereafter.

Contracts and agreements related to the registry

The bill authorizes the Director to enter into contracts, grants, and other agreements to maintain the Registry, including data sharing contracts with data reporting entities and their associated electronic medical records system vendors. It also authorizes the Director to enter into agreements to furnish data collected in the Registry with other states' Parkinson's disease registries, federal Parkinson's disease control agencies, local health officers, or local health researchers. Before confidential information is disclosed, the requesting entity must agree in writing to maintain the confidentiality of the information. If the disclosure is to a researcher, the researcher must also obtain approval from their respective institutional review board and provide documentation to the Director that demonstrates they have established the procedures and ability to maintain confidentiality.

The Director is responsible for coordinating any contact with patients on the Registry. An individual that obtains information from the Registry may not contact a patient in the Registry, or a patient's family, unless the Director obtains permission from the patient or the patient's family.

Confidentiality of information

Generally, all information collected pursuant to the bill is confidential. The Director must establish a coding system that removes individually identifying information about an individual with Parkinson's disease. The bill provides that an authorized disclosure must include only the data and information necessary for the stated purpose of the disclosure, be used only for the approved purpose, and not be further disclosed. Each patient or patient's guardian must have access to their own data.

The Director is required to maintain an accurate record of all persons who are given access to confidential information under the bill. The record must include (1) the name of the person authorizing access, (2) the name, title, address, and organizational affiliation of any person given access, (3) the access dates, and (4) the specific purpose for which information is being used. The record of access must be open to public inspection during normal ODH operating hours.

Confidential information is not available for subpoena or disclosed, discoverable, or compelled to be produced in any civil, criminal, administrative, or other tribunal or court for any reason.

The bill does not prevent (1) the Director from publishing reports and statistical compilations that do not identify or tend to identify individual cases or individual sources of

information or (2) a facility or individual that provides diagnostic or treatment services to individuals with Parkinson's disease from maintaining a separate Parkinson's disease registry.

Advisory committee

The bill creates in ODH a Parkinson's Disease Registry Advisory Committee. The Director must appoint the following as members: (1) a neurologist, (2) a movement disorder specialist, (3) a primary care provider, (4) a physician informaticist, (5) a public health professional, (6) a population health researcher with disease registry experience, (7) a Parkinson's disease researcher, (8) a patient living with Parkinson's disease, and (9) any other individuals deemed necessary by the Director.

Meetings and compensation

The first meeting must be held within 90 days after the bill's effective date. Thereafter, meetings must be twice a year at the call of the Director, who is the chairperson. Meetings may take place in person or virtually at the discretion of the Director. Members serve without compensation except to the extent that serving on the committee is considered part of the member's employment responsibilities. ODH must provide meeting space, staff, and other administrative support to the Committee.

Duties

The Committee is required to do all of the following:

1. Assist the Director in developing and implementing the Registry;

2. Determine the data to be collected and maintained, based on patient demographics, geography, diagnosis, and information that enables de-duplication of patient records in the Registry;

3. Determine the information to be included on ODH's Ohio Parkinson's Disease Research Registry website (see below);

4. Advise the Director on maintaining and improving the Registry;

5. Conduct a review of the Registry within five years of the effective date of the bill assessing how it is being used, whether it is fulfilling its intended purpose, and recommending necessary changes.

Report

The bill requires the Director to submit a Parkinson's disease report to the General Assembly within six months of the establishment of the Registry and annually thereafter. The report must include (1) the incidence and rates of Parkinson's disease in Ohio by county, (2) the number of new cases reported to the Parkinson's disease registry in the previous year, and (3) demographic information, including age, gender, and race.

Ohio Parkinson's Research Registry website

The bill requires the Director to create and maintain the Ohio Parkinson's Research Registry website within one year of the bill's effective date. The website must describe the

Registry and provide any relevant or helpful information determined by the Advisory Committee. Additionally, the Director must publish the annual report described above to the website.

Rules

The Director is required to adopt rules that (1) specify the data to be collected and the format in which it is to be submitted, in collaboration with the Advisory Committee, (2) develop guidelines and procedures for requesting and granting access to data, and (3) create a coding system to remove individually identifying information from the Registry data. The Director is responsible for periodically reviewing data collection requirements to adapt to new knowledge and technology regarding Parkinson's disease and health data collection.

Plasmapheresis supervision

(R.C. 3725.05)

The bill revises the law governing the operation of ODH-certified plasmapheresis centers, by expanding the types of health care providers who must attend, supervise, and maintain sterile technique during plasmapheresis. Current law limits the providers to medical technologists approved by the ODH Director, physicians, and registered nurses. Under the bill, the providers also include other qualified medical staff persons approved by the Director, licensed practical nurses, emergency medical technicians-intermediate, and emergency medical technicians-paramedic. In the case of an emergency medical technician (EMT), the bill specifies that the individual is not attending or supervising the procedure or maintaining sterile technique in the individual's capacity as an EMT.

Regulation of surgical smoke

(R.C. 3702.3012 and 3727.25)

The bill requires ambulatory surgical facilities and hospitals offering surgical services to adopt and implement policies designed to prevent human exposure to surgical smoke during planned surgical procedures likely to generate such smoke. "Surgical smoke" is defined by the bill as the airborne byproduct of an energy-generating device used in a surgical procedure, including smoke plume, bioaerosols, gases, laser-generated contaminants, and dust.

The policy, which must be in place not later than one year after the provision's effective date, must include the use of a surgical smoke evacuation system. The system required by the bill is described as equipment designed to capture, filter, and eliminate surgical smoke at the point of origin, before the smoke makes contact with the eyes or respiratory tract of an individual.

The ODH Director is authorized by the bill to adopt rules to implement the bill's requirements. The rules must be adopted in accordance with the Administrative Procedure Act (R.C. Chapter 119).

HIV testing

(R.C. 3701.242)

Current law authorizes HIV testing of an individual only if a health care provider determines the test is necessary for providing diagnosis and treatment. Additionally, the

individual must be notified of the right to an anonymous test. Instead, the bill authorizes an HIV test to be performed on an individual if the individual has given general consent for health care treatment and a health care provider, or an authorized representative of a health care provider, notifies the individual that the HIV test is planned. The notification may be verbal or written and in-person or electronic. The notification does not have to include information on the right to anonymous testing, but the bill retains the right itself.

Admission and medical supervision of hospital patients

(Section 130.56, primary; sections 130.54 and 130.55, amending Sections 130.11 and 130.12 of H.B. 110 of the 134th G.A.; conforming changes in Sections 130.50 to 130.53)

The bill cancels the repeal – scheduled for September 30, 2024 – of statutory law governing the admission and medical supervision of hospital patients, including admissions initiated by advanced practice registered nurses and physician assistants, and makes conforming changes in related statutes.[78] Under H.B. 110, the main operating budget of the 134th General Assembly, this law is scheduled to be repealed as part of H.B. 110's provisions requiring each hospital to hold a license issued by the ODH Director by September 30, 2024.

Hospital price transparency

(R.C. 3727.31 to 3727.33; R.C. 3727.44 (3727.34); repealed R.C. 3727.42, 3727.43, and 3727.45)

The bill repeals the hospital price transparency requirements in current law and instead requires hospitals in this state to comply with the federal requirements set forth by the U.S. Centers for Medicare and Medicaid Services (CMS). The bill defines the federal price transparency law as section 2718(e) of the "Public Health Service Act," and hospital price transparency rules adopted by the U.S. Department of Health and Human Services and CMS implementing that section.

The ODH Director must refer allegations of noncompliance to CMS, but has no independent duty to evaluate complaints or enforce the federal price transparency law. However, the bill does require the ODH Director to create and make publicly available a list identifying each hospital upon which CMS imposes a civil monetary penalty. The initial list of noncompliant hospitals must be created and included on ODH's website not later than 90 days after the provision's effective date. The ODH Director then must update the list and website at least every 30 days thereafter. Upon receiving notice from CMS or a hospital (with appropriate documentation) that a hospital has requested a hearing to appeal a civil monetary penalty, the ODH Director must update the list to indicate that the penalty is under review. If the penalty is overturned in full or in part by a final and binding decision, the ODH Director must update the list to reflect that result.

[78] R.C. 3727.06, not in the bill. See also R.C. 3701.351, and R.C. 3727.70 and 4723.431, not in the bill.

Federal hospital price transparency rules

Since January 1, 2021, each hospital operating in the U.S. is required to make public both of the following under CMS's hospital price transparency rule:

- A machine-readable file containing a list of all standard charges for all items and services;
- A consumer-friendly list of standard charges for a limited set of shoppable services.

Under the current rule, the list of standard charges must include, for each item or service, a description, gross charge, payor-specific negotiated charge, de-identified minimum negotiated charge, de-identified maximum negotiated charge, discounted cash price, and any billing or accounting code. The list must be updated at least annually.

In the case of shoppable services, a hospital must make public the standard charges for as many of the 70 CMS-specified shoppable services it provides. It also must make public as many additional hospital-selected shoppable services for a combined total of at least 300 shoppable services. CMS requires the standard charge information for shoppable services to be updated annually.

Should a hospital fail to comply with the federal hospital price transparency rules, CMS may provide written notice to the hospital of a specific violation, request a corrective action plan from the hospital, or impose a civil monetary penalty on the hospital and publicize the penalty on a CMS website. Monetary penalties range from $300 per day for smaller hospitals with a bed count of 30 or fewer, to $10 per bed per day for hospitals with a bed count greater than 30, up to a maximum daily amount of $5,500.[79]

Current state requirements

Under existing Ohio law repealed by the bill, a hospital must compile and make available to the public a price information list containing all of the following:

- The usual and customary room and board charges for each level of care within the hospital, including private rooms, semiprivate rooms, other multiple patient rooms, and intensive care or other specialty units;
- Rates charged for nursing care;
- The usual and customary charges for the following services: the 30 most common x-ray and radiologic procedures; the 30 most common laboratory procedures; emergency room services; operating room services; delivery room services; physical, occupational, and pulmonary therapy services; and any other services designated as high volume in rules adopted by the ODH Director;
- The hospital's billing policies, including whether it charges interest on an amount not paid in full by any person or government entity and the interest rate charged;

[79] 45 C.F.R. 180.

- Whether the charges listed include fees for the services of hospital-based anesthesiologists, radiologists, pathologists, and emergency room physicians and, if a charge does not include those fees, how that fee information may be obtained.

Current law requires the hospital to make the price information list publicly available in three ways. First, it must be available free of charge on the hospital's website. Second, on request, the hospital must provide a paper copy of the list to any person or governmental agency, subject to payment of a reasonable fee for copying and processing. And third, at the time of a patient's admission or as soon as practical after admission, the hospital must inform the patient of the list's availability and, on request, provide the patient with a free copy.

If a hospital does not make its price information list publicly available, the ODH Director may seek from the court of common pleas a temporary or permanent injunction restraining the hospital from failing to make it publicly available.

Nursing home change of operator

(R.C. 3721.01, 3721.026, and 5165.01)

Actions that constitute a change of operator

The bill adds several circumstances that, upon their occurrence, constitute a nursing home change of operator. The bill eliminates the specification that a transfer of all of an operator's ownership interest in the operation of a nursing home constitutes a change of operator of the nursing home, and instead specifies that a change in control of a nursing home operator constitutes a change in operator. A change in control of a nursing home is defined as either (1) any pledge, assignment, or hypothecation of or lien or other encumbrance on any of the legal or beneficial equity interests in an entity operating a nursing home, or (2) a change of 50% or more in the legal or beneficial ownership or control of the outstanding voting equity interests of the entity operating the nursing home necessary at all times to elect a majority of the board of directors or similar governing body and to direct the management policies and decisions.

Under existing law, the dissolution of a partnership constitutes a change of operator. The bill specifies that a merger of a partnership into another entity, or a consolidation of a partnership and at least one other entity also constitute a change of operator. Similarly, the bill adds that the dissolution of a limited liability company, a merger of a limited liability company with another entity, or consolidation of a limited liability company with another entity all constitute a change of operator. Finally, the bill provides that a contract for an individual or entity to manage a nursing home as an operator's agent constitutes a change of operator.

Conversely, the bill specifies that an employer stock ownership plan established under federal law and an initial public offering for which the Securities and Exchange Commission has declared a registration statement to be effective do not constitute a change of operator. Similarly, the bill specifies that the continuing law specifying that a change of one or more members of a corporation's governing body or transfer of ownership of one or more shares of a corporation's stock does not constitute a change of operator applies only if the corporation has publicly traded securities.

Nursing home change of operator license application

The bill modifies the existing law requirement that an individual or entity who is assigned or transferred the operation or nursing home submit documentation to the ODH Director of certain information before a change of operator may occur to instead require that the individual or entity taking over the operation of a nursing home following a change of operator first complete a nursing home change of operator license application and pay a licensing fee. ODH is required to prescribe the form for the application and make the application available on its website. As part of the application, an applicant must provide all of the following:

- Full and complete disclosure of all direct and indirect owners that own at least five percent of:
  - The applicant, if the applicant is an entity;
  - The owner of the nursing home, if the owner is a different individual or entity from the applicant;
  - The manager of the nursing home, if the manager is a different individual or entity from the applicant;
  - Each related party that provides or will provide services to the nursing home, whether through contracts with the applicant, owner, or manager of the nursing home.
- Full and complete disclosure of the direct or indirect ownership interest that an individual identified above has in a current or previously licensed nursing home in Ohio or another state, and whether any identified nursing home had any of the following occur during the five years immediately preceding the date of application:
  - Voluntary or involuntary closure of the nursing home;
  - Voluntary or involuntary bankruptcy proceedings;
  - Voluntary or involuntary receivership proceedings;
  - License suspension, denial, or revocation;
  - Injunction proceedings initiated by a regulatory agency;
  - The nursing home was listed in Table A, Table B, or Table D on the SFF list under the Special Focus Facilities program administered by the U.S. Secretary of Health and Human Services;
  - A civil or criminal action was filed against the nursing home by a state or federal entity.
- Submission of all fully executed contracts with related parties, lease agreements, and management agreements pertaining to the nursing home.
- Any additional information the ODH Director considers necessary to determine the ownership, operation, management, and control of the nursing home.

Additional requirements

Bond or other financial security

Under existing law, an individual assuming the operation of a nursing home must provide to the ODH Director evidence of a bond or other financial security. Under the bill, this requirement applies to all applicants for a change of operator license except those that demonstrate that they own at least 50% of the nursing home and its assets or at least 50% of the entity that owns the nursing home and its assets. For individuals and entities to which the bond or other financial security requirements apply, the bill specifies that the bond or other financial security must be for an amount not less than the product of the number of licensed beds in the nursing home, multiplied by $10,000.

The required bond or other financial security must be renewed or maintained for a period of five years following the effective date of a change of operator. If a bond or other financial security is not maintained, the ODH Director is required to revoke a nursing home operator's license. The Director may utilize a bond or other financial security if any of the following occur during the five-year period following the change of operator for which the bond or other financial security is required:

- The nursing home is voluntarily or involuntarily closed;
- The nursing home or its owner or operator is the subject of voluntary or involuntary bankruptcy proceedings;
- The nursing home or its owner or operator is the subject of voluntary or involuntary receivership proceedings;
- The license to operate the nursing home is suspended, denied, or revoked;
- The nursing home undergoes a change of operator and the new applicant does not submit a bond or other financial security;
- The nursing home appears in Table A, Table B, or Table D on the SFF list under the Special Focus Facilities program administered by the U.S. Secretary of Health and Human Services.

If none of the events described above occur in the five years immediately following the effective date of the change of operator, the ODH Director is required to release the bond or other financial security back to the applicant.

Experience

The bill further requires an applicant to provide information detailing that a person who is a direct or indirect owner of 50% or more of the applicant must have at least five years of experience as (1) an administrator of a nursing home located in Ohio or another state or (2) be a direct or indirect owner of at least 50% in an operator or manager of a nursing home located in Ohio or another state.

Policies and insurance

Under continuing law unchanged by the bill, an individual or entity assuming control of a nursing home must submit to the ODH Director copies of plans for quality assurance and risk management and general and professional liability insurance of $1 million per occurrence and $3 million in aggregate. Additionally, the bill requires an applicant to submit copies of the nursing home's policies and procedures and demonstrate that the nursing home has sufficient numbers of qualified staff who will be employed to properly care for the type and number of nursing home residents.

License denial and penalty

The bill requires the ODH Director to conduct a survey of a nursing home not later than 60 days after the effective date of the change of operator. Additionally, the bill requires the Director to deny a change of operator license application if any of the requirements described above are not satisfied or if the applicant has or had 50% or more direct or indirect ownership in the operator or manager of a current or previously licensed nursing home in Ohio or another state for which any of the following occurred within the five years immediately preceding the date of application:

- Involuntary closure of the nursing home by a regulatory agency or voluntary closure in response licensure or certification action;
- Voluntary or involuntary bankruptcy proceedings that are not dismissed within 60 days;
- Voluntary or involuntary receivership proceedings that are not dismissed within 60 days;
- License suspension, denial, or revocation for failure to comply with operating standards.

If an application is denied, the bill authorizes an applicant to appeal the denial in accordance with the Administrative Procedure Act.

Under the bill, an applicant is required to notify the ODH Director within ten days of any change in the information or documentation that is required to be submitted before a change of operator may be effective. This notice is required whether the change in information occurs before or after the effective date of a change of operator. If an applicant fails to notify the Director of a change in information as required, the bill requires the Director to impose a civil penalty of $2,000 per day for each day of noncompliance.

Similarly, if the Director becomes aware that a change of operator has occurred but the entering operator failed to submit a change of operator license application or did submit an application but provided fraudulent information, the bill requires the Director to impose a civil penalty of $2,000 per day for each day of noncompliance after the date on which the Director became aware of the information. If the entering operator fails to submit an application or a new application within 60 days of the ODH Director becoming aware of a change of operator taking place, the Director is required to begin the process of revoking the nursing home's license.

Rulemaking

The bill authorizes the ODH Director to adopt any rules necessary to implement these requirements. The rules must be adopted in accordance with the Administrative Procedure Act (R.C. Chapter 119).

Legislative intent

The bill specifies that it is the intent of the General Assembly in establishing a nursing home change of operator license application process to require full and complete disclosure and transparency with respect to the ownership, operation, and management of each licensed nursing home located in Ohio.

Certificates of need – maximum capital expenditures

(R.C. 3702.511 and 3702.52; repealed R.C. 3702.541; Section 803.110; related and conforming changes in other sections)

Under Ohio's Certificate of Need (CON) Program, certain activities involving long term care facilities can be conducted only if a CON has been issued by the ODH Director. One activity that requires a review under the CON Program is an expenditure of more than 110% of the maximum capital expenditure specified in a CON concerning long-term care beds.

The bill eliminates the 110% capital expenditure limitation and, as a result, it eliminates the need to obtain a new CON based on a project's cost after a CON has been approved. Related to this change, the bill also does the following:

- Prohibits CON rules from specifying a maximum capital expenditure that a certificate holder may obligate under a CON;
- Eliminates a requirement that rules be adopted to establish procedures for Director-review of CONs where the certificate holder exceeds maximum capital expenditures;
- Eliminates law authorizing civil penalties up to $250,000 for violations of CON maximum capital expenditure limits;
- Specifies that the CON changes apply to currently valid CONs, pending CON applications, and pending actions for imposing sanctions;
- Repeals uncodified law enacted in H.B. 371 of the 134th General Assembly that, for 24 months, prohibits imposition of civil monetary penalties against CON holders who obligate up to 150% of an approved project's cost.

Fees for copies of medical records

(R.C. 3701.741)

The bill makes several changes to current law regarding costs that a health care provider or medical records company may charge for copies of medical records. In setting fee caps, current law distinguishes between record requests made by the patient or the patient's personal representative and requests made by anyone else. The bill modifies the law pertaining to the first category.

First, the bill adds that a request from an individual who is authorized to access a patient's medical record through a valid power of attorney is in the same category as a request from the patient or the patient's personal representative.

Second, related to costs that may be charged for those requests, the bill generally eliminates specific dollar caps based on the number of pages, and instead specifies that costs for such records must be reasonable and cost-based, and can include only costs that are authorized to be charged to the patient under federal law and regulations. The federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) authorizes reasonable, cost-based fees, including only costs for copying labor, supplies for creating the record, postage if applicable, and preparing an explanation or summary.[80] The bill does, however, impose a $50 cap in the case of requests for access to digital records or electronically transmitted records.

Finally, the bill clarifies that any per page charges to a patient, or the patient's personal representative or holder of a power of attorney, cannot exceed the sum of the per page charges permitted under current law when a request is made by anyone else. Those per page caps relate to x-ray, MRI, and CAT scan images, and to data recorded on paper or electronically. Related to the latter, the $50 cap discussed above also applies.

Second Chance Trust Fund Advisory Committee

(R.C. 2108.35)

The bill makes changes to the Second Chance Trust Fund Advisory Committee. First, it removes the term limits for members, who currently are limited to two consecutive terms, whether full or partial. Second, it removes the requirement that the Committee annually elect a chairperson from among its members, instead leaving the details of a chairperson's election and term to the rules of the Committee.

Under continuing law, the Committee makes recommendations to the ODH Director regarding how to spend proceeds of the Second Chance Trust Fund. The fund consists of voluntary contributions and its own investment earnings, used to promote organ donation in Ohio through public education and awareness campaigns, outreach to legal and medical organizations, and recognition of donor families.

Home health licensure exception

(R.C. 3740.01)

The bill creates an exception in the home health licensure law for individuals who provide self-directed services[81] to Medicaid participants, including individuals who are certified by the

[80] 45 C.F.R. 164.524(c)(4).

[81] Self-directed Medicaid services means that participants have decision making authority over certain services and take direct responsibility to manage their services with the assistance of a system of available supports. Self-direction is a service delivery model that is an alternative to traditionally delivered and managed services. Self-Directed Services, available by searching "self-direction" at medicaid.gov.

Department of Aging or registered as self-directed individual providers through an area agency on aging. Under the bill, such providers are not required to be licensed as home health providers.

Home health screening pilot program

(Sections 291.10, 291.20, and 291.50)

The bill requires the ODH Director to collaborate with CareStar Community Services to conduct a home health screening pilot program during FY 2024 and FY 2025. CareStar is a Cincinnati-based company that provides a variety of health services including case management, population health management, personal in-home services, technology development, and online learning and training. Community Services is CareStar's nonprofit organization that partners with government and private entities.[82] The purpose of the pilot program is to improve early detection of chronic diseases for populations underserved by health care providers and to connect patients with health care services.

The ODH Director is required to enter into a cooperative agreement with CareStar Community Services within 30 days of the bill's effective date, granting CareStar Community Services the authority to make decisions regarding program responsibilities. The first pilot program responsibility is to identify a target population underserved by health care providers that is large enough to evaluate best practices for further implementation. The pilot program must then deliver health screening tests directly to the homes of members of the target population, including tests for colorectal cancer, diabetes, heart disease, cervical cancer, and other tests deemed appropriate by CareStar Community Services. To enhance patient engagement and the return of completed tests, the pilot program is responsible for initiating public awareness and education efforts directed at the target population. After the screening tests are complete, the pilot program must deliver the results to those who submitted tests and provide referrals to health care providers for consultations when appropriate and available.

The Medicaid Director must enter into a data sharing agreement with the ODH Director to provide necessary patient data with protected health information to the ODH Director and CareStar Community Services. The data shared may only be used to complete the pilot program. Pilot operators and any subcontractors with access to the data are required to maintain Health Information Trust Alliance compliance.

CareStar Community Services, in collaboration with the ODH Director, is required to submit two reports to the Governor, the Speaker of the House of Representatives, the President of the Senate, and the chairs of the committees of each house with responsibility for health care policy. The reports are due within 60 days of the end of each fiscal year that the pilot is established. Each report must detail the status of the pilot program, including an estimate of the financial savings anticipated as a result of the early screenings and recommendations for expanding the program statewide.

The bill appropriates $1 million of GRF, to be distributed to CareStar Community Services in both FY 2024 and FY 2025, to be used for the home health screening pilot program. If CareStar

[82] CareStar, CareStar Community Services, available at carestar.com.

Community Services contracts with an institution of higher education to perform any services related to the pilot program, administrative costs may not be more than 15% of the cost of the services provided.

Smoking and tobacco

Minimum age to sell tobacco products

(R.C. 2927.02(B)(7), (E)(2), and (G))

The bill expands the offense of illegal distribution of tobacco products by prohibiting any person from allowing an employee under 18 to sell tobacco products. A violation is a fourth degree misdemeanor for a first offense, and a third degree misdemeanor on subsequent offenses.

The bill clarifies that it is not a violation of either of the following for an employer to permit an employee age 18, 19, or 20 to sell a tobacco product:

- The prohibition against distributing tobacco products to any person under 21;
- The prohibition against distributing tobacco products in a place lacking required signage relating to the underage sale of tobacco products.

Shipment of vapor products and electronic smoking devices

(R.C. 2927.023)

Continuing law makes each of the following a criminal offense, punishable by a fine of up to $1,000 for each violation:

- For any person to cause cigarettes to be shipped to a person in Ohio other than an authorized recipient of tobacco products;
- For a common carrier, contract carrier, or other person to knowingly transport cigarettes to a person in Ohio that the carrier or other person reasonably believes is not an authorized recipient of tobacco products;
- For any person engaged in the business of selling cigarettes to ship cigarettes or cause cigarettes to be shipped in any container or wrapping other than the original container or wrapping without first marking the exterior with the word “cigarettes.”

The bill extends the same offenses to vapor products and electronic smoking devices, except that, for the third offense, the container or wrapping must instead be marked with the words “vapor products” or “electronic smoking devices.” In addition, the bill specifies that the following persons are “authorized recipients of vapor products or electronic smoking devices”: licensed tobacco or vapor retailers or distributors, operators of customs bonded warehouses, state and federal government agencies and employees, and political subdivision agencies and employees.

Delivery services

(R.C. 2927.02(F))

The bill prohibits a delivery service from accepting, transporting, delivering, or allowing pick-up of alternative nicotine products, papers used to roll cigarettes, or tobacco products other than cigarettes to or from a person under 21. The delivery service must verify the age of such a person by driver's license, military identification, passport, or state identification that shows the person is 21 or older.

Electronic liquids

(R.C. 2927.02(A) and (B))

Under current law, any liquid used in an electronic smoking device is considered to be a tobacco product and is, therefore, subject to regulation regardless of whether or not the liquid contains nicotine. In contrast, the bill specifies that only "electronic liquids" which, by definition, contain nicotine are considered tobacco products. Accordingly, the bill exempts liquids that do not contain nicotine from the law governing the giveaway, sale, or other distribution of tobacco products.

The bill prohibits any person from giving away, selling, offering for sale, advertising for sale, displaying, or marketing flavored electronic liquids unless the flavored electronic liquid has first received a marketing order from the United States Food and Drug Administration (FDA). A marketing order is an FDA authorization to sell a new tobacco product. Flavored electronic liquids are any electronic liquid that has a characterizing flavor or smell other than tobacco or menthol.

Proof of age

(R.C. 2927.02(A)(7) and (B)(1))

Continuing law prohibits vendors from selling or otherwise distributing tobacco products to persons younger than 21. The bill requires vendors to verify proof of age prior to selling or otherwise distributing tobacco products. Continuing law defines proof of age as a "driver's license, military identification card, passport or state ID card that shows that a person is 21 or older."

Free samples

(R.C. 2927(B)(8))

Continuing law prohibits persons from "giving" tobacco products to persons under 21 years of age. The bill expands on this by explicitly prohibiting giving away or otherwise distributing free samples of cigarettes, other tobacco products, alternative nicotine products, or coupons redeemable for such products to persons under 21 and without first verifying proof of age. Additionally, any vendor wishing to give away such samples must do so in accordance with the Trade Practices Law and Consumer Sales Practices Law and must also pre-pay any applicable taxes.

Moms Quit for Two grant program

(Section 291.30)

The bill continues Moms Quit for Two. Authorized in each biennium since 2015, it is a grant program administered by ODH that awards funds to government or private, nonprofit entities demonstrating the ability to deliver evidence-based tobacco cessation interventions to women who are pregnant or living with a pregnant woman and reside in communities that have the highest incidence of infant mortality, as determined by the ODH Director.

Retail tobacco stores

(R.C. 3794.03)

The bill modifies an exemption from the Smoke Free Workplace Law for retail tobacco stores. Under continuing law, a retail tobacco store, i.e., an establishment that derives more than 80% of its gross revenue from the sale of lighted or heated tobacco products and related smoking accessories, established before December 7, 2006, is exempt from the Smoke Free Workplace Law so long as it files an annual affidavit with the Department of Health stating the percentage of its gross income derived from such sales. Conversely, a retail tobacco store established after December 7, 2006, or that relocates after that date, qualifies for exemption only if it files the aforementioned affidavit, is the sole occupant of a freestanding structure, and if smoke from the store does not migrate to an enclosed area where smoking is prohibited.[83]

The bill specifies that a change of ownership of a retail tobacco store established before December 7, 2006, does not constitute the beginning of a new operation or require the relocation of an existing operation to a freestanding structure for the purposes of retaining the store's exemption from the Smoke-Free Workplace Law.

Sudden Unexpected Death in Epilepsy Awareness Day

(R.C. 5.2320; Section 700.10)

The bill designates October 26 as "Sudden Unexpected Death in Epilepsy Awareness Day" and names this provision Brenna's Law.

[83] See also, R.C. 3794.01(H), not in the bill.

DEPARTMENT OF HIGHER EDUCATION

Restriction on instructional fee increases

- For the 2023-2024 and 2024-2025 academic years, prohibits state universities, and university branch campuses from increasing instructional and general fees for students above 3% of what was charged in the previous academic year.
- For the 2023-2024 and 2024-2025 academic years, permits community colleges, state community colleges, and technical colleges to increase instructional and general fees by not more than $5 per credit hour over the previous academic year.
- Excludes from the fee restrictions: student health insurance, auxiliary goods or services fees provided to students at cost, pass-through fees for licensure and certification exams, study abroad fees, elective service charges, fines, and voluntary sales transactions.

Financial aid programs

Ohio College Opportunity Grant Program

- Increases the income eligibility threshold for an Ohio College Opportunity Grant Program (OCOG) award from an expected family contribution (EFC) of $2,190 or less to $3,750 or less.
- Prescribes OCOG award amounts in uncodified law for FY 2024 and FY 2025, as follows:
  - For students enrolled in a state institution of higher education, $3,000 in FY 2024 and $4,000 in FY 2025;
  - For students enrolled in a private nonprofit college or university, $4,500 in FY 2024 and $5,000 in FY 2025; and
  - For students enrolled in a private for-profit career college, $1,800 in FY 2024 and $2,000 in FY 2025.
- Prohibits an institution of higher education that enrolls OCOG students from making changes to its scholarship or financial aid programs with the goal or net effect of shifting the cost burden of those programs to OCOG.
- Requires each institution to provide at least the same level of needs-based financial aid to its students as in the immediately prior academic year in terms of either aggregate aid or on per student basis, but permits the Chancellor of Higher Education to temporarily waive this requirement for exceptional circumstances.

Second Chance Grant Program

- Increases the award amount for the Second Chance Grant Program from $2,000 to $3,000.
- Designates eight months as the minimum period of disenrollment to qualify for a grant for students enrolled in institutions that do not operate on a semester calendar.

Ohio Work Ready Grant Program

- Requires the Chancellor to establish the Ohio Work Ready Grant Program to award grants of up to $3,000 to eligible students enrolled in qualified programs at community, state community, or technical colleges, state university branch campuses, or Ohio technical centers.

War Orphans and Severely Disabled Veterans' Scholarship

- Renames the War Orphans and Severely Disabled Veterans' Children Scholarship as the Deceased or Severely Disabled Veterans' Children's Scholarship.
- Updates eligibility standards for the Deceased or Severely Disabled Veterans' Children's Scholarship by removing references to children of veterans who, while a member of the armed services, died or were discharged due to a disability on or before May 7, 1975.
- Requires the Ohio Deceased or Severely Disabled Veterans' Children's Scholarship Board to notify each scholarship applicant whose parent was killed in action of the Machine Gunnery Sergeant John David Fry Scholarship.
- Prohibits the Scholarship Board from awarding a scholarship to an applicant who is eligible for a Fry scholarship unless the board verifies that the applicant was denied a Fry scholarship.

Veterans' tuition waivers

- Updates eligibility standards by removing veterans who served between April 6, 1917, and November 11, 1918, as eligible for tuition waivers for attendance at a state-supported school, college, or university.
- Requires the Chancellor to notify applicants for a tuition waiver whose parent, spouse, or former spouse was a member of the armed services of the United States killed in the line of duty of the federal Machine Gunnery Sergeant John David Fry Scholarship.
- Prohibits the Chancellor from awarding a tuition waiver to an applicant who is eligible for a Fry scholarship unless the board verifies that the applicant was denied a Fry scholarship.

"Teach CS" Grant Program

- Requires the Chancellor of Higher Education to administer the "Teach CS" Grant Program to fund coursework, materials, and exams to support those who wish to teach computer science courses.

Ohio Computer Science Education Promise Program

- Creates the Ohio Computer Science Promise Program.

The Ohio Higher Education Enhancement Act

Diversity, equity, and inclusion (DEI), intellectual diversity, and other concepts

Policy

- Requires state institutions of higher education to adopt and enforce a policy requiring the institution to:
  - Prohibit any mandatory programs or training courses regarding DEI, except that a state institution may receive an exemption if such a program or course is required for certain specified purposes;
  - Affirm and declare a primary function to the pursuit of knowledge;
  - Affirm and declare that the institution will ensure full intellectual diversity;
  - Demonstrate intellectual diversity for course approval, approval of general education courses, student course evaluations, common reading programs, annual reviews, strategic goals for each department, and student learning outcomes;
  - Seek out invited speakers who have diverse ideological and political views;
  - Post a complete list of all speaker fees, honoraria, and other emoluments in excess of $500 that are sponsored by the state institution prominently on its website.
- Requires each state institution's policy to affirm and declare that the state institution will not:
  - Endorse or oppose, as an institution, any controversial beliefs or policies, specified concepts, or specified ideologies;
  - Influence or require students, faculty, or administrators to endorse or express a given ideology, political stance, or view of a social policy;
  - Require a student to endorse or express a given ideology, political stance, or view to obtain an undergraduate or post-graduate degree;
  - Use political and ideological litmus tests in any hiring, promotion, and admissions decisions, including diversity statements and other requirements that applicants describe commitment to a specified concept, specified ideology, or controversial belief;
  - Influence or require students, faculty, or administrators to endorse or express a given ideology or political stance in any hiring, promotion, or admissions process or decision;
  - Use a diversity statement or any other assessment of an applicant's political or ideological views in any hiring, promotions, or admissions process or decision;
  - Influence or require students, faculty, or administrators to endorse or express a given ideology or political stance in any process or decision regulating conditions of work or study.

Intellectual diversity protections and disciplinary sanctions

- Requires each state institution to do all of the following:
  - Implement a range of disciplinary sanctions for any an administrator, faculty member, staff, or student who interferes with the intellectual diversity rights of another;
  - Inform all students and employees of their intellectual diversity protections and any applicable policies adopted by the state institution to put the protections into practice;
  - Issue and post to its website an annual report on any violations of intellectual diversity rights and resulting disciplinary sanctions.

Statements of commitment

- Requires each state institution to incorporate statements into a statement of commitment declaring commitment to free and open intellectual inquiry, independence of thought, tolerance of differing viewpoints, and equality of opportunity.

Equal opportunity policies

- Requires state institutions to do both of the following with regard to every position, policy, program, and activity:
  - Treat all faculty, staff, and students as individuals, hold all individuals to equal standards, and provide every individual with equality of opportunity with regard to those individuals' race, ethnicity, religion, or sex;
  - Provide no advantage or disadvantage to faculty, staff, or students on the basis of race, ethnicity, religion, or sex in admissions, hiring, promotion, tenuring, or workplace conditions.

Prohibition on support and training for certain concepts

- Prohibits state institutions from providing or requiring training for any administrator, teacher, or staff member that advocates or promotes certain prescribed concepts regarding race and sex.
- Requires state institutions to implement a range of disciplinary sanctions for any administrator, teacher, staff member, or employee who authorizes or engages in a training that violates the above prohibitions.
- Requires state institutions to issue and post on their websites an annual report regarding violations of the above prohibitions, resulting disciplinary sanctions, and statistics on the academic qualifications of accepted and matriculating students, disaggregated by race and sex.

Segregation prohibition

- Requires state institutions to prohibit all policies designed explicitly to segregate faculty, staff, or students based on those individuals' race, ethnicity, religion, or sex in credit-

earning classroom settings, formal orientation ceremonies, and formal graduation ceremonies.

Complaint procedures

- Requires the board of trustees of each state institution of higher education to establish a process for handling complaints from students, student groups, or faculty members about the institution's employees' compliance with the bill's provisions.

Higher education employee strikes

- Prohibits state institutions of higher education employees from striking and instead requires them to submit unresolved collective bargaining disputes to a final offer settlement procedure.

Faculty evaluations

Student and peer evaluations

- Requires the Department of Higher Education (DHE) to develop a minimum set of standard questions to be used in student evaluations, including a question about whether a faculty member creates a classroom atmosphere free of bias.
- Requires each state institution to establish a written system of faculty evaluations completed by students that uses the questions developed by DHE.
- Requires state institutions to establish a written system of peer evaluations for faculty members with a focus on professional development regarding the faculty member's teaching responsibilities.

Faculty annual performance evaluations

- Requires state institutions to adopt and, every five years, submit to the Chancellor of Higher Education a faculty annual performance evaluation policy.
- Requires the policy to include an appeals process for faculty.
- Requires state institutions to conduct an annual evaluation for each full-time faculty member directly compensated by the state institution.

Post-tenure review policies

- Requires state institutions with tenured faculty to adopt and, every five years, submit to the Chancellor a post-tenure review policy.
- Requires state institutions with tenured faculty to adopt and, every five years, submit to the Chancellor policies on tenure and retrenchment.
- Requires the policy to contain an appeals process for tenured faculty whose review results in a recommendation for administration action.

Uniform Prudent Management of Institutional Funds Act

- Establishes the scope and procedures for a civil action, under certain limited circumstances, when a state institution of higher education violates a restriction in a qualified endowment agreement.
- Permits the Attorney General, the donor who transferred property under the agreement, or the donor's benefactor representative to file a complaint for breach of a qualified endowment agreement.
- Permits the Attorney General and any party to a qualified endowment agreement, including the recipient state institution of higher education, to file a complaint to obtain a declaration of rights and duties under the agreement.
- Requires complaints to be filed within six years of discovering the violation, or within 25 years after the effective date of the qualified endowment agreement, whichever is sooner.
- Limits application the cause of action to future breaches of existing endowment agreements.

Other changes

Five-year institutional cost summaries

- Requires state institutions to submit to the Chancellor a rolling five-year summary of institutional costs to be considered by the General Assembly when evaluating operating and capital project funding for each biennial main operating appropriations bill and capital appropriations bill.
- Requires the Chancellor to submit a report to the General Assembly including all state institutions' five-year institutional cost summaries.
- Requires that the president of each state institution or the Chancellor have the opportunity to present in the appropriate hearings conducted by committees considering higher education legislation regarding the institutions' five-year summaries.
- Requires the Chancellor to, prior to the enactment of each main operating appropriations and capital appropriations bill, create and present a report to the General Assembly including the total institutional costs for state universities and community colleges separately.

Faculty workload policy

- Requires each state institution to take formal action to adopt a faculty workload policy consistent with standards adopted by the Chancellor, review and update its policy on faculty tenure, require multiple pathways to tenure to receive certain state funds, and update its faculty workload policy every five years.
- Requires each state institution to include in its faculty workload policy a teaching workload expectation based on credit hours, a definition of all faculty workload elements

in terms of credit hours including a full-time minimum standard established by the board of trustees, justifiable credit hour equivalents, and any administrative action that the state institution may take if a faculty member fails to comply with the policy's requirements.

American government or history course requirement

- Requires the Chancellor of Higher Education to develop a three credit hour course in the subject of American government or American history with mandatory reading assignments including the United States Constitution, Declaration of Independence, five essays from the Federalist Papers, the Emancipation Proclamation, Gettysburg Address, and Letter from Birmingham Jail by Dr. Martin Luther King, Jr.
- Requires state institutions to require all students seeking a bachelor's degree to take the course or receive an exemption, beginning with students who graduate in the spring of the 2028-2029 academic year.
- Permits state institutions to offer the course under the College Credit Plus Program.

Syllabus requirements

- Requires each state institution to either post a course syllabus for each undergraduate course offered for college credit on its website or ensure that each course instructor posts the syllabus on a publicly accessible website that has specified information about the instructor and each syllabus the instructor is teaching.
- Permits community colleges to instead post a general syllabus for each course offered for credit.
- Requires each state institution and the Chancellor to prepare reports regarding state institution compliance with syllabus posting requirements.

Interactions with the People's Republic of China

- Prohibits state institutions from accepting gifts, donations, or contributions from the People's Republic of China or any organization that the institution reasonably suspects is acting on behalf of the People's Republic of China.
- Requires state institutions to submit to the Chancellor a copy of the foreign gifts report it sends to the United States Department of Education.
- Require state institutions to notify the Chancellor before entering into new or renewed academic partnerships with an academic or research institution located in China.
- Requires the state institution to maintain sufficient structural safeguards to protect the state institution's intellectual property, the security of Ohio, and national security interests.
- Requires the Auditor of State to audit state institutions' structural safeguards during the course of a normal audit.

Board of trustees training

- Requires the Chancellor to develop and provide annual training to the board of trustees of each state institution.
- Eliminates a requirement that the Chancellor, working with specified stakeholders, develop voluntary, model training for state institution board of trustee members.

Board of trustees terms of office

- Changes the term of office to six years for all nonstudent trustees at state universities who are appointed by the Governor on or after January 1, 2024.
- Eliminates a prohibition on state university trustees who served at least six years of a term being reappointed as a trustee before four years have elapsed since the end of the trustee's previous term.

Northeast Ohio Medical University principal goals

- Removes language establishing the principal goals of the Northeast Ohio Medical University to work in collaboration with area state universities.

Three-year bachelor's degree study

- Requires the Department of Higher Education to conduct a study on the feasibility of implementing three-year bachelor's degree programs in Ohio.

State institutions of higher education boards of trustees

The Ohio State University student trustees

- Prohibits student members of the Ohio State University (OSU) board of trustees from having voting power on the board, being considered members of the board in determining whether a quorum is present, and being entitled to attend executive sessions.
- Eliminates a requirement that the OSU board of trustees adopt a resolution determining whether to grant student trustees voting power and related authority.

Two-year institution boards of trustees

- Permits a member of a technical college, community college, or state community college board of trustees whose term has expired to continue in office until the trustee's successor takes office.
- States that for technical college, community college, and state community college boards of trustees, a majority of the sitting board members at the time of a meeting constitutes a quorum.

Technical college trustee appointments

- Transfers appointing power for technical college boards of trustees from school district boards of education to trustee selection committees beginning with trustees appointed on or after January 1, 2024.

- Requires the initial appointment of a trustee not appointed by the Governor during the expansion of a technical college district to be made by the technical college board of trustees' trustee selection committee.

State institution policies

Notice regarding access to transcript and institutional debts

- Requires each state institution of higher education, private nonprofit college or university, and private for-profit career college to post on its website:
  - An explanation that students have a right to access transcripts for employment-seeking purposes, regardless of whether the student owes an institutional debt; and
  - A list of resources for students who owe an institutional debt.

College transcripts

- Requires each state institution of higher education to adopt a resolution determining whether to end the practice of transcript withholding by December 1, 2023.
- Requires the Chancellor to provide a copy of each resolution to the Governor, the Speaker of the House, and the Senate President by January 1, 2024.

Mandatory on-campus student housing

- Prohibits state universities from requiring a student to live in on-campus student housing, unless the student is a first-year student who lives more than 25 miles away from the campus.

College student authority to decline vaccines

- Authorizes a student – if required by a private college or state institution of higher education to receive a vaccine – to decline the vaccine for medical contraindications or reasons of conscience, including religious convictions, and establishes a process by which a student may decline.

Community college housing and dining facilities

- Permits a community college district to acquire, lease, or construct housing and dining facilities if it is located within one-quarter mile of a facility that rented at least 75 rooms to students at the district on January 1, 2023.

Community college programs in Fairfield County

- Establishes a procedure to permit a community, state community, or technical college that is not co-located with an institution of higher education to develop and offer an academic program, certificate, associate's degree, or bachelor's degree in Fairfield County.

Salmon P. Chase Center for Civics, Culture, and Society

- Establishes the Salmon P. Chase Center for Civics, Culture, and Society as an independent unit within the Ohio State University.

Institute of American Constitutional Thought and Leadership

- Establishes the Institute of American Constitutional Thought and Leaderships as an academic unit within the University of Toledo.

Teacher preparatory programs

- Requires that metrics for educator preparation programs ensure specific coursework and preparation in effective literacy instruction and strategies aligned with instructional materials selected by the Department of Education and Workforce.
- Requires the Chancellor to do all of the following:
  - Consult with, instead of working jointly with, the Superintendent of Public Instruction in establishing metrics for educator preparation programs.
  - Develop an auditing process that clearly documents the degree to which each institution of higher education offers educator training programs in alignment with the above literacy requirements.
  - By December 31, 2023, complete an initial survey of educator preparation program, establish metrics for the audits, and update standards to reflect these new requirements.
  - Grant a one-year grace period to all institutions of higher education to meet the new standards and requirements, to begin on January 1, 2024. Requires the Chancellor to then begin conducting audits on January 1, 2025.
  - In conjunction with ODE, complete and publicly release summaries of these audits by March 31 of each year; identify a list of approved vendors who can provide professional development experiences consistent with the science of reading; and develop a public dashboard that reports first time passage rates of students on the Foundations of Reading Licensure test.

College Credit Plus Program

- Permits the Chancellor, in consultation with the state Superintendent, to take action as necessary to ensure that public colleges and universities and school districts are fully engaging and participating in the College Credit Plus Program (CCP).
- Requires the Chancellor and Superintendent to work with public secondary schools and partnering public colleges and universities to encourage the establishment of model pathways that prepare participants to successfully enter the workforce in certain fields.

International Baccalaureate course credit

- Requires the Ohio Articulation and Transfer Advisory Council to, by April 15, 2025, recommend standards to the Chancellor for awarding college course credit based on scores attained on International Baccalaureate (IB) exams.
- Requires each state institution to comply with standards adopted by the Chancellor in awarding course credit to students who attain a passing score on an IB exam.
- Requires each state institution to make its standards and policies on course credit for IB courses available to the public in an electronic format.

Advanced Placement course credit

- Requires each state institution of higher education to make its standards and policies on course credit for Advanced Placement courses available to the public in an electronic format.

FAFSA support team system

- Requires the Chancellor of Higher Education to establish and administer a statewide system of regional FAFSA support teams to support public schools with FAFSA completion and college access programming.
- Requires FAFSA support teams to offer FAFSA and college access programming, training, and support to public schools in the team's region.

Wright State University land lease

- Permits developers desiring to lease land from Wright State University to first submit their plans for development to the board of trustees (rather than the Department of Administrative Services (DAS)), if the land to be leased is held in trust by the board of trustees.
- Permits the board of trustees to direct the developer to submit the plans instead to DAS, if the board of trustees desires that DAS lease the land to the developer under continuing law.
- Permits the board of trustees to lease land it holds in trust if certain conditions are met.

Board of Regents

- Abolishes the Ohio Board of Regents.

Obsolete reports and programs

- Abolishes the Ohio Instructional Grant Program.
- Abolishes the OhioCorps Pilot Program.
- Eliminates a requirement for the Chancellor to develop and implement a statewide plan permitting high school students to receive college credit for approved career-technical education courses.

- Eliminates an obsolete requirement that the Ohio Articulation and Transfer Network Oversight Board issue a report to the General Assembly by March 2, 2022, regarding college credit transfer rules for state institutions of higher education.

As used in this chapter of the analysis:

A **state institution of higher education** means any of the 14 state universities and each community college, state community college, technical college, and university branch campus. The state universities are the University of Akron, Bowling Green State University, Central State University, University of Cincinnati, Cleveland State University, Kent State University, Miami University, Northeast Ohio Medical University, Ohio University, Ohio State University, Shawnee State University, University of Toledo, Wright State University, and Youngstown State University.

Ohio technical centers are career-technical centers and schools that provide adult education and are recognized as such by the Chancellor of Higher Education.

Restriction on instructional fee increases

(R.C. 3345.48; Section 381.260)

In-state undergraduate instructional and general fees

State universities

Under law unchanged by the bill, each state university is required to establish an undergraduate tuition guarantee program. Under that program, each entering cohort of undergraduate students pays an immediate increased rate for instructional and general fees, but that rate is guaranteed not to increase again for that particular cohort for the next four years.

For FY 2024 and FY 2025 (the 2023-2024 and 2024-2025 academic years), the bill requires each state university and each university branch campus to restrain increases in its in-state undergraduate instructional, general, and any other mandatory fees. Specifically, it prohibits them from increasing the guaranteed amount of instructional and general fees for students entering in the 2023-2024 or 2024-2025 academic year by more than 3% over what was charged in the previous academic year.

Otherwise, under continuing law, the increase is the sum of the average rate of inflation for the past 36 months and the percentage amount the General Assembly restrains increases on in-state undergraduate instructional and general fees for the fiscal year.

Community, state community, and technical colleges

For the same years as state universities, each community college, state community college, and technical college may not increase its instructional and general fees more than $5 per credit hour over what it charged in the previous academic year. It also requires them to restrain increases in any other mandatory fees.

Special fees

Increases for all other special fees, including newly created ones, are subject to the approval of the Chancellor.

Exclusion

The bill's limits on fee increases explicitly *exclude*:

- Student health insurance;
- Fees for auxiliary goods or services provided to students at the cost incurred to the institution;
- Fees assessed to students as a pass-through for licensure and certification exams;
- Fees in elective courses associated with travel experiences;
- Elective service charges;
- Fines; and
- Voluntary sales transactions.

As in previous biennia when the General Assembly capped tuition increases, the bill's provisions 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 prior obligations or commitments. Further, the Chancellor, with Controlling Board approval, may approve an increase to respond to exceptional circumstances identified by the Chancellor.

Financial aid programs

Ohio College Opportunity Grant Program

(R.C. 3333.122; Section 381.490)

Awards and eligibility

The bill increases the income eligibility threshold for an Ohio College Opportunity Grant Program (OCOG) award from an expected family contribution (EFC) of $2,190 or less to $3,750 or less. It also prescribed award amounts for OCOG recipients for FY 2024 and FY 2025, as indicated in the table below.

OCOG recipient award amounts		
Institutional sector	**FY 2024**	**FY 2025**
State institution of higher education	$3,200	$4,000
Private nonprofit college or university	$4,700	$5,000
Private for-profit career college	$1,850	$2,000

Additionally, the bill requires the Chancellor, if the appropriated funds are insufficient to support all eligible students, to either proportionally reduce award amounts or prioritize awards to students with higher financial need.

No cost burden shifting

The bill prohibits any institution of higher education that enrolls OCOG recipients from making any change to the institution's scholarship or financial aid programs with the goal or net effect of shifting the cost burden of those programs to the OCOG program.

Needs-based financial aid requirement

The bill also requires each institution to provide at least the same level of needs-based financial aid to its students as in the immediately prior academic year in terms of either aggregate aid or on a per student basis. However, the bill permits the Chancellor of Higher Education to grant an institution a temporary waiver from that requirement if exceptional circumstances make it necessary.

Background

OCOG is the state's sole need-based financial aid program for Ohio residents pursuing an undergraduate education at an institution of higher education in Ohio. For more information on OCOG, see the LSC Members Brief, Ohio College Opportunity Grant: Q&A (PDF), which is available at LSC's website: lsc.ohio.gov/publications.

Second Chance Grant Program

(R.C. 3333.127)

The bill makes changes to the Second Chance Grant Program. First, the bill increases the award amount from $2,000 to $3,000. Second, it designates eight months as the minimum period of disenrollment to qualify for a grant for students enrolled in institutions that do not operate on a semester calendar. Under continuing law, students enrolled in other institutions must be disenrolled for at least two semesters.

Background

The Second Chance Grant Program was established in 2022 by S.B. 135 of the 134th General Assembly. Under the program, the Chancellor must award a one-time grant of up to $2,000 to students who previously had disenrolled from higher education. To be approved, a student must enroll in a qualifying Ohio institution and have a remaining cost of attendance, as defined under federal law, after all other financial aid has been applied to the applicant's account.

A student is eligible for the program if the student:

1. Is an Ohio resident;

2. Has not attained a bachelor's degree;

3. Disenrolled from a qualifying institution, while being in good standing including with respect to academics and the student's disciplinary record, and did not transfer to a "qualifying institution" or an institution of higher education in another state in the two semesters immediately following disenrollment;

4. Enrolls in a "qualifying institution" within five years of disenrollment;

5. Is not enrolled in the College Credit Plus Program; and

6. Meets any other eligibility criteria determined necessary by the Chancellor.

Ohio Work Ready Grant Program

(R.C. 3333.24; Section 381.160)

Operation

The bill requires the Chancellor to establish the Ohio Work Ready Grant Program. Under the program, the Chancellor must award grants of up to $3,000 to eligible students who are enrolled in qualified programs at a community, state community, or technical college, a state university branch campus, or an Ohio technical center.

Students may apply to participate in the program in a form and manner prescribed by the Chancellor. The Chancellor must adopt rules about how to compute grant award amounts for full- or part-time students. The Chancellor also must determine the form and manner of payments. A student cannot receive a grant for more than six semesters or the equivalent of three academic years.

The program must be funded in a manner designed by the General Assembly, though the Chancellor may receive funds from other sources to support the program. If the amounts available for the program are inadequate to provide grants to all students in an academic year, the Chancellor may establish different grant amounts based on the number of applicants and the amount of the program's funds.

Student eligibility

The bill qualifies a student to participate in the program if the student:

1. Is an Ohio resident;

2. Has completed the Free Application for Federal Student Aid (FAFSA); and

3. Is enrolled in a qualified program.

For the purposes of the program, a qualified program is a credit or noncredit program that leads to an industry-recognized credential, certificate, or degree and which prepares a student for a job that is either:

1. Identified as an "in-demand" or "critical" job, as determined by the Office of Workforce Transformation; or

2. Submitted by a community, state community, or technical college, state university branch campus, or Ohio technical center and will meet regional workforce needs, as approved by the Chancellor.

Report

The bill requires the Chancellor, in consultation with qualified program providers, to collect and report program metrics, including:

1. Demographics of recipients, including:

a. Age, disaggregated as follows:

i. 24 years old or younger;

ii. 25 to 34 years old;

iii. 35 to 49 years old;

iv. 50 years or older;

b. Gender;

c. Race and ethnicity;

d. Enrollment status as full- or part-time;

e. Pell grant status.

2. Success rate of recipients, including program retention and completion;

3. Total number of industry-recognized credentials awarded, disaggregated by subject or program area.

War Orphans and Severely Disabled Veterans' scholarship

(R.C. 5910.01, 5910.02, 5910.031, 5910.032, 5910.04, 5910.05, 5910.06, 5910.07, and 5910.08)

The bill renames the War Orphans and Severely Disabled Veterans' Scholarship as the Deceased or Severely Disabled Veterans' Children's Scholarship.

The bill updates eligibility standards for the Deceased or Severely Disabled Veterans' Children's Scholarship by removing references to the children of veterans who died or were discharged due to a disability between any of the following dates:

1. April 6, 1917, to November 11, 1918;

2. December 7, 1941, to December 31, 1946;

3. June 25, 1950, to January 31, 1955; and

4. January 1, 1960, to May 7, 1975.

The bill also requires the Ohio Deceased or Severely Disabled Veterans' Children's Scholarship Board to notify each scholarship applicant whose parent was killed in action of the federal Machine Gunnery Sergeant John David Fry Scholarship. The bill prohibits the board from awarding a scholarship to an applicant who is eligible for a Fry scholarship unless the board verifies that the applicant was denied a Fry scholarship. According to the federal Department of Veterans Affairs, the Fry scholarship is a scholarship for children and spouses of veterans who died in the line of duty on or after September 11, 2001, while serving in the armed forces, or was a member of the Selected Reserve who died from a service-connected disability. For more information on the Fry scholarship, please see the Veterans Affairs information on the Fry Scholarship accessible at: www.va.gov.

Under continuing law, a child is eligible for the War Orphans and Severely Disabled Veterans' Children's Scholarship if the child's parent is deceased or disabled veteran and the child: (1) is between the ages of 16 and 25, (2) at the time of applying for the scholarship, is a child of a "veteran," as defined for purposes of the scholarship, who entered the armed forces as either (a) a legal resident of Ohio who resided in the state for the last preceding year or (b) not as a legal resident of Ohio and having resided in Ohio for the year preceding the year the scholarship application is made, in addition to any other four of the last ten years, and (3) is in financial need, as determined by the Ohio War Orphans and Severely Disabled Veterans' Children's Scholarship Board.[84]

Veterans' tuition waiver

(R.C. 3333.26 and 3333.261)

The bill updates eligibility standards for a tuition waiver for certain veterans by removing references to veterans who served between April 6, 1917, and November 11, 1918.

The bill also requires the Chancellor to notify applicants for a tuition waiver whose parent, spouse, or former spouse was a member of the armed services of the United States killed in the line of duty of the federal Machine Gunnery Sergeant John David Fry Scholarship. The bill prohibits the Chancellor from awarding a tuition waiver to an applicant who is eligible for a Fry scholarship unless the Chancellor verifies that the applicant was denied a Fry scholarship.

Ohio Computer Science Promise Program

(R.C. 3322.20 and 3322.24; conforming changes in R.C. 3314.03 and 3326.11)

The bill establishes the Ohio Computer Science Promise Program. Beginning with the 2024-2025 school year, under the program, an Ohio student in any of grades 7-12 may enroll in one computer science course per school year that is not offered by the student's school. Students cannot be charged for tuition, textbooks, or other fees related to participating in the program.

Any eligible student enrolled in a public secondary school or participating nonpublic secondary school may participate. To participate, a student must be accepted into an eligible course offered by an approved provider. The Department of Education and Workforce, in consultation with the Chancellor, must approve eligible courses and providers. The Department also must publish a list of providers and courses annually.

The Chancellor, in consultation with the state Superintendent, must adopt rules governing the program.

High school credit

Public and participating nonpublic schools must award high school credit toward graduation and subject area requirements for successful completion of program courses. If a completed course offered by an approved provider is comparable to one offered by the school, the school must award comparable credit. If no comparable course is available, the school must

[84] R.C. 5910.03, not in the bill.

grant an appropriate number of elective credits. Evidence of completion of each course and the number of credits awarded must be indicated on the student's record with a designation that they were earned through the program and the name of the approved provider.

The bill creates an appeals process for disputes regarding the credits granted for approved courses. The Department makes the final decision regarding any appeal.

"Teach CS" Grant Program

(R.C. 3333.129)

The bill establishes the "Teach CS" Grant Program, administered by the Chancellor of Higher Education. The program is designed to fund coursework, materials, and exams to support the increasing number of existing teachers who qualify to teach computer science through all of the following:

1. A supplemental licensing with a mentorship-based pathway for existing teachers;

2. A university endorsement program involving a coursework-based pathway for existing teachers;

3. An alternative resident educator licensure pathway for industry experts and other nonteachers; and

4. A continuing education program offering professional development to existing teachers, including those that teach pre-k-12 who are generalists and those seeking advanced content knowledge.

The bill requires the Chancellor, in consultation with the Department of Education and Workforce, to develop an application process and criteria for awards. The bill permits the Chancellor to prioritize education consortia that include economically disadvantaged schools in which there are computer science courses offered or where there is an unmet need for teachers able to teach computer science.

The Ohio Higher Education Enhancement Act

The bill makes several changes to higher education. It creates, among other things, new requirements for state institutions of higher education regarding diversity, equity, and inclusion policies and training, intellectual diversity, and faculty evaluations. It also prohibits higher education employees from striking and instead requires employees to submit unresolved collective bargaining disputes to a final offer settlement procedure. The changes throughout this section are to be called "The Ohio Higher Education Enhancement Act."

Throughout the bill, "state institution of higher education" or "state institution" includes any state university or college, community college, state community college, university branch, or technical college. Further, when the bill requires that something be posted on a website, that posting must be: (1) accessible from the main page of the state institution's website by using no more than three links, (2) searchable by keywords and phrases, and (3) accessible to the public without requiring any user registration.

Diversity, equity, and inclusion (DEI), intellectual diversity, and other concepts

Policy

(R.C. 3345.0217 and 3345.0218)

The bill requires the board of trustees of each state institution of higher education to adopt and enforce a policy requiring the institution to do all of the following:

1. Prohibit any mandatory programs or training courses regarding diversity, equity, or inclusion, unless the institution receives an exemption;

2. Affirm and declare that its primary function is to practice, or support the practice of, discovery, improvement, transmission, and dissemination of knowledge by means of research, teaching, discussion, and debate;

3. Affirm and declare that the institution will ensure the fullest degree of intellectual diversity. Under the bill, "intellectual diversity" means multiple, divergent, and opposing perspectives on an extensive range of public policy issues.

4. Affirm and declare that faculty and staff will allow and encourage students to reach their own conclusions about all controversial beliefs or policies and will not seek to inculcate any social, political, or religious point of view;

5. Demonstrate intellectual diversity for course approval, approval of courses to satisfy general education requirements, student course evaluations, common reading programs, annual reviews, strategic goals for each department, and student learning outcomes;

6. Declare that it will not endorse or oppose, as an institution, any controversial belief or policy, specified concept, or specified ideology, although it may endorse the United States Congress when it establishes a state of armed hostility against a foreign power. This does not include the recognition of national and state holidays, support for the Constitution and laws of the United States or Ohio, or the display of the American or Ohio flag.

Under the bill:

a. A "controversial belief or policy" means any belief or policy that is the subject of political controversy, including issues such as climate policies, electoral politics, foreign policy, diversity, equity, and inclusion programs, immigration policy, marriage, or abortion;

b. A "specified concept" means a concept such as allyship, diversity, social justice, sustainability, systematic racism, equity, or inclusion;

c. A "specified ideology" means any ideology that classifies individuals within identity groups, divides identity groups into oppressed and oppressors, and prescribes advantages, disadvantages, or segregation based on identity group.[85]

[85] R.C. 3345.0217(A).

7. Affirm and declare that the institution will not encourage, discourage, require, or forbid students, faculty, or administrators to endorse, assent to, or publicly express a given ideology, political stance, or view of a social policy, nor will the institution require students to do any of those things to obtain an undergraduate or post-graduate degree;

8. Prohibit political and ideological litmus tests in all hiring, promotion, and admissions decisions, including diversity statements and any other requirement that applicants describe their commitment to a specified concept, specified ideology, or any other ideology, principle, concept, or formulation that requires commitment to any controversial belief or policy;

9. Affirm and declare that no hiring, promotion, or admissions process or decision shall encourage, discourage, require, or forbid students, faculty, or administrators to endorse, assent to, or publicly express a given ideology or political stance;

10. Affirm and declare that the institution will not use a diversity statement or any other assessment of an applicant's political or ideological views in any hiring, promotions, or admissions process or decision;

11. Affirm and declare that no process or decision regulating conditions of work or study, such as committee assignments, course scheduling, or workload adjustment policies, shall encourage, discourage, require, or forbid students, faculty, or administrators to endorse, assent to, or publicly express a given ideology or political stance;

12. Affirm and declare that the institution will seek out invited speakers who have diverse ideological or political views;

13. Post prominently on its website a complete list of all speaker fees, honoraria, and other emoluments in excess of $500 for events that are sponsored by the state institution.[86]

Under the bill, the second through fifth requirements in this list do not apply to the exercise of professional judgment about how to accomplish intellectual diversity within an academic discipline, unless that exercise is misused to constrict intellectual diversity.[87]

The sixth and seventh requirements do not apply to the exercise of professional judgment about whether to endorse the consensus or foundational beliefs of an academic discipline, unless that exercise is misused to take an action prohibited by the sixth requirement.[88]

Each institution must adopt this policy within 90 days of the bill's effective date.

The bill states that none of the above requirements prohibit faculty or students from classroom instruction, discussion, or debate, so long as faculty members remain committed to expressing intellectual diversity and allowing intellectual diversity to be expressed.[89]

[86] R.C. 3345.0217(B)(1) to (13).

[87] R.C. 3345.0217(B)(5).

[88] R.C. 3345.0217(B)(7).

[89] R.C. 3345.0217(F).

Exemptions

(R.C. 3345.0217)

Under the bill, a state institution may receive an exemption for the requirement to prohibit any mandatory programs or training courses regarding diversity, equity, and inclusion, if the institution determines the course is exempt from the prohibition and is required to do any of the following:

- Comply with state or federal laws or regulations;
- Comply with professional licensure requirements;
- Obtain or retain accreditation;
- Secure or retain grants or cooperative agreements; or
- Apply policies of the institution with respect to employee or student discipline.

A state institution may receive an exemption if, prior to the initial offering of a diversity, equity, and inclusion program or training course, the state institution provides a written report to the Chancellor explaining why the program or course qualifies for an exemption. The report must include the following:

1. The specific law, license requirement, accreditation, grant, or cooperative agreement at issue;

2. The specific language in the law, licensure requirement, accreditation, grant, or cooperative agreement that requires the training;

3. A detailed description of the diversity, equity, and inclusion program or training to be taught, including any materials that will be used;

4. The specific population of individuals who will be mandated to take the training;

5. The number of times the training is expected to be offered on a six-month basis;

6. An estimate of the cost of the program or training; and

7. If the exemption is reported for an accreditation, proof that alternative accreditation has been researched and evaluated. An alternate accreditation is an accreditation that would obtain the same or similar results for the institution while not requiring a diversity, equity, and inclusion program or training.

If a state institution makes a change to previously reported diversity, equity, and inclusion program or training, the institution must submit a new exemption report for approval for that program or training.

The bill requires the Chancellor to prepare a report at least once every six months that summarizes all exemptions reported for diversity, equity, and inclusion programs during that six-month period. The Chancellor must submit each report to the chairpersons of the standing committees of the Ohio Senate and House of Representatives that consider higher education legislation.

Intellectual diversity protections and sanctions

(R.C. 3345.0218)

The bill requires each state institution of higher education to implement a range of disciplinary sanctions for any administrator, faculty member, staff, or student who interferes with the intellectual diversity rights of another individual.

The bill also requires each state institution to inform its students and employees of the protections given to them under the bill and any policies adopted to put the protections into practice, including by providing the information to new employees and to students during any new student orientation. This information must be posted on the institution's website.

Each state institution is also required to issue an annual report on any violations to the intellectual diversity rights prescribed under the bill by any individual under the state institution's jurisdiction and any consequent disciplinary sanctions issued for that violation. The institution must post this report on its website.

Statements of commitment

(R.C. 3345.0216)

The bill requires each state institution to incorporate certain principles into a statement of commitment. In the statement, the institution must declare all of the following:

1. It will educate students by means of free, open, and rigorous intellectual inquiry to seek the truth;

2. Its duty is to equip students with an opportunity to develop the intellectual skills they need to reach their own, informed conclusions;

3. Its duty is to ensure that, within or outside the classroom, the institution will not require, favor, disfavor, or prohibit speech or lawful assembly;

4. It is committed to creating a community dedicated to an ethic of civil and free inquiry, which respects the autonomy of each member, supports individual capacities for growth, and tolerates the differences in opinion that naturally occur in a public higher education community;

5. Its duty is to treat all faculty, staff, and students as individuals, to hold them to equal standards, and to provide them equality of opportunity.

Equal opportunity policies

(R.C. 3345.87)

The bill requires each state institution to do both of the following with respect to every position, policy, program, and activity:

1. Treat all faculty, staff, and students as individuals, hold every individual to equal standards, and provide every individual with equality of opportunity with regard to those individuals' race, ethnicity, religion, or sex; and

2. Provide no advantage or disadvantage to faculty, staff, or students on the basis of race, ethnicity, religion, or sex in admissions, hiring, promotion, tenuring, or workplace conditions.

The bill defines "position, policy, program, and activity" to include all of the following:

1. All forms of employment, including staff positions, internships, and work studies;

2. All policies, including mission statements, hiring policies, promotion policies, and tenure policies;

3. All programs and positions, including deanships, provostships, offices, programs presented by residence halls, and committees; and

4. All activities, including those conducted by the administrative units of orientation, first-year experience, student life, and residential life.

Prohibition on support and training for certain concepts

(R.C. 3345.87)

The bill prohibits state institutions from providing or requiring training for any administrator, teacher, staff member, or employee that advocates or promotes any of the following concepts:

1. One race or sex is inherently superior to another race or sex;

2. An individual, by virtue of the individual's race or sex, is inherently racist, sexist, or oppressive, whether consciously or unconsciously;

3. An individual should be discriminated against or receive adverse treatment solely or partly due to the individual's race;

4. Members of one race cannot or should not attempt to treat others without respect to race;

5. An individual's moral standing or worth is necessarily determined by the individual's race or sex;

6. An individual, by virtue of the individual's race or sex, bears responsibility for actions committed in the past by other members of the same race or sex;

7. An individual should feel discomfort, guilt, anguish, or any other form of psychological distress on account of the individual's race or sex;

8. Meritocracy or traits such as hard work ethic are racist or sexist, or were created by members of a particular race to oppress members of another race;

9. Fault, blame, or bias should be assigned to a race or sex, or to members of a race or sex because of their race or sex.

The bill requires each state institution to implement a range of disciplinary sanctions for any administrator, teachers, staff member, or employee who authorizes or engages in a training prohibited above.

The bill's requirements should not be read to preclude a state institution of higher education from providing or facilitating continuing education that complies with the bill's provisions to public safety officers. Each state institution is required to issue an annual report

including all violations of the above training prohibition with all consequent disciplinary sanctions and statistics on the academic qualifications of accepted and matriculating students, disaggregated by race and sex. The statistics must include information correlating students' academic qualifications and retention rates, disaggregated by race and sex. State institutions are required to post the reports in a prominent place on the state institution's website.

Segregation prohibition

(R.C. 3345.87)

The bill requires state institutions to prohibit all policies explicitly designed to segregate faculty, staff, or students based on those individuals' race, ethnicity, religion, or sex in credit-earning classroom settings, formal orientation ceremonies, and formal graduation ceremonies.

Complaint procedures

(R.C. 3345.0217 and 3345.87)

The bill requires the board of trustees of each state institution of higher education to establish a process for handling complaints from students, student groups, or faculty members about the institution's employees and their compliance with the bill's provisions. The process must comply with standards adopted by the Chancellor, but at a minimum that process must require the following:

- The state institution must investigate alleged violations;
- The state institution must conduct fair and impartial hearings about alleged violations; and
- If a hearing results in a determination that a violation has occurred, the board of trustees must determine a resolution to address the violation and prevent further violations by the institution.

Higher education employee strikes

(R.C. 4117.14 and 4117.15)

The bill prohibits state institution of higher education employees from striking. Instead, those employees must submit to a final offer settlement procedure to settle unresolved collective bargaining disputes with their employers in accordance with continuing law. In the event of a strike by these employees, the institution of higher education that employs them may seek an injunction against the strike in the court of common pleas of the county where the strike occurs.

The Public Employees' Collective Bargaining Law[90] (PECBL) governs collective bargaining between public employees and public employers who are subject to that law. Under the PECBL, all matters related to wages, hours, or terms and other conditions of public employment are

[90] R.C. Chapter 4117.

subject to collective bargaining between a public employer and the "employee organization" (essentially, a union) that represents the employer's public employees.[91] The PECBL establishes timelines and requirements for negotiating collective bargaining agreements. It also specifies procedures the parties must follow if they reach an impasse during negotiations, including submitting unresolved issues to a fact-finding panel. If the parties are unable to reach agreement within seven days after the publication of findings and recommendations from a fact-finding panel or if any existing collective bargaining agreement has expired, the public employees who are permitted to strike may do so in accordance with statutory procedures. Public employees who are not permitted to strike must follow a final offer settlement procedure to settle unresolved collective bargaining disputes with their employers.[92] In general, the PECBL currently prohibits peace officers, firefighters, corrections officers, public service dispatchers, employees of the State School for the Deaf and the State School for the Blind, and a limited number of public-sector healthcare workers from striking.[93]

Under continuing law, if public employees governed by the PECBL engage in a strike that is not authorized under the PECBL, the employees may be subject to discipline in accordance with the procedures specified in the PECBL.[94]

Faculty evaluations

Student and peer evaluations

(R.C. 3345.451)

The bill requires each state institution of higher education to establish a written system of faculty evaluations completed by students and focusing on teaching effectiveness and student learning. For this purpose, the Chancellor of Higher Education must develop a minimum set of standard questions that state institutions must include in student evaluations of faculty members. The set of questions must include the question, "Does the faculty member create a classroom atmosphere free of political, racial, gender, and religious bias?"

In addition to student evaluation of faculty members, the bill requires each state institution to establish a written system of peer evaluations for faculty members. The evaluations must place an emphasis on the faculty member's professional development regarding the faculty member's teaching responsibilities.

Faculty annual performance evaluations

(R.C. 3345.452)

The bill requires the board of trustees of each state institution to adopt and submit to the Chancellor a faculty annual performance evaluation policy. The policy must contain an appeals

[91] R.C. 4117.08, not in the bill.

[92] R.C. 4117.14(A) to (C).

[93] R.C. 4117.14(D)(1).

[94] R.C. 4117.23, not in the bill.

process for faculty to appeal the final evaluation. The board of trustees must review and update the policy every five years.

Each state institution must conduct an annual evaluation for each full-time faculty member it directly compensates. Each evaluation conducted by a state university under its policy must meet all of the following:

1. The evaluation is comprehensive and includes standardized, objective, and measurable performance metrics;

2. The evaluation includes an assessment for each of the following areas that the faculty member has spent at least 5% of their annual work time on over the preceding year:

a. Teaching;

b. Research;

c. Service;

d. Clinical care;

f. Administration;

g. Other categories, as determined by the state institution.

3. The evaluation includes a summary assessment of the above performance areas that includes the parameters "exceeds performance expectations," "meets performance expectations," or "does not meet performance expectations;"

4. Student evaluations conducted under the bill account for at least 25% of the teaching area component of the evaluation; and

5. The evaluation establishes a projected work effort distribution for the faculty member which will be used for the next year's evaluation. This distribution must be compliant with the state institution's established workload policies and must be approved by the dean of faculty or the equivalent.

Evaluations must be conducted by the department chairperson or equivalent administrator, reviewed and approved or disapproved by the dean, and submitted to the provost for review. If the chairperson and dean disagree, the provost must have final decision authority.

Collective bargaining

(R.C. 3345.455)

With respect to collective bargaining agreements entered into under the PECBL on or after the provision's effective date, employees of a state institution may not collectively bargain with the institution regarding faculty evaluations developed under the bill. Additionally, the evaluation systems and policies established under the bill prevail over any conflicting provision of a collective bargaining agreement entered into on or after that date.

The bill's prohibition against collective bargaining on faculty evaluations is identical to a continuing law prohibition against collectively bargaining faculty workload policies described below.

Post-tenure review policy

(R.C. 3345.453 and 3345.455)

The bill requires each state institution that has tenured faculty members to adopt a post-tenure review policy and submit the policy to the Chancellor. Each state institution's board of trustees must update the policy every five years.

Under the bill, a state institution must conduct a post-tenure review if a tenured faculty member receives a "does not meet performance expectations" evaluation within the same evaluative category for at least two of the past three consecutive years on the faculty member's annual performance review.

If a faculty member maintains tenure after a post-tenure review and then receives an additional "does not meet performance expectations" assessment on any area of the faculty member's annual performance evaluation in the subsequent two years, then the state institution must subject the faculty member to an additional post-tenure review.

If a faculty member has a documented and sustained record of significant underperformance outside of the faculty member's annual performance evaluation, the department chairperson, dean of faculty, or provost of the state institution may require an immediate and for cause post-tenure review. For this purpose, for cause cannot be based on a faculty member's allowable expression of academic freedom as defined by the state institution or Ohio law.

A state institution's post-tenure review due process period cannot exceed six months, except that the state institution president may grant a one-time two-month extension.

At the conclusion of a post-tenure review, the state institution's provost must submit a recommended outcome of the post-tenure review process to the institution's entity that is responsible for the final decision of post-tenure review pursuant to the institution's policy. The institution may take administrative action under the post-tenure review process, including censure, remedial training, or for-cause termination, regardless of tenure status, and any other action permitted by the institution's post-tenure review policy. Each institution's review policy must contain an appeals process for tenured faculty whose review results in a recommendation for administration action.

Additionally, the bill requires state institutions of higher education that have tenured faculty members to develop policies on tenure and retrenchment and submit those policies to the Chancellor. Each state institution must update those policies every five years. The bill defines "retrenchment" as a process by which a state institution of higher education reduces programs or services, resulting in a temporary suspension or permanent separation of faculty members, to account for a reduction in student population or overall funding, a change to institutional missions or programs, or other fiscal pressures or emergencies facing the institution.

As with faculty evaluation policies described above, a post-tenure review, tenure, or retrenchment policy adopted in accordance with the bill is not subject to collective bargaining between the institution and its employees.

Uniform Prudent Management of Institutional Funds Act

(R.C. 1715.551)

Limited cause of action

The bill establishes the scope and procedures for a civil action when a state institution of higher education or a foundation that receives, holds, or administers charitable contributions for a state institution of higher education, violates a restriction in a qualified endowment agreement. Under the bill, a "qualified endowment agreement" is a gift instrument signed by a donor and a state institution of higher education prior to the bill's 90-day effective date, where the donor commits to transfer property to that state institution of higher education or another state institution of higher education, and the institution commits that it (or the other state institution of higher education) will hold or administer the property as an endowment fund. The property transferred under the agreement must be worth at least $3 million in aggregate. This includes the full value of the property transferred by the donor under the gift instrument, regardless of whether the state institution of higher education holds the property as one endowment fund or multiple funds. Continuing law defines an endowment fund as an institutional fund that, under the terms of a gift instrument, is not wholly expendable by the institution at the current time. Endowment funds are subject to restrictions on management, investment, spending, or purpose that may be contained in an associated endowment agreement.

After such a violation, the donor, or the donor's benefactor representative, may notify the charitable law section of the Attorney General's office. The bill defines "benefactor representative" as either:

- The administrator or executor of the donor's estate; or
- A person designated in the qualified endowment agreement to act in place of a party to the agreement in resolving disputes.

The bill specifies that "benefactor representative" does *not* mean the state institution of higher education receiving or administering property under an endowment agreement. If a benefactor representative is named in the endowment agreement, they are the only benefactor representative, regardless of whether the person who transferred the property also has an estate administrator or executor.

The Attorney General may enforce a qualified endowment agreement by filing a complaint in the proper court for breach of the agreement or to obtain a declaration of rights and duties expressed therein. If the Attorney General does not obtain full compliance within 180 days of receiving notification of the breach, the donor or their benefactor representative may file a complaint of their own for breach of the agreement or to obtain a declaration of rights and duties. The bill specifies that such a complaint may be filed regardless of any contrary terms of the agreement. However, the complaint must not seek an award of any damages, costs, fees, money, or other property. Instead, it must seek only declaratory relief or equitable relief consistent with the charitable purposes of both the qualified endowment agreement and the state institution of higher education.

A state institution of higher education may also file a complaint to obtain a declaration of rights and duties under the qualified endowment agreement. The institution may seek such a declaration as part of a suit brought against it, or by filing its own complaint in the proper court.

Procedures and deadlines

A complaint filed under the bill must name as parties the Attorney General, the state institution of higher education that signed the agreement, any state institution of higher education that currently administers property subject to the agreement, and each donor or their benefactor representative. If a donor is not named as a party, the court may not act of the merits of the complaint or on any motion to address its merits without first ensuring that the plaintiff acted diligently to notify the donor or their benefactor representative, and that they have an opportunity to be heard or to intervene.

Any cause of action brought under the bill must be filed within six years of discovering a violation of a qualified endowment agreement. However, no cause of action may be brought more than 25 years after the effective date of the agreement. If the donor or their benefactor representative notifies the Attorney General during the sixth year after discovering the violation, the deadline is extended by 210 days.

Applicability

The bill's endowment agreement provisions apply only to breaches of qualified endowment agreements, and only when those breaches are alleged to have occurred on or after the bill's 90-day effective date. Any breach that occurred prior to the section's effective date is not subject to a cause of action under the bill.

Furthermore, the changes apply only to qualified endowment agreements involving a state institution of higher education. Violations of agreements governing other types of endowment funds are not subject to the cause of action. Under continuing law, a "state institution of higher education" means a community college, state community college, university branch, technical college, or a public institution of higher education. The term includes all of the following: University of Akron, Bowling Green State University, Central State University, University of Cincinnati, Cleveland State University, Kent State University, Miami University, Northeast Ohio Medical University, Ohio University, Ohio State University, Shawnee State University, University of Toledo, Wright State University, and Youngstown State University. For the purposes of the bill, "state institution of higher education" also includes foundations, the corporate purpose of which is solely to benefit an identified state institution of higher education and that receive, hold, or administer charitable transfers of property for that institution.

Other changes

Five-year institutional cost summaries

(R.C. 3345.80)

The bill requires each state institution of higher education, for each biennial main operating appropriations bill and capital appropriations bill, to prepare and submit to the Chancellor, by a date determined by the Chancellor, a rolling five-year summary of its institutional costs to be considered by the General Assembly when evaluating operating and

capital project funding. The Chancellor is required to submit a report to the General Assembly including each state institution's five-year institutional cost summary.

Each state institution's institutional cost summary must consist of the following categories:

1. All costs related to student instruction, including instructor salaries, benefits, and related operating costs;

2. All general staff costs related to maintenance, grounds, utilities, food service, and other areas, as determined by the state institution; and

3. All other costs for staff, including academic administrators, counseling, financial aid assistance, healthcare services, and housing management.

For each of the above categories, a state institution's five-year institutional cost summary must include all of the following:

1. A detailed breakdown of annual costs and employee headcounts;

2. A complete accounting of all spending on diversity, equity, and inclusion, or related subjects; and

3. An annual count of all faculty, administration, and employees.

The bill requires the Chancellor to consult with state institutions of higher education to develop a standardized reporting format for the five-year institutional cost summaries and a uniform approach to completing the required categories.

The bill also requires that during the General Assembly's consideration of the main operating appropriations and capital appropriations bills, the president of each state institution of higher education or the Chancellor has the opportunity to present in front of the General Assembly in the appropriate hearings conducted by committees that consider higher education legislation. The president or Chancellor may use the opportunity to provide commentary on trends, potential justifications, or other explanations regarding the state institution's five-year institutional cost summary.

The Chancellor is required to create and present to the General Assembly, prior to the enactment of the main operating appropriations and capital appropriations bills, an aggregation report summarizing the total institutional costs for state universities and community colleges separately.

Faculty workload policies

(R.C. 3345.45)

The bill requires each state institution of higher education, instead of only state universities as under current law, to do all of the following:

1. Jointly develop standards with the Chancellor of Higher Education for instructional workloads for full-time and part-time faculty that keep with the institutions' missions, place a special emphasis on the undergraduate learning experience, and contain clear guidelines for acceptable undergraduate teaching;

2. Take formal action to adopt a faculty workload policy consistent with the standards developed by the Chancellor;

3. Review the state institution's policy on faculty tenure and update that policy; and

4. Require multiple pathways for tenure to receive certain state funds.

The bill also requires each state institution of higher education to, every five years, update its existing faculty workload policy and submit the revised policy to the Chancellor. The state institution's board of trustees must approve the policy each time the state institution submits an updated policy to the Chancellor.

Each policy must include all of the following:

1. An objective and numerically defined teaching workload expectation based on credit hours as defined under federal law;

2. A definition of all faculty workload elements in terms of credit hours as defined under federal law, with a full-time workload minimum standard established by the state institution's board of trustees and made publicly accessible on the state institution's website;

3. A definition of justifiable credit hour equivalents for activities other than teaching, including research, clinical care, administration, service, and other activities as determined by the state institution;

4. Administrative action that a state institution may take if a faculty member fails to comply with the policy's requirements, including censure, remedial training, for-cause termination, or other disciplinary action, regardless of tenure status. Termination under these circumstances must require the recommendation of the dean, provost, or equivalent official, concurrence of the state institution's president, and approval of the state institution's board of trustees.

Under existing law, state universities have been required to have a formally adopted faculty workload policy since June 30, 1994. These existing policies were required to be based on standards developed by the Chancellor with state university input.

Under continuing law, faculty workload policies are not subject to collective bargaining between a state university and its employees. And a university's policy prevails over a conflicting term in a collective bargaining agreement. The bill applies the collective bargaining prohibition to a state institution of higher education's policy. Thus, an institution's policy will prevail over a conflicting term in any collective bargaining agreement entered into on or after the section's effective date.

American government or history requirement

(R.C. 3345.382)

Beginning with students who graduate in the spring of the 2028-2029 academic year, the bill prohibits each state institution from granting a bachelor's degree to any student who has not completed a course with at least three credit hours in the subject area of American government or American history.

The bill requires the Chancellor to develop the course in compliance with the criteria, policies, and procedures established under R.C. 3333.16. The course may be offered under the College Credit Plus program. The course must include both of the following:

1. A requirement that students read all of the following:

a. The entire United States Constitution;

b. The entire Declaration of Independence;

c. At least five essays in their entirety from the Federalist Papers, with essays being selected by the department chair;

d. The entire Emancipation Proclamation;

e. The entire Gettysburg Address;

f. The entire Letter from Birmingham Jail written by Dr. Martin Luther King Jr;

2. A requirement that students pass a cumulative final examination at the end of the course that assesses student proficiency on the required readings.

The president of a state university or the president's designee may exempt a student from the course requirement if the president or designee determines that the student has either:

1. Completed at least three credit hours, or the equivalent, in a course in the subject area of American history or American government; or

2. Passed an examination, developed by the Chancellor, that assesses the student's competence in the required readings and concepts in the course.

Syllabus requirements

(R.C. 3345.029)

The bill requires each state institution of higher education to make a syllabus for each undergraduate course it offers for college credit available to the public. Community colleges (including state community and technical colleges) are permitted to post a general syllabus for offered courses instead of posting a course syllabus for each course.

Course syllabus – state institutions of higher education

With the exceptions outlined below, the bill requires each state institution of higher education to publish a course syllabus for each course offered for college credit by the institution. A "course syllabus" is a document produced for students by a course instructor that includes all of the following:

1. The name of the course instructor;

2. A calendar for the course outlining what materials and topics will be covered and when they will be covered;

3. A list of any required or recommended readings for the course; and

4. The course instructor's professional qualifications.

Each course syllabus must be made publicly available by doing one of the following:

1. Ensuring that each course instructor posts a course syllabus on a publicly accessible website that includes information on the course instructor's professional qualifications, contact information, course schedule, and a link or download for the course syllabus for each course the instructor is currently teaching; or

2. Posting each course syllabus for each course on the institution's publicly accessible website.

General syllabus – community colleges

Instead of publishing a course syllabus for each course offered for college credit, a community college may instead opt to publish a general syllabus for a course. A "general syllabus" must include, for each course, a calendar for the course outlining what materials and topics will be covered and when during the course they will be covered and a list of any required or recommended readings for the course. A general syllabus does not need to include specific information about the course instructor.

Requirements for posting all syllabus materials

The bill imposes certain requirements on the publishing and retention of course and general syllabus materials, as follows:

1. State institutions must make a course or general syllabus for each undergraduate course offered for college credit publicly available no later than on the first day of classes for the semester or academic term in which the course is offered.

2. Each syllabus posted to the institution's website must remain on the state institution's website for at least two years after being posted for the first time.

3. If a course syllabus posted by a course instructor is no longer used, upon request, the course instructor must make that syllabus available for at least two years after posting the syllabus.

To the extent practicable, each state institution must ensure that the most recently updated syllabus for each undergraduate course offered for college credit is posted according to the requirements listed above.

College Credit Plus course exemption

State institutions are not required to adhere to the syllabus posting requirements for courses offered through the College Credit Plus program that are delivered in a secondary school and taught by a high school teacher.

Administration of syllabus duties

The board of trustees of each state institution is required to designate an administrator to implement these requirements. The administrator is permitted to delegate the responsibilities to one or more administrative employees.

The bill also requires all of the following to occur by the first day of January each year:

1. Each state institution submits a written report regarding its compliance with the syllabus posting requirements;

2. The Chancellor prepares a report including all of the syllabus compliance reports received from state institutions; and

3. The Chancellor submits the Chancellor's report to the Governor, Speaker of the House of Representatives, President of the Senate, and chairpersons of the Senate and House of Representatives standing committees that consider higher education legislation.

Interactions with the People's Republic of China

(R.C. 3345.591)

The bill prohibits state institutions of higher education from accepting gifts, donations, or contributions from the People's Republic of China or any organizations that the institution reasonably suspects are acting on behalf of the People's Republic of China. The bill explicitly states that this does not prohibit state institutions from accepting payments from Chinese citizens related to instructional fees, general fees, special fees, cost of instruction, or educational expenses or donations from the institution's alumni. The bill defines the "People's Republic of China" as the government of China, the Chinese Communist Party, the People's Liberation Army, or any other extension of, or entity affiliated with, the government of China.

The bill also requires each state institution to submit to the Chancellor a copy of the foreign gifts report it submits to the United States Department of Education pursuant to federal law regarding the disclosure of foreign gifts.[95]

The bill also requires the Chancellor to make any of the information reported by state institutions available to any member of the General Assembly who requests it.

Under the bill, state institutions are required to notify the Chancellor of Higher Education of any new or renewed academic partnership with an academic or research institution located in China. A state institution must maintain sufficient structural safeguards to protect the state institution's intellectual property, the security of the state of Ohio, and the national security interests of the United States when entering into such a partnership. A state institution's safeguards must meet the following requirements:

1. Compliance with all federal requirements, including the requirements of federal research sponsors and federal export control agencies, including regulations regarding international traffic in arms and export administration regulations, and economic and trade sanctions administered by the Federal Office of Foreign Assets Control;

2. Annual formal institution-level programs for faculty on conflicts of interest and conflicts of commitment; and

3. A formalized foreign visitor process and uniform visiting scholar agreement.

[95] 20 U.S.C. 1011(f).

The bill requires the Auditor of State to audit the safeguards implemented by state institutions of higher education during the course of a normal audit.[96]

Board of trustees training

(R.C. 3345.045)

The bill requires the Chancellor to develop and annually provide educational programs for the board of trustees of each state institution. The Chancellor must consult with state institutions and members of their boards of trustees as part of this process. The programs may be held online and be offered periodically. New members of a board of trustees must participate in the programs at least one time within their first two years in office. Current trustees are required to participate in continuing trustee training as determined by the Chancellor.[97]

The educational programs developed by the Chancellor must be designed to address the role, duties, and responsibilities of a trustee and may include in-service programs on current issues in higher education. The Chancellor may consider similar programs offered in other states or through a recognized trustee group. The educational programs must include presentations and content related to all of the following:

1. Each board member's duty to the state of Ohio;

2. The committee structure and function of a board of trustees;

3. The duties of the executive committee of a board of trustees;

4. Professional accounting and reporting standards;

5. Methods for meeting the statutory, regulatory, and fiduciary obligations of a board of trustees;

6. Public records law requirements;

7. Institutional ethics and conflicts of interest;

8. Creating and implementing institution-wide rules and regulations;

9. Business operations, administration, budgeting, financing, financial reporting, and financial reserves, including a segment on endowment management;

10. Fixing student general and instructional fees, and other necessary changes, including a review of student debt trends;

11. Overseeing planning, construction, maintenance, expansion, and renovation projects that impact the state institution's consolidated infrastructure, physical facilities, and natural environment, including its lands, improvements, and capital equipment;

12. Workforce planning, strategy, and investment;

[96] See also R.C. 117.46, not in the bill.

[97] R.C. 3333.045.

13. Institutional advancement, including philanthropic giving, fundraising initiatives, alumni programming, communications and media, government and public relations, and community affairs;

14. Student welfare issues, including academic studies, curriculum, residence life, student governance and activities, and the general physical and psychological well-being of undergraduate and graduate students;

15. Current national and state issues in higher education; and

16. Future national and state issues in higher education.

The bill also eliminates an existing law requirement that the Chancellor develop voluntary, model training for state institution board of trustee members.

State institution of higher education trustees terms of office

(R.C. 3335.02, 3337.01, 3339.01, 3341.02, 3343.02, 3344.01, 3350.10, 3352.01, 3356.01, 3359.01, 3361.01, 3362.01, and 3364.01)

The bill reduces from nine to six years the length of the terms of office for each nonstudent state university board of trustees member appointed on and after January 1, 2024. The bill also eliminates the prohibition against reappointing a person who has served at least six years of a term as a state university board of trustee member unless four years have elapsed since the last day of the person's previous term.

Northeast Ohio Medical University principal goals

(R.C. 3350.10)

The bill removes the language that establishes the principal goals of the Northeast Ohio Medical University to work in collaboration with area state universities.

Three-year bachelor's degree study

(Section 733.70)

The bill requires the Department of Higher Education to complete a feasibility study regarding the implementation of bachelor's degree programs in the state that require three years to complete. The study must investigate a variety of fields of study and determine the feasibility of reducing specific course requirements, quantity of electives, and total credit hours required for graduation. The study cannot include the use of College Credit Plus or any other current programs used to accelerate degree programs. The study must also present and evaluate potential issues related to accreditation. The bill requires the Department to submit a report to the General Assembly regarding the study's findings within one year of the bill's effective date.

Under continuing law, the Chancellor, as a condition of reauthorization for certification of each baccalaureate program the state institution offers, must require all state institutions that offer baccalaureate degrees to submit a statement describing how each major may be completed

within three academic years.[98] Under this requirement, state institutions are permitted to include advanced placement credits, international baccalaureate program credits, and College Credit Plus credits.[99]

Student trustees at the Ohio State University

(R.C. 3335.02 and 3335.09)

The bill explicitly prohibits the student members of the OSU board of trustees from having voting power, being considered members for purposes of quorum requirements, and from attending the board's executive sessions. The bill removes a 2015 requirement that the OSU board of trustees adopt a resolution to either grant the two student members of the board voting power or declare that student members did not have voting power. The bill also removes a related provision authorizing the OSU board to change the voting status of student trustees by adopting a subsequent resolution.

The bill also removes a prohibition that applied only if student members of OSU's board were granted voting power. The provision barred the board from disqualifying students from board membership because the student received a scholarship, grant, loan, or other financial assistance payable out of the state treasury or a university fund, or because the student was employed by the university and compensated out of the state treasury or a university fund.

The bill also prohibits any trustee or trustee's relative through blood or marriage from being eligible to a professorship or position in the university, the compensation for which is payable out of the state treasury or a university fund. Under current law, student trustees with voting power were exempted from this prohibition.

Two-year institution boards of trustees

(R.C. 3354.05, 3357.05, and 3358.03)

The bill permits a member of a technical college, community college, or state community college board of trustees whose term has expired to continue in office until the trustee's successor takes office.

The bill also states that for technical college, community college, and state community college boards of trustees, a majority of the sitting board members at the time of a meeting constitutes a quorum.

Technical college trustee appointments

(R.C. 3357.05 and 3357.021)

Beginning with trustees not appointed by the Governor appointed on or after January 1, 2024, the bill transfers the appointing power for technical college boards of trustees from school

[98] R.C. 3333.43(A).

[99] R.C. 3333.43(B).

district boards of education to a trustee selection committee selected by the technical college board of trustee's executive committee.

The bill requires the executive committee of the technical college's board of trustees to appoint a trustee selection committee. The committee must consist of either three or five members who are local business, civic, or nonprofit leaders who are not current sitting members of the technical college's board of trustees.

Under the bill, the technical college's board of trustees must nominate individuals for consideration by the trustee selection committee. The bill permits a trustee selection committee to select new trustees from individuals nominated by the current board of trustees or from other applicants.

The bill requires trustees appointed by a trustee selection committee to reside within the technical college district and to be appointed with the advice and consent of the Senate. Trustees appointed by a trustee selection committee must, to the greatest extent possible, be individuals who hold leadership positions within significant industries in the technical college district. The bill sets the terms of office for trustees appointed by a trustee selection committee for three years.

The bill requires the initial appointment of a trustee not appointed by the Governor during the expansion of a technical college district to be made by the technical college board of trustees' trustee selection committee.

Under continuing law, if a technical college district embraces the territory of one or more school districts, with more than half of the territory of each school district being located in the same county, then the technical college is required to have seven trustees. If a technical college district embraces territory outside of those parameters, then the technical college is required to have nine trustees. When a technical college district that has seven trustees expands to include an additional school district's territory, it may be required to add two additional trustees.

State institution policies

Notice regarding access to transcript and institutional debts

(R.C. 3345.60)

The bill addresses information each state institution of higher education, private nonprofit college or university, and for-profit career college must post on its website about college transcripts and institutional debts. It requires those institutions to explain on their websites that a student has a right to access a transcript for the purposes of seeking employment, regardless of whether the student owes an institutional debt. Institutions also must post a list of resources for students who owe an institutional debt, including payment plans, settlement opportunities, and other dropout prevention programs.

Continuing law prohibits a state institution from withholding a student's official transcripts from a potential employer because the student owes the institution money, if the student authorizes transmission of the transcripts and the employer affirms the transcripts are a

prerequisite of employment.[100] Neither private nonprofit colleges and universities or private for-profit career colleges are subject to that prohibition.

College transcripts

(R.C. 3345.027)

The bill requires the board of trustees of each state institution of higher education to adopt a resolution by December 1, 2023, determining whether to end the practice of transcript withholding. The board must submit a copy of the resolution to the Chancellor. When adopting the resolution, each board must consider and evaluate all of the following factors:

1. The extent to which ending the practice will promote the state's postsecondary education attainment and workforce goals;

2. The rate of collection on overdue balances resulting from the historical practice of transcript withholding;

3. The extent to which ending the practice will help students who disenroll from the state institution complete an education at the same or a different state institution.

If the board resolves to maintain transcript withholding, the board must include a summary of its evaluation of the required factors.

Finally, the Chancellor must provide a copy of each resolution to the Governor, the Speaker of the House, and the Senate President by January 1, 2024.

Current law prohibits state institutions from withholding a student's official transcripts from a potential employer because the student owes money to the institution, provided the student has authorized the transcripts to be sent to the employer and the employer affirms to the institution that the transcripts are a prerequisite of employment, but has no other prohibitions against state institutions withholding transcripts.

Mandatory on-campus student housing

(R.C. 3345.47)

The bill expands the prohibition against requiring students to live in on-campus student housing. Specifically, it prohibits state universities from requiring students to live in on-campus student housing, unless they are first-year students who live more than 25 miles away from campus. Under existing law, state universities are prohibited from requiring any student who lives within 25 miles of campus to live in on-campus student housing.

College student authority to decline vaccines

(R.C. 3792.05)

The bill authorizes a student – if required by a private college or state institution of higher education to receive a vaccine in order to attend class or reside in on-campus housing – to decline

[100] R.C. 3345.027.

the vaccine for medical contraindications or reasons of conscience, including religious convictions.

To decline a vaccine for reasons of conscience, including religious convictions, a student must present to the college or institution the student's written statement to that effect. The bill specifies that reasons of conscience, including religious convictions, are to be determined solely by the student.

To decline a vaccine for medical contraindications, a student must present to the college or institution a physician's certification in writing that vaccination is medically contraindicated for the student.

The bill further states that a student who presents either a statement or certification to the college or institution is not required to receive the vaccine.

Community college housing and dining facilities

(R.C. 3354.121)

The bill permits a community college district to acquire, lease, or construct housing and dining facilities if the district is located within one-quarter mile of a facility that, on January 1, 2023, rented at least 75 rooms to students at the district.

Under continuing law, a community college district that is located within one mile of a four-year private, nonprofit institution of higher education may acquire, lease, or construct housing and dining facilities.

Community college programs in Fairfield County

(R.C. 3357.131)

The bill establishes a procedure under which a community, state community, or technical college that is not co-located with an institution of higher education may develop and offer an academic program, certificate, associate's degree, or certain bachelor's degree in Fairfield County. Academic programs, certificates, and associate's degrees offered under this procedure must be issued pursuant to the Chancellor of Higher Education's standards and procedures for academic program approval. Continuing law permits community and technical colleges to offer applied bachelor's degrees and bachelor's degrees in nursing and prelicensure nursing.

To offer the programs described above, the college must:

1. Create a document that demonstrates a workforce need in the county and includes a request for the program, certificate, or degree from a business that is located or locating in Fairfield County;

2. Submit the document to a workforce advisory board established by the Fairfield County board of county commissioners. The advisory board must review the document and confirm whether the document demonstrates a legitimate workforce need in Fairfield County; and

3. Submit the document to any state university that operates a branch campus in Fairfield County upon confirmation from the advisory board that the document demonstrates a legitimate workforce need.

The only state university with a branch campus in Fairfield County is Ohio University. Thus, if Ohio University elects to develop and offer the program, certificate, or degree identified in the document at its branch campus in Fairfield County, then the community, state community, or technical college cannot develop and offer the program, certificate, or degree in there. If Ohio University does not elect to develop and offer the program, certificate, or degree in Fairfield County, then the college may do so.

Salmon P. Chase Center for Civics, Culture, and Society

(R.C. 3335.39)

The bill establishes the Salmon P. Chase Center for Civics, Culture, and Society as an independent unit within the Ohio State University, initially physically located in the College of Public Affairs. The Center is required to conduct teaching and research in the historical ideas, traditions, and texts that have shaped the American constitutional order and society.

The bill grants the Center the authority to establish its own bylaws but requires that the Center do all of the following and that the following must take priority over any other bylaws adopted by the Center:

1. Educate students by means of free, open, and rigorous intellectual inquiry to seek the truth;

2. Affirm its duty to equip students with the skills, habits, and dispositions of mind they need to reach their own informed conclusions on matters of social and political importance;

3. Affirm the value of intellectual diversity in higher education and aspire to enhance the intellectual diversity of the university;

4. Affirm a commitment to create a community dedicated to an ethic of civil and free inquiry, which respects the intellectual freedom of each member, supports individual capacities for growth, and welcomes the differences of opinion that must naturally exist in a public university community.

The bill permits the Board of Trustees of the university to change the name of the Center in accordance with the philanthropic naming policies and practices of the university.

Instructional requirements

The bill requires the Center to offer instruction in all of the following:

1. The books and major debates which form the intellectual foundation of free societies, especially that of the United States;

2. The principles, ideals, and institutions of the American constitutional order;

3. The foundations of responsible leadership and informed citizenship.

The bill further requires the Center to focus on offering university-wide programming related to the values of free speech and civil discourse as well as expanding the intellectual diversity of the university's academic community.

The bill grants the Center the authority to offer courses and develop certificate, minor, and major programs as well as graduate programs and offer degrees.

Academic council

Not later than 60 days after the bill's effective date the Board of Trustees of the university must appoint, with the advice and consent of the Senate, a seven-member Chase Center academic council.

The bill requires the academic council be comprised of scholars with relevant expertise and experience. Not more than one member of the council may be an employee of the university, and best efforts must be made to have not fewer than three members be from Ohio.

The bill further prescribes the term length for initial members of the academic council. Three members of the council are required to serve initial terms of two years and four members are required to serve initial terms of four years. The bill states that members must determine which members will serve which terms at its first meeting and select replacements for vacant seats as needed. However, the bill does not specify the duration of terms after the initial ones.

Director search and responsibilities

The bill requires the academic council described above to conduct a nationwide search for candidates for the director of the Center. The bill specifically requires that the nationwide search adhere to all relevant state and federal laws. The academic council must submit a list of candidates to the President of the university, from which the President must select and appoint a director. This appointment is subject to the approval of the Board of Trustees. Upon appointment, the director of the Center will have the protection of tenure or tenure eligibility. The bill further requires that the director consult with the Dean of the College of Public Affairs; however, the director must report directly to the Provost or the President of the University.

The bill requires the director to have the sole and exclusive ability to manage the recruitment and hiring process and have the authority to extend offers for employment for all faculty and staff, and to terminate employment of all staff. Additionally, the director must oversee, develop, and approve the Center's curriculum.

The bill requires the director to submit annually a report to the university's board of trustees and the General Assembly. The report must provide a full account of the Center's achievements, opportunities, challenges, and obstacles in the development of this academic unit.

Faculty

As stated above, the bill establishes the Center as an independent unit of the university and, thus, grants the Center the authority to make appointments of faculty, including tenure-track faculty. The bill further permits, but does not require, faculty appointed to the Center to hold joint appointments within any other division of the university. The bill requires that the Center allot not fewer than 15 tenure-track faculty positions to teach under the Center.

Institute of American Constitutional Thought and Leadership

(R.C. 3364.07)

The bill establishes the Institute of American Constitutional Thought and Leaderships as an academic unit (initially physically located at the college of law) within the University of Toledo. The purpose of the institute is for the pursuit of creating and disseminating knowledge about American constitutional thought and to form future leaders of the legal profession through research, scholarship, teaching, collaboration, and mentorship.

The bill requires the Institute to pursue all of the following goals:

1. To enrich the curriculum in American constitutional studies, including the core texts and great debates of western civilization;

2. To educate university students in the principles, ideals, and institutions of the American and Ohio constitutional order;

3. To educate university students in the foundations of responsible leadership and informed citizenship and to cultivate the next generation of leaders in the legal profession;

4. To offer university-wide programming related to the values of open inquiry and civil discourse;

5. To expand the intellectual diversity of the university's academic community and to create a rich forum for the development of ideas across the political and ideological spectrum;

6. To support faculty and graduate student scholarship that advances understanding of American constitutional thought and institutions;

7. To promote scholarly collaboration within the university and beyond; and

8. To host lectures, debates, and symposia, and sponsor visiting scholars, jurists, and teachers.

The bill grants the Center the authority to offer courses and develop certificate, minor, and major programs as well as graduate programs and offer degrees.

The bill permits the Board of Trustees of the university to change the name of the Institute in accordance with the philanthropic naming policies and practices of the university.

Policy requirements

The bill requires the Institute to adhere to the following policies:

1. The Institute must educate students by means of free, open, and rigorous intellectual inquiry to seek the truth;

2. The Institute must equip students with the skills, habits, and dispositions of mind they need to reach their own informed conclusions on matters of legal, social, and political importance;

3. The Institute must value intellectual diversity in higher education, including in faculty recruitment, hiring, and appointment, and aspire to enhance the intellectual diversity of academic life at the university; and

4. The Institute must create a community dedicated to an ethic of civil and free inquiry, which respects the intellectual freedom of each member, supports individual capacities for growth, and welcomes the differences of opinion that naturally occur in a public university community.

Academic council

Not later than 60 days after the bill's effective date, the Talent, Compensation, and Governance Committee of the Board of Trustees of the university, if such a committee exists, must appoint, with the advice and consent of the Senate, a seven-member Institute academic council. If no such committee exist, the bill requires the Board of Trustees to appoint the members of the council.

The bill requires the academic council be comprised of scholars with relevant expertise and experience. Not more than one member of the council may be an employee of the university, and best efforts must be made to have not fewer than three members be from Ohio.

The bill further prescribes the term length for initial members of the academic council. Three members of the council are required to serve initial terms of two years and four members are required to serve initial terms of four years. The bill states that members must determine which members will serve which terms at its first meeting and select replacements for vacant seats as needed. However, the bill does not specify the duration of terms after the initial ones.

To fill a vacancy for the director of the Institute, the bill requires the academic council to, following a national search, transmit to the President of the university a list of finalists from which the President must select a Director, subject to the approval of the Talent, Compensation, and Governance Committee of the Board of Trustees of the university.

Director appointment and responsibilities

The bill requires the Institute to be led by a director who must report directly to the President and Provost of the university and consult with the Dean of the College of Law. The President of the university must appoint an initial director not later than 30 days after the bill's effective date. The director's term is for five years and may be renewed. The bill further requires the director to be an expert of the western tradition, the American founding, and American constitutional thought, and have shown a commitment to the purposes, goals, and policies of the Institute.

Upon appointment, the director of the Institute will have the protection of tenure or tenure eligibility. Any existing tenure with the university held by a director must be maintained with the university.

The bill requires the director to have the sole and exclusive ability to manage the recruitment and hiring process and the authority to extend offers for employment for all faculty and staff, and to terminate employment of all staff. The director is also required to oversee, develop, and approve the Institute's curriculum. The bill specifically requires that for any

employment contracts offered by the director to tenure-track faculty, those individuals are guaranteed reappointment elsewhere in the university, at the same rank and compensation, in the event the Institute is discontinued.

The bill requires the director to submit annually a report to the university's board of trustees and the General Assembly. The report must provide a full account of the Institute's achievements, opportunities, challenges, and obstacles in the development of this academic unit.

Faculty

As stated above, the bill establishes the Institute as an independent academic unit of the university and, thus, grants the Institute the authority to house tenure-track faculty who hold appointments within the Institute. The bill further permits, but does not require, faculty appointed to the Institute to hold joint or courtesy appointments within any other division of the university.

Teacher preparatory programs

(R.C. 3333.048)

The bill requires the Chancellor, in "consultation" with the Superintendent of Public Instruction, rather than in "conjunction" with the state Superintendent, to establish metrics to ensure that educator training programs include evidence-based strategies for effective literacy instruction aligned to the science of reading, including phonics, phonemic awareness, fluency, comprehension, and vocabulary development, and is part of a structured literacy program.

The bill further requires the Chancellor to develop an auditing process that clearly documents the degree to which each institution of higher education that offers an educator training program is aligned with the bill's literacy requirements. The Chancellor, by December 31, 2023, must complete an initial survey of educator preparation program, establish metrics for the audits, and update standards to reflect these new requirements. The bill further requires the Chancellor to grant a one-year grace period to all institutions of higher education to meet the new standards and requirements, to begin on January 1, 2024. The Chancellor must begin conducting audits on January 1, 2025.

Upon completion of an audit, the bill requires the Chancellor to revoke approval for programs that are found not to be in alignment and do not address the findings of the audit within a year. All programs must be reviewed every four years thereafter to ensure continued alignment. The Chancellor also annually must create a summary of literacy instruction strategies and practices in place for all educator preparation programs based on the program audits, including institution level summaries, until all programs reach the required alignment.

In conjunction with the Department of Education and Workforce, the bill further requires the Chancellor to do all of the following:

1. Complete and publicly release summaries of audits by March 31 of each year;

2. Identify a list of approved vendors who can provide professional development experiences that are consistent with the science of reading to educators who are responsible for teaching reading, including faculty in educator preparation programs; and

3. Develop a public dashboard that reports the first-time passage rates of students, by institution, on the Foundations of Reading Licensure test.

Under continuing law, the Chancellor jointly with the state Superintendent must establish metrics and preparation programs for educators and other school personnel and the higher education institutions that offer the programs. The Chancellor must, based on the metrics and preparation programs, approve institutions with preparation programs that maintain satisfactory training procedures and records of performance.

College Credit Plus Program

(Section 381.720)

The bill permits the Chancellor, in consultation with the Superintendent of Public Instruction, to take action as necessary, to ensure that public colleges and universities and school districts are fully engaging and participating in the College Credit Plus Program (CCP). These actions may include publicly displaying program participation data by district and institution.

For the "model pathways" required under continuing law, the bill requires the Chancellor and state Superintendent to work with public secondary schools and partnering public colleges and universities, as necessary, to encourage the establishment of model pathways that prepare participants to successfully enter the workforce in certain fields – which may include any of the following:

1. Engineering technology and other fields essential to the superconductor industry;

2. Nursing, with particular emphasis on models that facilitate a participant's potential progression through different levels of nursing;

3. Teaching and other related education professions;

4. Social and behavioral or mental health professions;

5. Law enforcement or corrections; and

6. Other fields as determined appropriate by the Chancellor and state Superintendent, in consultation with the Governor's Office of Workforce and Transformation.

Under current law, each public secondary school, in consultation with at least one public partnering college, is required to develop two model pathways for courses offered under CCP. One model pathway must be a 15-credit hour pathway and one must be a 30-credit hour pathway. Pathways may be organized by desired major or career path and may include various core courses required for a degree or professional certification by the college. Current law does not prescribe specific professional fields for model pathways.[101]

[101] R.C. 3365.13, not in the bill.

International Baccalaureate course credit

(R.C. 3333.163 and 3345.38)

The bill requires the Ohio Articulation and Transfer Advisory Council (OATAC) to, by April 15, 2025, recommend standards to the Chancellor for awarding course credit toward degree requirements at state institutions of higher education based on scores attained on International Baccalaureate (IB) exams. The recommended standards must include a score on each IB exam that the Council considers a passing score for which course credit may be awarded.

After the Chancellor adopts the standards, the bill requires each state institution of higher education to comply with the standards in awarding course credit to any student enrolled in the institution who has attained a passing score on an IB exam. State institutions are also required to make standards and policies adopted and implemented under this requirement available to the public in an electronic format.

Under continuing law, each state institution of higher education is required to adopt and implement a policy for granting undergraduate course credit to a student who has successfully completed an IB diploma program.

Advanced Placement course credit

(R.C. 3333.163)

The bill requires each state institution of higher education to make its standards and policies on course credit for Advanced Placement (AP) exams available to the public in an electronic format. OATAC recommended standards, which state institutions adopted, for awarding course credit for AP exams in 2008.

FAFSA support team system

(R.C. 3333.303)

The bill requires the Chancellor of Higher Education to designate a statewide system of Free Application for Federal Student Aid (FAFSA) support teams to support public schools with FAFSA completion and college access programming. The Chancellor must divide the state into regions based on available resources and assign at least one FAFSA support team to each region. A FAFSA support team may include existing efforts by educational service centers, colleges and universities, and community-based organizations.

To administer the FAFSA support team system, the bill requires the Chancellor to:

1. Develop, in coordination with state and local stakeholders, a comprehensive, multiyear, and statewide strategy for increasing FAFSA completion in Ohio that coordinates the new and ongoing efforts to increase completion at the state and local level;

2. Oversee the selection and coordination of FAFSA support teams;

3. Provide continuous information updates to FAFSA support teams;

4. Identify strategies that have been successful nationally to increase FAFSA completion and college access and share them with stakeholders;

5. Develop and expand partnerships with existing organizations that work to expand college access and success for the purpose of assisting high school students; and

6. Partner with states that have implemented FAFSA requirements to learn best practices.

The bill requires each FAFSA support team to:

1. Offer FAFSA programming and training for all public schools in the team's region, including supplementing existing programming;

2. Provide annual updates on FAFSA changes to all public schools in the team's region;

3. Coordinate and financially support FAFSA and college application completion events for public schools in the team's region;

4. Contribute to the marketing of local FAFSA and college access events;

5. Analyze FAFSA data and report the results of that data to the Chancellor;

6. Partner with local institutions of higher education to expand current strategies and services to public schools in the team's region;

7. Commit to participate in professional development regarding any updated FAFSA requirements; and

8. Develop new strategies to increase FAFSA completion rates based on the team's knowledge and experiences.

Wright State University land lease

(Section 733.80)

This provision only applies to a state institution of higher education located in a county with a population between 165,000 and 175,000 as of the 2020 federal decennial census. In practice, this only applies to Wright State University.

The bill permits a developer desiring to lease land held in trust by the board of trustees of Wright State University to submit their development plans directly to the board of trustees, rather than to DAS as required for other developers under continuing law.[102] Under the usual process, DAS leases the land with board of trustee approval. Under the bill, the board of trustees may lease the land directly to developers.

The board of trustees may lease the land to the developer if the board finds that five conditions are met. Three are continuing law conditions that normally are determined by DAS: the board must find that the best interests of the university will be promoted by entering into a lease with the developer, the development plans are satisfactory, and the developer has established the developer's financial responsibility and satisfactory plans for financing the development. Additionally, the board must find that the lease has commercially reasonable

[102] R.C. 123.17, not in the bill.

terms favorable to the university, and the land to be leased is not required for the use of the university for the term of the lease.

If a developer submits a plan directly to the board of trustees, but the board desires that the land be leased by DAS under the current law Revised Code process, the board must notify the developer in writing and direct the developer to submit the plans to DAS under that process.

Board of Regents

(R.C. 3333.01, 3333.012, 3333.032, 3333.04, 3333.045, and 3333.70; repealed R.C. 3333.01, 3333.011, and 3333.02)

The bill abolishes the Ohio Board of Regents. Under current law, the Board is an advisory body for the Chancellor of Higher Education, consisting of nine members who are appointed by the Governor with the advice and consent of the Senate.

In 2007, the General Assembly transferred most of the Board's powers and duties to the Chancellor.[103] That act specified that when the Board is referred to in any statute, rule, contract, grant, or other document, it must be construed to mean the Chancellor, except in specific circumstances. Subsequent legislation renamed the administrative office of the Board of Regents as the Department of Higher Education.[104] As a result, the only responsibility that the Board retained was to submit an annual report on the condition of higher education in Ohio, including the performance of the Chancellor, to the General Assembly and the Governor. The bill transfers that responsibility to the Chancellor, but removes the requirement that the report include the performance of the Chancellor.

Obsolete reports and programs

Ohio Instructional Grant Program

(Repealed R.C. 3333.12; conforming changes in R.C. 3315.37, 3332.092, 3333.04, 3333.044, 3333.28, 3333.375, 3333.38, 3345.32, and 5107.58)

The bill abolishes the Ohio Instructional Grant Program (OIG).

OIG paid grants to full-time Ohio resident students pursuing an undergraduate degree at a public, private nonprofit, or private for-profit institution of higher education in Ohio. In 2005, H.B. 66 of the 126th General Assembly phased out OIG and established the Ohio College Opportunity Grant Program (OCOG) to replace it. OIG was last funded in FY 2009.

OhioCorps

(Repealed R.C. 3333.80, 3333.801, and 3333.802)

The bill abolishes the OhioCorps Pilot Program.

Enacted in 2018, OhioCorps was designed to guide at-risk high school and middle school students toward higher education through mentorship programs, operated by state institutions

[103] H.B. 2 of the 127th General Assembly.

[104] H.B. 64 of the 131st General Assembly.

of higher education in the 2019-2020 and 2020-2021 school years, and future $1,000 college scholarships upon meeting specified criteria.

In 2021, H.B. 110 of the 134th General Assembly prohibited the addition of new students to OhioCorp after the 2020-2021 academic year and terminated its operation at the end of the 2021-2022 academic year. Each student otherwise eligible to receive a scholarship under OhioCorps instead received a $1,000 payment.[105]

Statewide plan on college credit for career-tech courses

(Repealed R.C. 3333.167)

The bill eliminates a requirement for the Chancellor to develop and, if appropriate, implement a statewide plan permitting high school students to receive college credit for approved career-technical education courses. The Chancellor was required to submit the completed plan to the Governor, the President and Minority Leader of the Senate, and the Speaker and Minority Leader of the House by July 31, 2020.[106]

The Chancellor submitted the completed plan in a report on July 31, 2020. As is explained in the report, the Career-Technical Credit Transcript workgroup determined that the plan would not be implemented because the "Higher Learning Commission regulations make the transcription of CTPD coursework in a manner comparable to CCP not viable." [107]

College credit transfer study

(R.C. 3333.16)

The bill eliminates the requirement that the Ohio Articulation and Transfer Network Oversight Board issue a report to the General Assembly by March 2, 2022, regarding college credit transfer rules for state institutions of higher education, as the deadline for the report has passed.

The Board was established by the Chancellor to study current rules regarding the transfer of college credit between state institutions of higher education. It was required to submit to the General Assembly by March 2, 2022, a report including the findings of the study, as well as any recommendations regarding changes to the rules.

[105] Section 381.460 of H.B. 110 of the 134th General Assembly.

[106] Section 17 of H.B. 197 of the 133rd General Assembly.

[107] See the Ohio Department of Higher Education Career-Technical Credit Transcript Workgroup Report (PDF), also accessible on the Legislative Service Commission's website: lsc.ohio.gov.

OHIO HISTORY CONNECTION

- Allows the Ohio History Connection to work with American Indian tribes to select, manage, and use burial sites for the repatriation of American Indian human remains.
- Removes a provision of current law that allows less than a majority of members of the Ohio Commission for the United States Semiquincentennial to hold hearings or meetings for the purpose of furthering the Commission's work.

American Indian burial sites

(R.C. 149.3010)

The bill allows the Ohio History Connection to use land for repatriation of American Indian human remains. The land must be either owned by the Ohio History Connection, owned by the state and in the Ohio History Connection's custody and control, leased by the Ohio History Connection, or leased from the Ohio History Connection to another entity or organization.

The Ohio History Connection must work with and cooperate with federally recognized Indian tribal governments in the selection, management, and use of the burial sites. And it must implement reasonable standards for the use and maintenance of the burial sites. If the Ohio History Connection disposes of or no longer has custody and control of a burial site, the agency must retain access and authority to maintain the site or must assign its right of access and maintenance to the person acquiring the site.

The Ohio History Connection is not required to register a burial site as a cemetery and is not otherwise subject to the laws that apply to cemetery operators, including, for instance, maintenance standards and a complaints process.

Ohio Commission for the United States Semiquincentennial

(R.C. 149.309)

The bill removes from current law a provision that allows less than a majority of members of the Ohio Commission for the United States Semiquincentennial to hold hearings or meetings for the purpose of furthering the Commission's work. Under current law, the Commission consists of 29 members, a majority of whom constitutes a quorum.

Continuing law states that the purpose of the Commission is "to plan, encourage, develop, and coordinate the commemoration of the [250th] anniversary of the founding of the United States and the impact of Ohioans on the nation's past, present, and future." Among the Commission's duties is a requirement to submit an annual report to the Governor and General Assembly detailing the activities of the Commission, including a summary of funds received and spent during the year covered by the report, the outputs and outcomes achieved, and whether those achievements meet the Commission's plan and overall program. The Commission ceases to exist on June 30, 2027.

OFFICE OF INSPECTOR GENERAL

Deputy inspector general qualifications

- Expands the qualifications for appointment as Inspector General or deputy Inspector General to include individuals with at least five years of experience as a deputy Inspector General in Ohio or any other state.

Inspector General or deputy Inspector General as a peace officer

- Provides that the Inspector General or a deputy Inspector General may not receive an original appointment on a permanent basis unless the person has received a certificate from the Ohio Peace Officer Training Commission attesting to the person's satisfactory completion of an approved peace officer basic training program.
- Grants the Inspector General or a deputy Inspector General the same arrest authority as a peace officer while engaged in the scope of the Inspector General's or a deputy Inspector General's duties.
- Grants the Inspector General or a deputy Inspector General the power and authority of a peace officer.
- Adds the Inspector General or a deputy Inspector General to the definition of "peace officer" while engaged in the scope of the Inspector General's or a deputy Inspector General's duties.

Deputy Inspector General qualifications

(R.C. 121.49)

The bill expands the qualifications to become Inspector General or a deputy Inspector General in Ohio. It permits an individual with at least five years of experience as a deputy inspector general in Ohio or another state to become Inspector General, and permits an individual with at least five years of experience as a deputy Inspector General in another state to become a deputy inspector general in Ohio. Current law requires deputy Inspector Generals of transportation and workers compensation to meet the same qualifications as the Inspector General.[108]

Under continuing law, the Governor appoints, with the advice and consent of the Senate, the Inspector General every four years.[109] An individual is eligible to be appointed if the individual meets one or more of the following qualifications: at least five years' experience as a law enforcement officer in Ohio or any other state, admission to the bar of Ohio or any other state,

[108] See. R. C. 121.51 and 121.52, neither in the bill.

[109] See R.C. 121.48, not in the bill.

certification as a certified public accountant in Ohio or any other state, or at least five years' service as the comptroller or similar officer of a public or private entity in Ohio or any other state.

Inspector General or deputy Inspector General as a peace officer

Peace officer basic training program

(R.C. 109.77 and 121.483)

The bill provides that the Inspector General or a deputy Inspector General may not receive an original appointment on a permanent basis unless the Inspector General or a deputy Inspector General has been awarded a certificate by the Executive Director of the Ohio Peace Officer Training Commission attesting to the person's satisfactory completion of an approved state, county, municipal, or Department of Natural Resources peace officer basic training program.

Arrest authority

(R.C. 121.483)

The bill grants the Inspector General or a deputy Inspector General described above the same arrest authority as a peace officer. The Inspector General or a deputy Inspector General may exercise this arrest authority only while engaged in the scope of the Inspector General's or a deputy Inspector General's duties.

Definition of peace officer

(R.C. 109.71 and 2935.01)

The bill adds the Inspector General or a deputy Inspector General to the definition of "peace officer" while engaged in the scope of the Inspector General's or deputy Inspector General's duties. This inclusion grants the Inspector General or a deputy Inspector General the power and authority of a peace officer.

DEPARTMENT OF INSURANCE

Limiting age for dental and vision coverage

- Requires dental and vision health benefit plans, issued, renewed, or amended on or after January 1, 2024, to provide coverage to unmarried, dependent children until age 26.

Fees for insurer examinations

- Abolishes the Superintendent's Examination Fund and the Captive Insurance Regulation and Supervision Fund and transfers the activities of these funds to the Department of Insurance Operating Fund.

Mine subsidence insurance

- Authorizes a board of county commissioners, in a county where insurers are required to offer mine subsidence insurance on an optional basis, to adopt a resolution requiring insurers to include mine subsidence insurance in each policy of basic homeowners insurance delivered, issued, or renewed in that county.
- Specifies that a mine subsidence insurance requirement applies beginning on the date specified in the resolution, or July 1 of the following year, whichever is later.
- Requires a county that adopts or rescinds a mine subsidence insurance requirement to provide a copy of the resolution to the Superintendent of Insurance and the Director of Natural Resources, for publication to their respective websites.

Insurance navigator license fees

- Reduces the certification and annual renewal fees for business entities that act as insurance navigators to $200 and $100, respectively.
- Requires individual insurance navigators to pay certification and renewal fees specified by the Superintendent of Insurance.
- Specifies that the fee changes are remedial in nature and intended to clarify the law as it existed before the provision's effective date.

Limiting age for dental and vision coverage

(R.C. 1751.14, 3923.24, and 3923.241)

The bill increases the age at which vision and dental health benefit plans may exclude coverage for dependent children. Under current law, primary care health benefit plans – plans covering things like standard doctor visits or hospital stays – are required to cover dependent, unmarried children until those children reach age 26 (referred to as the "limiting age"). Other, narrower health benefit plans, like dental and vision plans, are excluded from this requirement and allowed to set their own limiting age. Under the bill, dental and vision insurance health benefit plans would also be required to cover nonmarried, dependent children until age 26. Other health plan types would be unaffected. This requirement applies to health benefit plans

issued, renewed, or amended on or after January 1, 2024. Other health plan types and vision and dental health benefit plans issued before that date are not affected.

Fees for insurer examinations

(R.C. 1739.10, 1751.34, 1761.16, 3901.021, 3901.07, 3901.071, 3919.19, 3921.28, 3930.13, 3931.08, 3964.03, 3964.13, and 3964.15)

Continuing law requires the Superintendent of Insurance to conduct financial examinations of insurance companies at least once every five years. The Department of Insurance monitors the financial solvency of insurance companies by reviewing financial statements and other records, and by conducting regular onsite examinations. Current law, changed in part by the bill, requires the Department's expenses from conducting an examination of a company to be paid by the insurance company to the Superintendent and deposited into the Superintendent's Examination Fund.

The bill eliminates the Superintendent's Examination Fund and instead requires the assessments to be paid to the Department of Insurance Operating Fund.

The bill also eliminates the Captive Insurance Regulation and Supervision Fund, which is used by the Superintendent for expenses related to the oversight of captive insurers. The bill requires the license fees and other fees paid to the fund under current law to instead be redirected to the Department of Insurance Operating Fund.

Mine subsidence insurance

(R.C. 3929.56)

Continuing law establishes a mine subsidence insurance program to provide coverage to homeowners in counties in which abandoned mines are located. The coverage addresses potential losses caused by the "collapse of lateral or vertical movements of structures resulting from the caving in of underground mines." It does not cover losses caused by earthquakes, landslides, volcanic eruption, or collapse of strip mines, storm and sewer drains, or rapid transit tunnels.[110] Under the program, insurance premiums are paid into the Mine Subsidence Insurance Fund, which is a custodial account. The program is administered by the Ohio Mine Subsidence Insurance Underwriting Association, which in turn is governed by the Mine Subsidence Insurance Governing Board.

Every insurer is required by continuing law to include mine subsidence coverage provided by the Association in each policy of basic property and homeowners insurance that is delivered, issued for delivery, or renewed in the following counties: Athens, Belmont, Carroll, Columbiana, Coshocton, Gallia, Guernsey, Harrison, Hocking, Holmes, Jackson, Jefferson, Lawrence, Mahoning, Meigs, Monroe, Morgan, Muskingum, Noble, Perry, Scioto, Stark, Trumbull, Tuscarawas, Vinton, and Washington. In addition, current law, changed in part by the bill, requires every insurer that offers basic property and homeowners insurance for structures located in Delaware, Erie, Geauga, Lake, Licking, Medina, Ottawa, Portage, Preble, Summit, and

[110] R.C. 3929.50, not in the bill.

Wayne counties to offer to include mine subsidence insurance coverage provided by the Association on an optional basis.

The bill authorizes the boards of county commissioners of Delaware, Erie, Geauga, Lake, Licking, Medina, Ottawa, Portage, Preble, Summit, and Wayne counties, where mine subsidence insurance coverage is optional, to adopt a resolution requiring insurers to provide the coverage in all basic property and homeowners insurance policies. In other words, the bill allows the boards of county commissioners of those counties to opt-into the same mandatory coverage requirements that apply to Athens, Belmont, Carroll, Columbiana, Coshocton, Gallia, Guernsey, Harrison, Hocking, Holmes, Jackson, Jefferson, Lawrence, Mahoning, Meigs, Monroe, Morgan, Muskingum, Noble, Perry, Scioto, Stark, Trumbull, Tuscarawas, Vinton, and Washington counties under continuing law.

The bill specifies that the coverage requirement applies beginning on the date specified in the resolution, or July 1 of the first year that begins after the resolution is adopted, whichever is later. If the board of county commissioners later rescinds the resolution, insurers must cease requiring mine subsidence coverage and instead offer the coverage on an optional basis, beginning on or before the date specified in the rescinding resolution, or July 1 of the first year that begins after the resolution is adopted, whichever is later.

A board of county commissioners that adopts a mine subsidence insurance requirement or rescinds such a requirement must promptly send a copy of the resolution to the Director of Natural Resources and the Superintendent of Insurance. The Director must post the resolution to the Department of Natural Resources' website and the Superintendent must post the resolution to the Department of Insurance's website.

Insurance navigator license fees

(R.C. 3905.471; Section 803.300)

The bill modifies the initial certification and renewal fees for insurance navigators. An insurance navigator is a person selected to perform specified activities and duties identified in the federal Affordable Care Act:

- Conduct public education activities to raise awareness of the availability of qualified health plans;
- Distribute fair and impartial information concerning enrollment in qualified health plans, and the availability of premium tax credits and cost-sharing reductions;
- Facilitate enrollment in qualified health plans;
- Provide referrals to appropriate state agencies for any enrollee with a grievance or question regarding their health plan.[111]

[111] R.C. 3905.01, not in the bill, and by reference Section 1311 of the federal "Patient Protection and Affordable Care Act," 124 Stat. 119.

Before H.B. 509 of the 134th General Assembly, initial licensing fees and renewal fees for both individual and business entity insurance navigators were established by administrative rule. For business entities, the rule imposed different fees based on how many insurance navigators the business entity employed. For business entities with less than 100 employed insurance navigators, an applicant paid an initial application fee not exceeding $250, and an annual renewal fee not exceeding $100. For business entities with 100 or more employed insurance navigators, an applicant paid an initial application fee not exceeding $500, and an annual renewal fee not exceeding $250. According to the Department of Insurance, no fees were charged for initial certification or renewal of individual insurance navigator licenses.

H.B. 509 requires individual insurance navigators to pay $200 for initial certification and $100 annually for license renewal, but makes no change to the fees for business entities, which are still set by administrative rule. The bill reverses the application of the H.B. 509 changes. Under the bill, individual insurance navigators pay fees specified by rule of the Superintendent of Insurance (currently $0) for initial licensure and renewal. Conversely, the fees for business entities are reduced to $200 for initial certification and $100 for annual renewal, regardless of how many insurance navigators the business entity employs.

The bill specifies that this change is remedial in nature and intended to clarify the law as it existed before the provision's effective date. The H.B. 509 fee changes were effective April 6, 2023.

DEPARTMENT OF JOB AND FAMILY SERVICES

CHILD WELFARE

Continuous ODJFS licensure

- Eliminates renewal requirements for Department of Job and Family Services (ODJFS) licenses for institutions, associations, foster caregivers, and private nonprofit therapeutic wilderness camps, resulting in continuous licensure unless revoked.

Background checks

- Adds offenses that the Bureau of Criminal Identification and Investigation (BCII) Superintendent must check for on receipt of a request for a criminal records check from, a qualified organization that arranges temporary child hosting, an administrative director of an agency or an attorney who arranges adoptions, an administrative director of a recommending agency that recommends whether ODJFS should issue a certificate to a foster home, or the appointing or hiring officer of an out-of-home care entity.

Electronic reporting of child abuse or neglect

- Allows an individual to make a report of child abuse or neglect to a public children services agency (PCSA) or peace officer electronically, in addition to the existing law options of making a report by telephone or in person.

Referrals for prevention services

- Requires a PCSA to make a referral to an agency providing prevention services if the PCSA determines that the child is a candidate for those services.
- Allows a PCSA to disclose confidential information discovered during an investigation to an agency providing prevention services.
- Requires a PCSA to enter into a contract with an agency providing prevention services.

Child abuse or neglect report disposition appeal and registry

- Requires a PCSA that investigated a report of child abuse or neglect to give the alleged perpetrator written notification of the investigation's disposition and of the person's right to appeal the disposition.
- Requires, when a person requests ODJFS to conduct a search of whether that person's name is in the alleged perpetrator registry in the Statewide Automated Child Welfare Information System (SACWIS), that ODJFS send a letter to the person indicating that a "match" exists if a search reveals a "substantiated" disposition.
- Requires ODJFS to work with stakeholders to establish an expungement policy regarding dispositions of abuse or neglect from Ohio's central registry on child abuse and neglect by March 1, 2024.

Definition of "abused child"

- Expands the definition of "abused child" by adding a child who is the victim of disseminating, obtaining, or displaying materials or performances that are harmful to juveniles if the activity would constitute a criminal sexual offense.
- Modifies the definition of "abused child" by stating that if a child exhibits evidence of physical disciplinary measures by a "caretaker" the child is not an abused child if the measure is not prohibited under the offense of endangering children.
- Modifies the definition of "abused child" by including a child who because of the acts of the child's "caretaker" suffers physical or mental injury that harms or threatens the child's health or welfare.

Records of former foster children

- Requires a PCSA to allow an adult who was formerly placed in foster care to inspect records pertaining to the time in foster care upon request.
- Allows the PCSA's executive director or the director's designee to redact information that is specific to other individuals if that information does not directly pertain to the adult.

Ohio Child Welfare Training Program (OCWTP) changes

- Eliminates the requirements that PCSA caseworkers and PCSA caseworker supervisors complete a specified number of hours of in-service training during the first year of employment and domestic violence training during the first two years of employment.
- Eliminates the requirements that ODJFS establish eight child welfare training regions in Ohio and that each region contain only one training center, but maintains the requirement that ODJFS designate and review training regions.
- Repeals and recodifies various provisions governing the OCWTP.

Family and Children First Cabinet Council

County councils

- Removes enumerated focuses for the indicators and priorities that measure progress towards increasing child well-being in Ohio.
- Expands the types of council contracts that are exempt from competitive bidding requirements.
- Clarifies that a council's role in service coordination does not override the decisions of a PCSA regarding child placement.

Ohio Automated Service Coordination Information System

- Requires the Cabinet Council state office to establish and maintain the Ohio Automated Service Coordination Information System (OASCIS).

- Requires county councils to enter all information in OASCIS regarding funding sources and families seeking services from the county councils, and specifies that failure to do so may result in the loss of state funding.
- Establishes that all information in OASCIS is confidential, and requires county councils to establish administrative penalties for inappropriate access, disclosure, and use of information.
- Limits OACSIS access to personnel with training in confidentiality requirements and prohibits researchers from directly accessing it.

Substitute care provider licensing rules

- Repeals a law that established an office to review rules for licensing substitute care providers to minimize differing certification and licensing requirements across various agencies.

Wellness Block Grant Program

- Repeals the Wellness Block Grant Program, an obsolete program formerly overseen by the Ohio Family and Children First Cabinet Council.

Multi-system youth action plan

- Repeals a requirement for the Ohio Family and Children First Council to develop a comprehensive multi-system youth action plan, to be submitted to the General Assembly (the Council submitted the plan in January 2020).

Children's Trust Fund Board

Membership

- Specifies that a public board member of the Children's Trust Fund Board may serve two consecutive terms after serving the remainder of a term for which the member was appointed to fill a vacancy.
- Changes the number of Board members required to be present to have a quorum from eight to a majority of the members appointed to the Board.

Acceptance of federal funds

- Eliminates a requirement that the Board's acceptance of federal or other funds must not require the state to commit funds.

Children's advocacy centers

- Eliminates the annual report submitted to the Board by each children's advocacy center that receives funds from the Board.
- Removes a requirement that the Board develop and maintain a list of all state and federal funding that may be available to children's advocacy centers.

Child abuse and child neglect regional prevention councils

- Adds parent advocates to the list of county prevention specialists who may be appointed to a child abuse and child neglect regional prevention council.
- Removes from each child abuse and child neglect regional prevention council a nonvoting member who is a representative of each council's regional prevention coordinator.
- Requires each council's regional prevention coordinator to select a council chairperson from among the county prevention specialists serving on the council.
- Requires members to elect a vice-chairperson at the first regular meeting of each year.
- Requires the chairperson to either preside over council meetings or call upon the vice-chairperson to do so.
- Specifies that the vice-chairperson functions as the chairperson and becomes a nonvoting member when presiding over council meetings.

State Adoption Assistance Loan Fund

- Repeals the law governing administration of adoption assistance loans from the State Adoption Assistance Loan Fund.

Interstate Compact for the Placement of Children

- Conforms the current Interstate Compact for the Placement of Children (ICPC) governing interstate placement of abused, neglected, dependent, delinquent, or unmanageable children and children for possible adoption with the proposed new ICPC that makes changes primarily to jurisdiction and placement requirements.

Scholars residential centers

- Establishes and regulates scholars residential centers, defined as centers that meet several characteristics, including certification by a national organization with a mission to help underserved children in middle and high school.
- Requires the ODJFS Director to adopt rules to implement standards for scholars residential centers and generally requires them to be substantially similar to those governing other similarly situated providers of residential care for children.
- Requires the ODJFS Director to certify a scholars residential center that submits an application that indicates to the Director's satisfaction that the center meets the standards established in the rules adopted under the bill.

CHILD CARE

Child care licensure exemptions

- Exempts any program caring for children operated by a nonchartered, nontax-supported school from the law requiring certain child care providers to be licensed by ODJFS.

- Modifies a current law exemption from child care licensure to apply to a program that offers not more than two and one-half hours of care each day per child when the child's parent, including an employee, is on the premises and readily accessible.

Child care administrator and employee – educational attainment

- Prohibits the ODJFS Director from adopting rules that require an administrator or employee of a licensed child day-care center or licensed family day-care home to hold or obtain a bachelor's, master's, or doctoral degree.
- Prohibits the tiered ratings developed for the Step Up to Quality Program from taking into consideration whether a child care administrator or employee holds or obtains a bachelor's, master's, or doctoral degree.

Publicly funded child care eligibility

- Revises the law governing income eligibility for publicly funded child care, specifying that the maximum amount of family income for initial eligibility cannot exceed 145% of the federal poverty line, but only until June 30, 2025.

Step Up to Quality ratings – license capacity exemption

- Expands the exemption from the Step Up to Quality ratings requirement available to a licensed child care program providing publicly funded child care to less than 25% of its license capacity, by increasing that percentage to less than 50%.

Child care terminology

- Changes terminology from "day-care" or "child day-care" to "child care."

PARENTAGE AND CHILD SUPPORT

Paternity acknowledgments

- Allows a child support enforcement agency (CSEA), a local registrar of vital statistics, and hospital staff the option to electronically file an acknowledgment of paternity, in addition to existing law options of filing the acknowledgment in person or by mail.
- Allows each signature of a party to an acknowledgment of paternity to be witnessed by two adult witnesses, in addition to the existing law option of notarizing each signature.
- Requires a CSEA or local registrar to provide witnesses to witness, or a notary public to notarize, an acknowledgment of paternity if the natural mother and alleged father sign an acknowledgment.
- Requires a contract between a hospital and ODJFS to include a provision requiring the hospital to provide witnesses to witness, or a notary public to notarize, an acknowledgment of paternity signed by the mother and father, when an unmarried woman gives birth in or en route to that hospital.
- Requires each hospital to provide staff to notarize or witness the signing of an acknowledgment of paternity.

Repeal information required for paternity determination

- Repeals law that requires certain information about the alleged father, the mother, and the child to be included in a request for an administrative determination of paternity.

Redirecting and issuing child support to nonparent caretakers

- Permits child support under existing child support orders to be redirected, and under new child support orders to be issued, to a nonparent caretaker who is the primary caregiver of a child.
- Allows a caretaker to file an application for Title IV-D services with the CSEA to obtain support for the care of the child.
- Requires the CSEA to investigate whether the child is the subject of an existing child support order, and if so, requires an investigation and certain determinations regarding support for the child.
- Establishes, if a CSEA determines that an existing support order should be redirected, requirements for notice, objection, and effective dates of redirection orders or recommendations.
- Requires, if no child support order exists, the CSEA to determine whether a child support order should be imposed.
- Establishes procedures that a CSEA must follow if it receives notice that a caretaker is no longer the primary caregiver of a child, including what to do in specified circumstances.
- Requires the impoundment of any funds received on behalf of a child pursuant to a child support order while the CSEA investigates whether a caretaker is no longer the primary caregiver of a child.
- Authorizes the ODJFS Director to adopt rules to implement the redirection process required by the bill.
- Amends several laws regarding the establishment of parentage and bringing an action for child support to permit caretakers to receive child support.
- Adds a statement that appears to attempt to clarify that a parent's duty to support the parent's minor child may be enforced by a child support order.
- Requires, if a child who is the subject of a child support order resides with a caretaker and neither parent is the residential parent and legal custodian of the child, the court to issue a child support order requiring each parent to pay that child's child support obligation.
- Repeals language in the power of attorney form and caretaker authorization affidavit form regarding grandparents caring for their grandchildren that provides that the power of attorney or affidavit does not allow a CSEA to redirect child support payments to the grandparent.

- Adds redirection to a list of notices under existing law that must be included in each support order or modification.
- Repeals law that generally provides that when a support order is issued or modified, the court or CSEA may issue an order requiring payment to a third person that is agreed upon by the parents.
- Delays the effective date of these provisions for six months, during which time ODJFS may take action to implement them.

Fatherhood programs

- Codifies the authorization of the Ohio Commission on Fatherhood to recommend the ODJFS Director provide funding to fatherhood programs in Ohio that meet at least one of the four purposes of the Temporary Assistance for Needy Families (TANF) block grant.

Conciliation for custody disputes between unmarried parents

- Allows a court to order unmarried parents who are in a custody dispute to undergo conciliation with a magistrate.
- Requires a magistrate to resolve disputes through conciliation procedures and, upon resolution, to issue an order regarding the allocation of parental rights and responsibilities, parenting time, or companionship or visitation.
- Specifies that conciliation procedures may include the use of family counselors and service agencies, community health services, physicians, licensed psychologist, and clergy.

PUBLIC ASSISTANCE

TANF spending plan

- Extends the time that ODJFS has to submit a TANF spending plan to the General Assembly from 30 days to 60 days after the end of the first state fiscal year of the fiscal biennium (that is, from July 30 to August 29 of even-numbered years).

Ohio Works First

- Corrects a cross-reference to the definition of "fugitive felon" for purposes of the Ohio Works First program.
- Clarifies that workers' compensation premiums for participants in the Ohio Works First Work Experience Program (WEP) only need to be paid for those participating in WEP.

Food Assistance

SNAP work-related eligibility requirements

- Prohibits ODJFS from seeking an exemption from the SNAP benefit time limits that apply to able-bodied adults without dependents.

- Requires ODJFS to redesign its existing employment and training program in a manner that meets the needs of employers in the state.
- Requires ODJFS, not later than July 1, 2024, to appear before the House Finance and Senate Finance committees to report on the redesigned employment and training program.

SNAP vendor pre-screening

- Prohibits a third-party vendor from conducting pre-screening activities regarding SNAP eligibility unless the vendor has entered into an agreement with ODJFS.

Self-employment income and SNAP eligibility

- Requires ODJFS to use the same income verification criteria for households with income from self-employment when conducting initial eligibility determination, quarterly review, and recertification.

SNAP and WIC benefit trafficking

- Prohibits Supplemental Nutrition Assistance Program (SNAP) benefit trafficking.
- Prohibits the solicitation of SNAP and WIC benefits by an individual.
- Prohibits organizations from allowing an employee to violate the above prohibitions.

SNAP benefits cards

- Requires the front of a SNAP electronic benefits transfer (EBT) card to generally include a color photograph of at least one adult member of the household, unless specified exemptions apply.
- Permits the Registrar of Motor Vehicles, or an employee or contractor of the BMV, to disclose an individual's photograph or digital image to ODJFS.
- Requires the back of an EBT card to include information about how to report suspected SNAP fraud.
- Generally prohibits ODJFS from replacing the EBT card of a household that requests four or more replacement cards within a 12-month period unless certain requirements are met.
- Specifies that if an EBT card is unused for a period of six months, ODJFS must deactivate the card and return funds to the SNAP program, after providing notice to a household.

SNAP child support contact information

- Requires an individual receiving SNAP benefits who is the subject of a child support order to provide their telephone number, home address, and work address to ODJFS.

Agreement with Ohio Association of Foodbanks

- Requires ODJFS to enter into an agreement with the Ohio Association of Foodbanks regarding food distribution, transportation of meals, and capacity building equipment for food pantries and soup kitchens.
- Requires the Association to purchase food, support capacity building, purchase equipment for partner agencies, and submit quarterly and annual reports to ODJFS.

Reporting suspected child abuse

- Clarifies that ODJFS, county departments of job and family services (CDJFSs), and their employees are not prohibited from reporting any known or suspected child abuse or neglect, rather than only abuse or neglect of a child receiving public assistance.

ODJFS disclosure definitions

- Modifies the definition of "law enforcement agency."

Auditor of State report

- Eliminates a requirement that the Auditor of State prepare an annual report on the outcome of information sharing agreements between law enforcement agencies and ODJFS/CDJFSs.

Falsifying information on application for public assistance

- Prohibits an individual applying for public assistance benefits from knowingly falsifying information on an application for public assistance benefits.
- Specifies that if a case worker determines that an applicant knowingly falsified information, the applicant is ineligible to receive public assistance benefits for six months.

Public assistance quarterly report

- Requires ODJFS to compile a quarterly report regarding public assistance programs and submit it to the General Assembly.

UNEMPLOYMENT

Identity verification for unemployment benefits

- Requires an individual filing an application for determination of benefit rights for unemployment benefits to furnish proof of identity at the time of filing in the manner prescribed by the ODJFS Director.

Benefit reductions based on receiving certain pay

- Reduces unemployment benefits otherwise payable by the full amount of holiday pay paid to a claimant for that week.
- Reduces unemployment benefits otherwise payable to a claimant who receives bonus pay by the amount of the claimant's weekly benefit amount in the first and each succeeding

week following separation from employment with the employer paying the bonus, until the total bonus amount is exhausted.

Disclosure of information

- Allows the ODJFS Director to disclose otherwise confidential information maintained by the Director or the Unemployment Compensation Review Commission if permitted by federal law under specified circumstances.
- Allows the ODJFS Director to require recipients of unemployment compensation information under the bill to enter into a written agreement to receive the information.
- Prohibits a recipient of unemployment compensation information, other than an individual or employer receiving information about that individual or employer, from re-disclosing the information without approval to do so from the ODJFS Director and requires that recipient to safeguard the information against unauthorized access or re-disclosure.
- Specifies that failure to comply with the bill's disclosure provisions may result in civil or criminal penalties.

Participation in certain federal programs

- Specifies that a current law provision does not require the ODJFS Director to participate in, nor precludes the Director from ceasing to participate in, any voluntary, optional, special, or emergency program offered by the federal government to address exceptional unemployment conditions.

Acceptable collateral from certain reimbursing employers

- Makes surety bonds the only acceptable form of collateral that a nonprofit employer wishing to be a reimbursing employer under the Unemployment Compensation Law may submit.

OTHER PROVISIONS

OhioMeansJobs training dashboard

- Requires ODJFS to create and make available on the OhioMeansJobs website a dashboard of training options for students and young adults.

Workforce report for horizontal well production

- Eliminates the requirement that the Office of Workforce Development prepare an annual workforce report for horizontal well production.

Office of the Migrant Agricultural Ombudsperson

- Eliminates the Office of the Migrant Agricultural Ombudsperson established under the authority of the ODJFS Director.

- Requires reports of violations regarding agricultural labor camps to be made to the State Monitor Advocate appointed under federal law, instead of the Migrant Agricultural Ombudsperson as under current law.

CHILD WELFARE

Continuous ODJFS licensure

(R.C. 5103.02, 5103.03, 5103.0313, 5103.0314, 5103.032, 5103.0322, 5103.0323, 5103.0326, 5103.033, 5103.05, 5103.18, and 5103.181)

The bill eliminates the requirement that ODJFS-certified institutions, associations, foster caregivers, and private nonprofit therapeutic wilderness camps renew their certificates and licenses every two years. Instead, licensure is continuous unless ODJFS revokes it for failure to meet continuing law requirements.

Under the bill, public children services agencies (PCSAs) and private child placing agencies (PCPAs) must provide ODJFS with evidence of an independent financial statement audit by a licensed public accounting firm no more than two years from the date of initial certification and at least every two years thereafter (rather than, as in current law, when seeking renewal of the certificate).

Background checks

(R.C. 109.572 and 5103.02)

Under continuing law, on receipt of a criminal records check request from a qualified organization that arranges temporary child hosting, an administrative director of an agency or an attorney who arranges adoption, an administrative director of a recommending agency that recommends whether ODJFS should issue a certificate to a foster home, or the appointing or hiring officer of an out-of-home care entity, the BCII Superintendent must conduct a criminal records check to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to certain violations.

The bill adds the following offenses for which the BCII Superintendent must determine if information exists:

- Failure to report child abuse or neglect as a mandatory reporter;
- Reckless homicide;
- Aggravated vehicular homicide, vehicular homicide, or vehicular manslaughter;
- Aggravated vehicular assault or vehicular assault;
- Female genital mutilation;
- Human trafficking;
- Commercial sexual exploitation of a minor;

- Unlawful possession of dangerous ordnance;
- Illegally manufacturing or processing explosives;
- Improperly furnishing firearms to a minor;
- Illegal assembly or possession of chemicals for manufacture of drugs;
- Permitting drug abuse;
- Deception to obtain a dangerous drug;
- Illegal processing of drug documents;
- Tampering with drugs;
- Abusing harmful intoxicants;
- Trafficking in harmful intoxicants;
- Improperly dispensing or distributing nitrous oxide;
- Illegal dispensing of drug samples;
- Counterfeit controlled substance offenses;
- Ethnic intimidation;
- Any violation of the Ohio Criminal Code that is a felony.

Electronic reporting of child abuse or neglect

(R.C. 2151.421)

The bill allows an individual to make a child abuse or neglect report electronically, in addition to the existing law options of making a report by telephone or in person. This applies to both mandatory and voluntary reporters under existing law.

Referrals for prevention services

(R.C. 2151.421, 2151.423, 5153.16, 5153.161, and 5153.162)

The bill requires that when a PCSA makes a report and determines after investigation that a child is a candidate for prevention services, the PCSA must make efforts to prevent neglect or abuse, enhance a child's welfare, and preserve the family unit intact by referring the report to an agency providing prevention services for assessment and services. The law currently specifies that any child abuse or neglect report (except for one made to the State Highway Patrol) must result in the PCSA making protective services and emergency supportive services available on behalf of the children about whom the report is made, in an effort to prevent further neglect or abuse, enhance the child's welfare, and, whenever possible, to preserve the family unit intact. The bill removes these goals under existing law and applies them to referrals for prevention services.

The bill allows a PCSA to disclose confidential information discovered during an investigation to an agency providing prevention services to the child. Existing law, unchanged by

the bill, also allows a PCSA to disclose confidential information to any federal, state, or local government, including any appropriate military authority that needs the information to carry out its responsibilities to protect children from abuse or neglect.

Finally, the bill requires a PCSA to enter into a contract with an agency providing prevention services in an effort to prevent neglect or abuse, enhance a child's welfare, and preserve the family unit intact.

Child abuse or neglect report disposition appeal and registry

(R.C. 2151.421, 5101.136, and 5101.137)

Investigation disposition notice and appeal

The bill establishes a five-business-day deadline for a PCSA that investigated a report of child abuse or neglect to give the person alleged to have inflicted the abuse or neglect written notification of the investigation's disposition, after determination of the disposition. This notice must be made in a form designated by ODJFS and must inform the person of the right to appeal the disposition.

SACWIS alleged perpetrator search

The bill specifies that if a person requests ODJFS to search whether that person's name has been placed or remains in the SACWIS "Alleged Perpetrator" registry as an alleged perpetrator of child abuse or neglect, and a search reveals that a "substantiated" disposition exists, ODJFS must send a letter to that person indicating that there has been a "match."

Establishment of expungement policy

The bill requires ODJFS to work with stakeholders to establish an expungement policy regarding dispositions of child abuse or neglect in Ohio's central registry on child abuse or neglect by March 1, 2024.

Definition of "abused child"

(R.C. 2151.031)

The bill expands the definition of "abused child" by adding a child who is the victim of disseminating, obtaining, or displaying materials or performances that are harmful to juveniles if the activity would constitute a criminal sexual offense, except that the court need not find that any person has been convicted of a sexual offense in order to find that the child is an abused child.

The bill further modifies the definition of "abused child" by including a child who because of the acts of the child's "caretaker" suffers physical or mental injury that harms or threatens the child's heath or welfare.

The bill states that if a child exhibits evidence of physical disciplinary measures by a "caretaker" the child is not an abused child if the measure is not prohibited under the offense of endangering children.

Records of former foster children

(R.C. 5153.17)

The bill allows an adult who was formerly placed in foster care to request that a PCSA allow the adult to inspect records that the PCSA maintains pertaining to the adult's time in foster care. These records may include medical, mental health, school, and legal records and a comprehensive summary of reasons why the adult was placed in foster care. However, the bill allows the PCSA's executive director or director's designee to redact information that is specific to other individuals, if that information does not directly pertain to the requesting adult's records or the comprehensive summary.

Under existing law, these records are confidential and only open to inspection by the PCSA, the ODJFS Director, county job and family services directors, and other persons with written permission of the PCSA executive director. The bill simply adds adults who were formerly in foster care to those who are allowed to inspect these records.

Each PCSA is required under existing law to prepare and keep written records of:

- Investigations of families, children and foster homes;
- The care, training, and treatment afforded to children; and
- Other records that ODJFS requires.

Ohio Child Welfare Training Program (OCWTP) changes

(R.C. 5103.37, 5103.41, 5103.422 (5103.42), 5153.122, and 5153.123, with conforming changes in R.C. 5103.391, 5153.124, and 5153.127; repealed R.C. 5103.301, 5103.31, 5103.33, 5103.34, 5103.35, 5103.36, 5103.361, 5103.362, 5103.363, 5103.38, 5103.42, and 5103.421)

PCSA caseworker and supervisor training hours

The bill eliminates the requirements that PCSA caseworkers must complete at least 120 hours, and PCSA caseworker supervisors must complete at least 60 hours, of in-service training during the first year of continuous employment as a PCSA caseworker or PCSA caseworker supervisor. It also eliminates the requirement that they complete at least 12 hours of training in recognizing the signs of domestic violence and its relationship to child abuse during the first two years of continuous employment, and that the 12 hours may be in addition to the training required during the caseworker's first or second years of employment.

Under continuing law, PCSA caseworkers and PCSA caseworker supervisors must still complete in-service training during the first year of continuous employment and domestic violence training during the second year of continuous employment.

OCWTP regional training centers

The bill eliminates the requirements that ODJFS designate eight training regions in Ohio and that each region contain only one training center. Under continuing law, ODJFS, in consultation with the OCWTP Steering Committee, must still designate and review the composition of training regions in Ohio and provide recommendations on changes.

The bill amends a regional training *staff's* (regional training *center's*, under current law) responsibility under continuing law to analyze the training needs of PCSA caseworkers and PCSA caseworker supervisors employed by PCSAs in the training region to also include the training needs of assessors, prospective and current foster caregivers, and case managers and supervisors.[112]

The bill repeals laws governing the OCWTP that do the following:

- Require the ODJFS Director to adopt rules for implementation of the OCWTP and that the training comply with ODJFS rules;
- Require ODJFS to monitor and evaluate the OCWTP to ensure that it satisfies all the requirements established by law and rule;
- Require ODJFS to contract with an OCWTP coordinator each biennium and govern the development, issuance, and responses to requests for proposals to serve as the OCWTP coordinator;
- Require ODJFS to oversee the OCWTP coordinator's development, implementation, and management of the OCWTP;
- Require PCSAs in Athens, Cuyahoga, Franklin, Greene, Guernsey, Lucas, and Summit counties to establish and maintain regional training centers and each executive director of those counties to appoint a manager of the training center;
- Require that the preplacement and continuing training be made available to foster caregivers without regard to the type of recommending agency from which the foster caregiver seeks a recommendation.

Finally, the bill recodifies laws that do the following:

- Require the OCWTP Coordinator to (1) identify the competencies needed to do the jobs that the training is for so that the training helps the development of those competencies, and (2) ensure that the training provides the knowledge, skill, and ability needed to do those jobs;
- Permit ODJFS to make a grant to a PCSA that establishes and maintains a regional training center for the purpose of wholly or partially subsidizing the center's operation.

Family and Children First Cabinet Council

County councils

(R.C. 121.37 and 121.381)

County council child well-being indicators and priorities

The bill removes the focus on select indicators and priorities in the indicators to measure child well-being. The Ohio Family and Children First Cabinet Council is responsible for developing

[112] R.C. 5103.30, not in Section 101.01 of the bill.

and implementing an interagency process to select indicators to be used to measure child well-being in Ohio, and county family and children first councils are responsible for identifying local priorities to increase child well-being. Current law requires that these indicators and priorities focus on expectant parents and newborns thriving, infants and toddlers thriving, children being ready for school, children and youth succeeding in school, youth choosing healthy behaviors, and youth successfully transitioning into adulthood. The bill removes the requirement to focus on these specific indicators and priorities.

County council grant agreements

The bill expands the categories of council contracts that are exempt from competitive bidding requirements so that contracts and agreements are exempt if they are to purchase services for families and children. Current law only exempts agreements and contracts to purchase family and child welfare, child protection services, or other social or job and family services for children. The bill also requires that a council's administrative agent be responsible for ensuring that all expenditures are handled in accordance with applicable grant agreements.

Out-of-home placement service coordination

Current law requires that each county's service coordination mechanism include a procedure for conducting a service coordination plan meeting for each child who is receiving or being considered for an out-of-home placement. The bill expands the current law clarifying that this plan does not override or affect the decisions of a juvenile court regarding out-of-home placement, to also clarify that the service coordination plan does not override or affect the decisions of a PCSA.

Rulemaking

The bill allows the Cabinet Council to adopt rules governing the responsibilities of county councils.

Technical correction

The bill corrects an incorrect cross-reference to reflect that the responsibility for administering early intervention services rests with the Department of Developmental Disabilities not the Department of Health.

Ohio Automated Service Coordination Information System

(R.C. 121.376 and 121.37)

The bill requires the Cabinet Council state office to establish and maintain the Ohio Automated Service Coordination Information System (OASCIS) to contain county council records detailing funding sources and information regarding families seeking services from county councils. The information includes demographics, financial resource eligibility, health histories, names of insurers and physicians, individualized plans, case file documents, and any other information related to families served, services provided, or financial resources. New information must be updated within five business days of obtaining the information, or the county council may be at risk of losing state funding.

All information in OASCIS is confidential. Release of information is limited to those with whom a county council is permitted by law to share, and access and use is limited to only the extent necessary to carry out duties of the Cabinet Council and county councils. Personnel accessing the system must be educated on confidentiality requirements and security procedures, and penalties for noncompliance, which are to be established by each county council. Each county council must monitor access to the system to prevent unauthorized use, and may not approve access for any researcher.

The Cabinet Council may adopt rules regarding access to, entry of, and use of information in OASCIS. The rules must be adopted in accordance with the Administrative Procedure Act (R.C. Chapter 119).

Substitute care provider licensing rules

(Repealed R.C. 121.372)

The bill eliminates a law requiring the Cabinet Council, in 1999, to establish an office to review rules governing certification and licensure of substitute care providers. The purpose of the office was to minimize the number of differing certification or licensing requirements for substitute care providers between ODJFS, OhioMHAS, and the Department of Developmental Disabilities.

Wellness Block Grant Program

(Repealed R.C. 121.371)

The bill repeals the inactive Wellness Block Grant Program that ended in 2009, which was overseen by the Cabinet Council and administered by ODJFS. The program provided funds to county councils for prevention services addressing issues of broad social concern.

Multi-system youth action plan

(Repealed R.C. 121.374)

The bill repeals a requirement for the Ohio Family and Children First Council to develop a comprehensive multi-system youth action plan, in an effort to cease the practice of relinquishing custody of a child for the sole purpose of gaining access to child-specific services for multi-system children and youth. The Council submitted the plan to the General Assembly in January 2020. The plan is available on the Family and Children First Council website, at fcf.ohio.gov.

Children's Trust Fund Board

Membership

(R.C. 3109.15)

The bill specifies that a public member of the Children's Trust Fund Board may serve two consecutive terms after serving the remainder of a term for which the member was appointed to fill a vacancy. Under continuing law, public board members are appointed by the Governor and must have a demonstrated knowledge in programs for children, represent Ohio's demographic composition, and represent the educational, legal, social work, or medical

community, voluntary sector, and professionals in child abuse and child neglect services. The public Board members serve terms of three years.

Additionally, the bill changes the number of Board members required to be present to have a quorum from eight to a majority of the members appointed to the Board. Under continuing law, the Board consists of 15 appointed members. Because vacancies on the Board may occur, the bill permits the quorum to be determined by a majority of the members appointed at the time the Board is meeting, which may not be all 15 members.

Under continuing law, the Board must meet at least quarterly to conduct its official business and a quorum is required to make all decisions.

Acceptance of federal funds

(R.C. 3109.16)

The bill eliminates the requirement that the Children's Trust Fund Board's acceptance and use of federal and other funds must not entail commitment of state funds, permitting the Children's Trust Fund Board to accept such funds.

Children's advocacy centers

(R.C. 3109.17 and 3108.178)

The bill removes the requirement that each children's advocacy center that receives funds from the Children's Trust Fund Board submit an annual report to the Board. The Board is responsible for specifying the report's content.

The bill also removes the requirement that the Board maintain a list of all state and federal funding that may be available to children's advocacy centers.

Child abuse and child neglect regional prevention councils

(R.C. 3109.172)

Ohio is divided into eight child abuse and child neglect prevention regions. Each region must establish a child abuse and child neglect regional prevention council. Current law permits each board of county commissioners to appoint up to two county prevention specialists to the council representing the county. The bill adds parent advocates with relevant experience and knowledge of services in the region to the list of county prevention specialists who may be appointed.

Currently, the chairperson of a council is a nonvoting member who is a representative of the council's regional prevention coordinator. The bill removes the representative of the council's regional prevention coordinator from the council, and instead requires each council's regional prevention coordinator to select a chairperson from among the county prevention specialists serving on the council. The chairperson continues to be a nonvoting member, and presides over council meetings.

At the chairperson's discretion, the bill allows the vice-chairperson to preside over council meetings. The vice-chairperson is elected by majority vote at the first regular meeting of each

year. When presiding over a council meeting, the vice-chairperson functions in the same capacity as the chairperson and becomes a nonvoting member.

State Adoption Assistance Loan Fund

(Repealed R.C. 3107.018; R.C. 5101.143)

The bill repeals the law governing administration of adoption assistance loans from the State Adoption Assistance Loan Fund. It retains the fund and its purpose, but repeals statutory requirements addressing the loans. This appears to leave loan administration governed by rules.

Under current law, money in the fund is used to make state adoption assistance loans to prospective adoptive parents who apply for them. The fund is established in the state treasury and is administered by ODJFS. ODJFS may approve or deny, in whole or in part, a loan to a prospective adoptive parent for up to $3,000 if the child being adopted resides in Ohio, or up to $2,000 if the child does not reside in Ohio. Loan recipients may use the disbursement only for adoption-related expenses.

Interstate Compact for the Placement of Children

(R.C. 5103.20)

The bill makes changes to the current Interstate Compact for the Placement of Children (ICPC), primarily regarding jurisdiction and placement requirements. The ICPC is a statutory agreement among all 50 states, Washington, DC, and the U.S. Virgin Islands that governs the placement of children from one state to another. It establishes requirements for placing a child out-of-state and seeks to ensure that prospective placements are safe and suitable before approval and that the individual or entity placing the child remains legally and financially responsible for the child following placement.[113]

Jurisdiction

(Article IV)

Under the existing ICPC, the sending state retains jurisdiction over a child regarding all matters of custody and disposition that it would have had if the child had remained in the sending state, including the power to order the return of the child to the sending state. The bill makes the following exceptions to this:

- The substantive laws of the state where an adoption will be finalized will solely govern all issues relating to the adoption of the child, and the court in which the adoption proceeding is filed has subject matter jurisdiction on all substantive issues relating to the adoption, except:
  - When the child is a ward of another court that established jurisdiction over the child before the placement;
  - When the child is in the legal custody of a public agency in the sending state;

[113] "ICPC FAQ's," The American Public Human Services Association, available at aphsa.org.

- When a court in the sending state has otherwise appropriately assumed jurisdiction over the child, before the submission of the request for approval of placement.

- The second and third bullets under "**Assessments and placement**" (below) regarding private and independent adoptions;
- In interstate placements in which the public child placing agency is not a party to a custody proceeding.

The bill also allows, in court cases subject to the ICPC, testimony for hearings before any judicial officer to occur in person or by telephone, audio-video conference, or any other means approved by the rules of the Interstate Commission (IC). Judicial officers may communicate with other juridical officers and persons involved in the interstate process as permitted by their canons of judicial conduct and any rules promulgated by the IC.

Finally, the bill specifies that a final decree of adoption cannot be entered in any jurisdiction until the placement is authorized as an "approved placement" by the public child placing agency in the receiving state.

Assessments and placement

(Article V)

The bill makes extensive changes with regard to assessments and placement. First, it specifies that for placements by a private child placing agency, a child may be sent or brought into a receiving state, upon receipt and immediate review of the required content in a request for approval of a placement in both the sending and receiving state public child placing agency. The required content to accompany a request for approval must include all of the following:

- A request for approval identifying the child, birth parent(s), the prospective adoptive parent(s), and the supervising agency, signed by the person requesting approval;
- The appropriate consents or relinquishments signed by the birth parents in accordance with the laws of the sending state or, where permitted, the laws of the state where the adoption will be finalized;
- Certification by a licensed attorney or authorized agent of a private adoption agency that the consent or relinquishment is in compliance with the laws of the sending state or, where permitted, the laws of the state where finalization of the adoption will occur;
- A home study;
- An acknowledgment of legal risk signed by the prospective adoptive parents.

The existing ICPC specifies that before sending, bringing, or causing a child to be sent or brought into the receiving state, the private child placing agency must: (1) provide evidence that the laws of the sending state have been complied with, (2) certify that the consent or relinquishment is in compliance with law of the birth parent's state of residence or, where permitted, the laws of the state where finalization of the adoption will occur, (3) request through the public child placing agency in the sending state an assessment to be conducted in the

receiving state, and (4) upon completion of the assessment, obtain the approval of the public child placing agency in the receiving state. The bill repeals these requirements.

Second, the bill allows the sending state and the receiving state to request additional information or documents before finalizing an approved placement; however, they may not delay the prospective adoptive parents' travel with the child if the required content for approval has been submitted, received, and reviewed by the public child placing agency in both the sending state and receiving state. Approval from the public child placing agency in the receiving state for a provisional or approved placement is required as specified in the IC rules.

Third, the bill requires that a public child placing agency in the receiving state must approve a provisional placement and complete or arrange for the completion of the assessment within the timeframes established by the IC rules. Current law does not require the approval of a provisional placement.

Finally, the bill specifies that for a placement by a private child placing agency, the sending state cannot impose any additional requirements to complete the home study that are not required by the receiving state, unless adoption is finalized in the receiving state.

Applicability

(Article III)

The bill specifies that the ICPC does not apply to the interstate placement of a child in a custody proceeding in which a public child placing agency is not a party, if the placement is not intended to effectuate adoption. Existing law also specifies that the ICPC does not apply to the placement of a child with a noncustodial parent, provided that the court in the sending state dismisses its jurisdiction over the child's case. The bill changes this to when the court dismisses its jurisdiction in interstate placements in which the public child placing agency is a party to the proceeding.

Placement authority

(Article VI)

The ICPC grants any interested party standing to seek an administrative review of a receiving state's disapproval of a proposed placement. The bill requires this review and any further judicial review associated with the determination to be conducted in the receiving state pursuant to its Administrative Procedure Act. The existing ICPC simply requires for it to be conducted pursuant to the receiving state's administrative procedures.

State responsibility

(Article VII)

The bill repeals an existing requirement that a private child placing agency be responsible for any assessment conducted in the receiving state and any supervision conducted by the receiving state at the level required by the laws of the receiving state or IC rules.

Enforceability

(Article XI, XII, and XVII)

The bill specifies that rules promulgated by the IC have the force and effect of administrative rules and are binding in the compacting states to the extent and in the manner provided in the Compact. The existing ICPC specifies that the rules have the force and effect of statutory law and supersede any conflicting state laws, rules, or regulations.

Participation by nonmembers

(Article XIV)

The bill requires that executive heads of the state human services administration with ultimate responsibility for the child welfare program of nonmember states or their designees be invited to participate in IC activities on a nonvoting basis before the adoption of the compact by all states. The ICPC currently specifies that governors may be invited.

Definitions

(Article II)

The bill makes numerous changes to definitions of terms used in the ICPC.

Changes to existing definitions

- Under the existing ICPC, "**approved placement**" means that the receiving state has determined after an assessment that the placement is both safe and suitable for the child and is in compliance with the laws of the receiving state governing the placement of children. The bill clarifies that the public child placing agency in the receiving state has made the determination. It also repeals the provision about being in compliance with the receiving state's laws.
- The existing ICPC defines "**assessment**" as an evaluation of a prospective placement to determine whether it meets the individualized needs of the child. The bill clarifies that it is an evaluation made by a public child placing agency in the receiving state and only applies to a placement by a public child placing agency.
- The existing ICPC defines "**provisional placement**," in part, to mean that the receiving state has determined that the proposed placement is safe and suitable and, to the extent allowable, the receiving state has temporarily waived its standards or requirements that otherwise apply to prospective foster or adoptive parents so as to not delay the placement. Again, the bill clarifies this to mean a determination made by the public child placing agency in the receiving state.
- The bill changes the term, "service member's state of local residence," to "service member's state of *legal* residence." The definition remains the same – it is the state in which the active duty Armed Services member is considered a resident for tax and voting purposes.

New definitions

- The bill defines "certification" to mean to attest, declare, or swear to before a judge or notary public.
- The bill defines "home study" as an evaluation of a home environment conducted in accordance with the requirements of the state in which the home is located, and documents the preparation and the suitability of the placement resource for placement of a child in accordance with the laws and requirements of the state in which the home is located.
- The bill defines "legal risk placement" (or "legal risk adoption") as a placement made preliminary to an adoption where the prospective adoptive parents acknowledge in writing that a child can be ordered returned to the sending state or the birth mother's state of residence, if different from the sending state, and a final decree of adoption cannot be entered in any jurisdiction until all required consents are obtained or are dispensed with in accordance with applicable law.

Scholars residential centers

(R.C. 5103.021)

The bill establishes and regulates scholars residential centers. A scholars residential center ("center") is defined in the bill as a center that:

- Is a certified affiliate in good standing of a national organization with a mission to help underserved children in middle school and high school in a comprehensive manner that is academically focused and service-oriented and in a family-like setting;
- Is private and not-for-profit;
- Does not receive Title IV-E funding or any associated Title IV funds related to child welfare;[114]
- Only accepts children placed by their parents or legal custodian; and
- Is voluntary and uses a competitive selection process.

Rulemaking authority

The bill requires the ODJFS Director to adopt rules in accordance with Chapter 119 of the Revised Code to implement center standards. Generally, the rules must be substantially similar, as determined by the Director, to those governing other similarly situated providers of residential care for children. This includes the rules provided in Chapters 5101:2-5 (child services agency licensing rules) and 5101:2-9 (children's residential centers, group homes, and residential parenting facilities) of the Ohio Administrative Code.

[114] Title IV-E of the Social Security Act provides federal reimbursement for some of the maintenance, administration, and training costs related to child welfare. 42 U.S.C. 671-679b.

However, the rules may differ from these existing rules in order to reflect all of the following requirements:

- A center is not subject to any policy that is not specific or relevant to the center.
- A center is not required to provide discharge summaries.
- A center may request agency waivers.
- A center is not required to implement case plans or service plans.
- Training requirements for center staff are limited to completion of:
  - Orientation training;
  - Current American Red Cross, American Heart Association, or equivalent first aid and cardiopulmonary resuscitation (commonly known as "CPR") certification; and
  - One hour of annual trauma training.
- A center is not subject to existing rules regarding:
  - Recreation and leisure activity requirements, provided that the center has a recreation area available and permits children to swim if a person who has completed life-saving or water safety training is present;
  - Visiting and communications policies, provided that the center ensures that children have contact with their family;
  - Qualified residential treatment program requirements; and
  - Treatment-focused requirements for residential agencies.
- A center must provide notification and documentation of critical incidents to parents and legal custodians.

Certification of scholars residential centers

The bill requires the ODJFS Director to certify a center that submits an application that indicates to the Director's satisfaction that the center meets the standards established in the adopted rules. The application form must be prescribed by the Director.

CHILD CARE

Child care licensure exemptions

(R.C. 5104.02)

Programs operated by nonchartered, nontax-supported schools

The bill exempts all programs caring for children operated by nonchartered, nontax-supported schools from the law requiring certain child care providers to be licensed by ODJFS. This replaces existing law with respect to such schools that exempts only the preschool programs that they operate.

The bill maintains existing law conditions that a nonchartered, nontax-supported school must satisfy in order to be eligible for an exemption, including compliance with health, fire, and safety laws and current law reporting requirements.

Child watch programs

(R.C. 5104.02)

The bill modifies an existing law exemption from child care licensure. Current law exempts programs where a parent or guardian who is not an employee of the facility is readily accessible at all times. The bill limits the duration of child care offered by exempt programs to not more than two and one-half hours each day per child, provided that the child's parent or guardian is on the premises and readily accessible. The bill also allows employees of the facility providing the care to access the child care if they are on the premises and readily accessible, even during employment hours.

Child care administrator and employee – educational attainment

(R.C. 5104.015, 5104.017, 5104.018, and 5104.29)

The bill prohibits the ODJFS Director from adopting rules requiring an administrator or employee of a licensed child day-care center or licensed family day-care home to hold or obtain a bachelor's, master's, or doctoral degree.

The bill also prohibits the tiered ratings developed for the Step Up to Quality Program (SUTQ) from taking into consideration whether an administrator or employee of an early learning and development program that is participating in SUTQ holds or obtains a bachelor's, master's, or doctoral degree.

Publicly funded child care eligibility

(Section 423.130)

The bill revises the law governing income eligibility for publicly funded child care, but only until June 30, 2025. Until then, the maximum amount of income that a family may have for initial eligibility must not exceed 145% of the federal poverty. H.B. 110, the main operating budget enacted by the 134th General Assembly, set the maximum amount for initial eligibility at 142%, but only until June 30, 2023.

The bill also specifies that the maximum amount of income for continued eligibility must not exceed 300% of the federal poverty line. Under continuing law unchanged by the act, ODJFS must adopt rules specifying the maximum amount of income a family may have for initial and continued eligibility, with the maximum amount not exceeding 300% of the federal poverty line.[115]

[115] R.C. 5104.38.

Step Up to Quality ratings – license capacity exemption

(R.C. 5104.31)

Current law exempts a licensed child care program providing publicly funded child care from the requirement that the program be rated in Step Up to Quality if it provides publicly funded child care to less than 25% of its license capacity. The bill expands the exemption, by increasing that percentage to less than 50%.

Child care terminology

(R.C. Chapter 5104; conforming changes in numerous other R.C. sections)

The bill changes the terms "day-care" and "child day-care" to "child care" throughout the Revised Code.

PARENTAGE AND CHILD SUPPORT

Paternity acknowledgments

(R.C. 3111.23, with conforming changes in R.C. 3111.21, 3111.22, 3111.31, 3111.44, 3111.71, 3111.72, 3705.091, and 3727.17)

Electronic filing of an acknowledgment

The bill allows a child support enforcement agency (CSEA), a local registrar of vital statistics, and hospital staff the option to electronically file an acknowledgment of paternity with ODJFS's Office of Child Support. The bill retains the existing options to file in person or by mail. The bill also does not change the existing requirement for the natural mother, the man acknowledging he is the natural father, or another custodian or guardian of a child to file an acknowledgment in person or by mail only.

Witnessing signatures on an acknowledgment

The bill allows each signature of a party to an acknowledgment of paternity to be witnessed by two adult witnesses, in addition to the existing option of having each signature notarized. The mother and man acknowledging that he is the natural father may sign the acknowledgment and have the signature notarized or witnessed outside of each other's presence.

The bill also requires each CSEA, local registrar of vital statistics, and hospital to provide a witness to witness, or a notary public to notarize, the signing of an acknowledgment if the natural mother and alleged father sign an acknowledgment at the relevant location. Existing law requires these places only to provide a notary public. In addition, the bill requires a contract between ODJFS and a hospital to include a provision requiring the hospital to provide a notary public to notarize, or witnesses to witness, an acknowledgment of paternity affidavit signed by the mother and father, when an unmarried woman gives birth in or en route to that hospital. Again, existing law only requires the contract to include a provision to require a notary public.

The bill makes additional conforming changes in Revised Code sections where the notarization of paternity acknowledgments is mentioned.

Information required for paternity determination

(Repealed R.C. 3111.40)

The bill repeals a requirement that a request for an administrative determination of whether a parent and child relationship exists include the following information:

- The name, birthdate, current address, and last known address of the alleged father of the child;
- The name, Social Security number, and current address of the mother of the child;
- The name and birthdate of the child.

Redirecting and issuing child support to nonparent caretakers

(R.C. 3119.95 to 3119.9541 and 3119.01, with conforming changes in other R.C. sections; repealed R.C. 3121.46; Section 812.11)

Redirecting child support to caretakers

The bill establishes a process to redirect existing child support orders to a caretaker of a child and allows for new child support orders to be directed to the caretaker. It makes changes to several laws to clarify these rights for caretakers. A child support order subject to the process includes both health care coverage and cash medical support required for the child.

The bill defines a "caretaker" as any of the following, other than a parent:

- A person with whom the child resides for at least 30 consecutive days, and who is the child's primary caregiver;
- A person who is receiving public assistance on behalf of the child;
- A person or agency with legal custody of the child, including a CDJFS or a PCSA;
- A guardian of the person or the estate of a child;
- Any other appropriate court or agency with custody of the child.

The definition does not include a "host family" caring for a child at the request of a parent or other individual under an agreement under existing law. "Caretaker" replaces the terms "guardian," "custodian," and "person with whom the child resides" in certain laws addressing parentage and child support (see "**Establishing parentage and bringing a child support action**," below).

Filing a request

Under the bill, in order to obtain support for the care of the child, the child's caretaker may file an application for Title IV-D services with the CSEA in the county where the caretaker resides.

CSEA determination of whether a child support order exists

The bill requires that upon receipt of an application from the caretaker, or a Title IV-D services referral regarding the child, the CSEA must determine whether the child is the subject of an existing child support order.

When a child support order exists

Investigation

If the CSEA determines that there is an existing child support order, it must determine if any reason exists for the order to be redirected to the caretaker. If the CSEA determines that the caretaker is the primary caregiver for the child, the CSEA must determine that a reason exists for redirection.

If a CSEA determines that a reason for redirection exists, it must determine all of the following not later than 20 days after the application or referral for Title IV-D services is received:

- The amount of each parent's obligation under the existing child support order;
- Whether any prior redirection has been terminated under the process established in the bill;
- Whether any arrearages are owed, and the recommended payment amount to satisfy the arrears;
- If more than one child is subject to the existing child support order, whether the child support order for all or some of the children must be subject to redirection.

If the CSEA determines that more than one child is the subject of a support order and the order for fewer than all of the children should be redirected, it must determine the amount of child support to be redirected. That amount must be the pro rata share of the child support amounts for each such child under the child support order. The CSEA must also make a similar determination regarding health care coverage and cash medical support that may be redirected.

Order for redirection

Under the bill, not later than 20 days after completing an investigation, the CSEA must determine, based on the information gathered, whether the child support order is or is not to be redirected.

If the CSEA determines that the child support order should be redirected, it must either issue a redirection order (for an administrative child support order) or recommend to the court with jurisdiction over the court child support order (which is a child support order issued by a court) to issue a redirection order to include the child support amount to be redirected, as well as provisions for redirection regarding health care coverage and cash medical support.

Notice

Upon issuing a redirection order or making a redirection recommendation to the court, the CSEA must provide notice to the child's parent or caretaker and include it as part of the redirection order or recommendation. The notice must include the following:

- The results of its investigation;
- For an administrative child support order:
  - That the CSEA has issued a redirection order regarding the child support order and a copy of the redirection order;
  - The right to object to the redirection order by bringing an action for child support without regard to marital status, not later than 14 days after the order is issued;
  - That the redirection order becomes final and enforceable if no timely objection is made;
  - The effective date of the redirection order (see "**Effective date**," below).
- For a court child support order:
  - That the CSEA has made a recommendation for a redirection order to the court with jurisdiction over the court child support order, and a copy of the recommendation;
  - The right to object to the redirection by requesting a hearing with the court that has jurisdiction over the court child support order no later than 14 days after the recommendation is issued;
  - That the recommendation will be submitted to the court for inclusion in a redirection order, unless a request for a court hearing is made not later than 14 days after the recommendation is issued;
  - The effective date of the redirection order (see "**Effective date**," below).

Objection

A parent or caretaker may object to an administrative redirection order by bringing an action for a child support order without regard to marital status, not later than 14 days after the redirection order is issued. If no timely objection is made, the redirection order is final and enforceable.

Similarly, a parent or caretaker may object to a redirection recommendation by requesting a hearing with the court with jurisdiction over the court child support order not later than 14 days after the CSEA issued the recommendation to the court. The redirection recommendation must be submitted to the court for inclusion in a redirection order, unless a request for a court hearing is made.

Effective date of redirection

Both an administrative redirection order that has become final and enforceable and a court-issued redirection order based on a recommendation for redirection must take effect as of, and relate back to, the date the CSEA received the Title IV-D services application or referral that initiated the proceedings.

When a child support order does not exist

The bill provides that if a CSEA determines that the child under the care of a caretaker is not the subject of an existing child support order, it must determine whether any reason exists

for which a child support order should be imposed. The CSEA must make the determination not later than 20 days after receiving the Title IV-D services application or referral, and the determination must include whether the caretaker is the child's primary caregiver.

If the CSEA determines that a reason exists for a child support order to be imposed, it must comply with existing law regarding issuing an administrative child support order.

CSEA action re: notice caretaker is no longer primary caregiver

If a CSEA receives notice that a caretaker is no longer the primary caregiver for a child subject to a redirection order or recommendation, it must: (1) investigate if that is the case, and (2) take action depending on whether the CSEA determines that the child remains under the primary care of the caretaker, is under the care of a new caretaker, is under the care of a parent, or is not under anyone's care.

Same caretaker remains primary caregiver

If the CSEA determines that the caretaker to whom amounts are redirected remains the primary caregiver of the child who is the subject of the redirection order or recommendation, it must take no further action on the notice.

A new caretaker is the primary caregiver

If the CSEA determines that a new caretaker is the primary caregiver for the child, it must: (1) terminate the existing redirection order (for an administrative order) or request that the court terminate the redirection order based on the recommendation for redirection and (2) direct the new caretaker to file an application for Title IV-D services to obtain support for the child as provided in the bill (see "**Filing a request**," above).

A parent is the primary caregiver

If the CSEA determines that a parent of the child is the primary caregiver, it must do one of the following:

- If the parent is the obligee under the support order that is subject to redirection, either terminate the existing redirection order (for an administrative order) or request the court to terminate the redirection order based on the recommendation for redirection.
- If the parent is the obligor under the child support order that is subject to redirection, the CSEA must do one of the following (as applicable): (1) terminate the existing redirection order (for an administrative order) or request the court to terminate the redirection order based on the recommendation for redirection, and (2) notify the obligor that the obligor may do the following: (a) request that the child support order be terminated under existing law permitting notification to the CSEA of a reason for termination, (b) request either a review of an administrative child support order under existing law governing the review of administrative child support orders or request the court to amend the court child support order.

No one is the primary caregiver

If the CSEA determines that no one is taking care of the child, it must terminate the existing redirection order (for an administrative order) or request the court to terminate the

redirection order based on the recommendation for redirection. If the CSEA becomes aware of circumstances indicating that the child may be abused or neglected, it must make a report under the child abuse and neglect reporting law.

Impoundment

If a CSEA that receives notification that a caretaker is no longer the primary caregiver for a child subject to a redirection order or recommendation, it must impound any funds received on behalf of the child pursuant to the child support order. Impoundment must continue until any of the following occur:

- The CSEA determines that the caretaker to whom amounts are redirected remains the primary caregiver;
- The CSEA issues a redirection order for a new caretaker;
- The CSEA determines that a parent is the primary caregiver for the child and terminates the redirection order (for an administrative order) or a court terminates its redirection order.

When impoundment terminates, the impounded amounts must be paid to the obligee designated under the child support order or the applicable redirection order.

Impoundment regarding a redirection order that was terminated because no one is caring for the child must continue until further order from the CSEA (for an administrative order) or from the court with jurisdiction over the court child support order.

Rulemaking authority

The bill requires the ODJFS Director to adopt rules in accordance with the Administrative Procedure Act (R.C. Chapter 119) to provide:

1. Requirements for CSEAs to conduct investigations and issue findings pursuant to the bill's provisions regarding whether to redirect child support orders and how much to redirect when a child support order covers more than one child;

2. Any other standards, forms, or procedures needed to ensure uniform implementation of the bill's provisions regarding redirection of child support orders.

Establishing parentage and bringing a child support action

The bill makes several modifications regarding the establishment of parentage and bringing an action for child support to clarify that caretakers hold these rights. Below is a summary of these modifications.

R.C. Section	Description
R.C. 2151.231	Allows a caretaker to bring an action in a juvenile court or other court with jurisdiction in the county where the child, parent, or caretaker of the child resides for an order requiring a parent of a child to pay child support without regard to the marital status of the child's parents.

R.C. Section	Description
R.C. 3111.04	Grants a caretaker standing to bring a parentage action.
R.C. 3111.041	Allows a caretaker to authorize genetic testing of a child pursuant to any action or proceeding to establish parentage.
R.C. 3111.07	Requires that a caretaker be made a party to a court action to establish parentage or, if not subject to the court's jurisdiction, be given notice and opportunity to be heard. Allows a caretaker to intervene in an action if the caretaker was or is providing support to the child to whom the action pertains.
R.C. 3111.111	Provides that if a court action is brought under parentage laws to object to a parentage determination, the court must issue a temporary child support order to require the alleged father to pay support to the caretaker.
R.C. 3111.15	Provides that, upon the establishment of parentage, the father's obligations may be enforced in proceedings by a caretaker. Allows the court to order support payments to a caretaker.
R.C. 3111.29	Allows a caretaker to do the following once an acknowledgment of paternity becomes final: ▪ File a complaint for support without regard to marital status in the county in which the child or caretaker resides, requesting that the court order the mother, father, or both to pay child support; ▪ Contact the CSEA for assistance in obtaining child support.
R.C. 3111.38	Requires that the CSEA of the county where the child or caretaker resides determine the existence or nonexistence of a parent and child relationship between an alleged father and child if requested by a caretaker.
R.C. 3111.381 and 3111.06	Allows a caretaker to bring an action to determine whether a parent and child relationship exists in the appropriate division of the common pleas court of the county where the child resides without requesting an administrative determination, if the caretaker brings an action to request child support.
R.C. 3111.48 and 3111.49	Requires that an administrative order regarding a finding of parentage must include a notice informing the caretaker of the right to bring a court parentage action and the effect of the failure to bring timely action.

R.C. Section	Description
	Allows a caretaker to object to an administrative order determining the existence or nonexistence of a parent and child relationship by bringing a parentage action within 14 days after the issuance of the order.
R.C. 3111.78	Provides that a caretaker or CSEA in the county where the caretaker resides may do either of the following to require a man to pay child support and provide health care if presumed to be the father under a presumption of paternity: ▪ If the presumption is not based on an acknowledgment of paternity, file a complaint for child support without regard to marital status; ▪ Contact the CSEA to request assistance in obtaining a support order and provision of health care for a child.

Duty of support

The bill amends the law regarding married persons' and parents' obligations of support to add what appears to be a clarifying statement that a parent's duty to support the parent's minor child may be enforced by a child support order.

Custody and child support

The bill expands the law regarding the effect of child custody on child support to clarify that if neither parent of the child who is the subject of a support order is the child's residential parent and legal custodian and the child resides with a caretaker, each parent must pay that parent's child support obligation pursuant to the support order. Under existing law, this provision applies when the child resides with a third party who is the legal custodian of the child.

The bill also removes references to a court issuing a child support order regarding the determination of who pays the child support in a split custody or caretaker custody situation.

Grandparent authorizations

The bill modifies the power of attorney form and the caretaker authorization affidavit form for a grandparent caring for a grandchild by repealing language providing an acknowledgment that the document does not authorize a CSEA to redirect child support payments to the grandparent, and that to have an existing child support order modified or a new child support order issued, administrative or judicial proceedings must be initiated.

Notice included with a support order or modification

Under existing law, each support order or modification of an order must contain a notice to each party subject to a support order, with specifications provided in the law. One specification is that if an obligor or obligee fails to give certain required notices to the CSEA, that person may not receive notice of the changes and requests to change a child support amount, health care provisions, or termination of the child support order. The bill adds *redirection* to this list of notices of the changes and requests to change.

Repeal of law addressing child support payment to third parties

The bill repeals law which generally provides that when a support order is issued or modified, the court or CSEA may issue an order requiring payment to a third person that is agreed upon by the parties and approved or appointed by the court or CSEA (depending on whether it is an administrative or court child support order). A third person may include a trustee, custodian, guardian of the estate, county department of job and family services (CDJFS), PCSA, or any appropriate social agency.

Effective date

The bill's provisions regarding the redirection and issuance of child support to nonparent caretakers apply beginning six months after their effective date. During that six-month period, ODJFS must perform system changes, create rules and forms, and make any other changes as necessary to implement its provisions.

Fatherhood programs

(R.C. 5101.342, 5101.80, 5101.801, and 5101.805, with conforming changes in R.C. 3125.18, 5101.35, and 5153.16)

The bill specifies in the Revised Code that the Ohio Commission on Fatherhood may make recommendations to the ODJFS Director regarding funding, approval, and implementation of fatherhood programs in Ohio that meet one of the four purposes of the Temporary Assistance for Needy Families (TANF) block grant. It includes such programs as Title IV-A programs that are funded in part by the TANF block grant. The bill permits ODJFS to (1) enter into an agreement with a private, not-for-profit entity for the entity to receive funds as recommended by the Commission and (2) to adopt rules relating to these provisions.

Conciliation for custody disputes between unmarried parents

(R.C. 3109.054)

The bill specifies that if a child is born to an unmarried woman and the father of the child has established paternity, the court may, on its own motion or the motion of one of the parties, order the parents to undergo conciliation with a magistrate in order to resolve any disputes regarding the allocation of parental rights and responsibilities between the parents in a pending case. An order must include the name of the magistrate who will serve as the conciliator and the manner that the costs of any conciliation procedures are to be paid.

The bill requires a magistrate who serves as a conciliator to use conciliation procedures to resolve disputes regarding the allocation of parental rights and responsibilities. Conciliation procedures may include, without limitations, the use of family counselors and service agencies, community health services, physicians, licensed psychologists, or clergy. If the magistrate orders the parties to undergo family counseling, the magistrate must name the counselor and set forth the required type of counseling, the length of time for counseling, and any other specific conditions.

Upon the resolution of a dispute, the magistrate must issue an order regarding the allocation of parental rights and responsibilities, parenting time, or companionship or visitation

pursuant to existing law. Such an order may be issued only when the conciliation has concluded and been reported to the magistrate.

PUBLIC ASSISTANCE

TANF spending plan

(R.C. 5101.806)

The bill extends, from July 30 to August 29 of even-numbered calendar years, the deadline for ODJFS to prepare and submit a TANF spending plan. It must submit the plan to the chairperson of a standing committee of the House designated by the Speaker, the chairperson of a standing committee of the Senate designated by the President, and the Minority Leaders of both the House and Senate.

Ohio Works First

Fugitive felons

(R.C. 5107.36)

The bill corrects a cross-reference to the definition of "fugitive felon" for purposes of the Ohio Works First program.

Work Experience Program (WEP)

(R.C. 5107.54)

Current law requires when a WEP participant is placed with a private or government entity, that entity pays premiums to the Bureau of Workers' Compensation on the participant's behalf if the CDJFS does not. The bill specifies that the participant must not only be placed with the entity but also participate in WEP for the entity to be required to pay workers' compensation premiums.

Food assistance

SNAP work-related eligibility requirements

(R.C. 5101.546 and 5101.547)

Able-bodied adults without dependents

Federal law imposes work-related eligibility requirements on SNAP recipients who are classified as able-bodied adults without dependents. This group consists of individuals between the ages of 18 and 49 who have no dependents and are not disabled.[116] These individuals are only eligible to receive SNAP benefits for up to three months every three years unless they satisfy federally specified work requirements.

[116] Recent changes made in the federal Fiscal Responsibility Act of 2023, P.L. No. 118-5, will gradually increase the age of able-bodied adults without dependents subject to the time limit for receipts of SNAP benefits, from 49 to 54.

Under federal law and regulations, states have the authority to apply for a waiver to exempt from the time limit described above certain areas of the state that have an unemployment rate of over 10% or do not have a sufficient number of jobs for able-bodied adults.[117] The bill prohibits ODJFS from requesting, applying for, or renewing such a waiver.

Employment and training program

The bill requires ODJFS to redesign its employment and training program in a manner that ensures the program meets the needs of employers in the state. Under federal law, states are required to implement an employment and training program that assists members of households participating in SNAP with gaining skills, training, work, or experience that will (1) increase the ability of household members to obtain regular employment and (2) meet state and local workforce needs.[118] The bill requires ODJFS, not later than July 1, 2024, to appear before both the House Finance and Senate Finance committees and report on the redesigned program.

SNAP vendor pre-screening

(R.C. 5101.04)

Regarding the use of third-party vendors by ODJFS to assist with SNAP benefit eligibility determinations, the bill prohibits third-party vendors from conducting pre-screening activities regarding SNAP applicants unless the vendor has entered into a pre-screening agreement with ODJFS.

Self-employment income and SNAP eligibility

(R.C. 5101.54)

When reevaluating an individual's gross nonexempt self-employment income to determine continuing SNAP eligibility, the bill requires ODJFS to use the same criteria as were used during initial SNAP certification. This includes during quarterly eligibility reviews conducted by ODJFS and during the recertification process.

SNAP and WIC benefit trafficking

(R.C. 2913.46)

The bill expands the conduct that constitutes the illegal use of Supplemental Nutrition Assistance Program (SNAP) benefits or WIC benefits, which is a felony under existing law, with the degree dependent on the value of the benefits involved. Specifically, the bill prohibits:

- Soliciting SNAP and WIC benefits by an individual;
- Trafficking SNAP benefits by an individual, with trafficking defined under federal regulations; and
- An organization from allowing an employee to violate the above prohibitions.

[117] 7 U.S.C. 2015(o)(4).

[118] 7 U.S.C. 2015(d)(4).

SNAP benefits cards

(R.C. 4501.27, 5101.33, 5101.331, and 5101.542)

Photographs on cards

The bill establishes two requirements for the contents that must be included on a SNAP EBT card. First, the bill requires the front of a card to include a color photograph of at least one adult member of the household for which the card is issued, unless the household (1) does not include any adults or (2) includes adults, but they are 60 years of age or older, blind, disabled, victims of domestic violence, or have religious objections to being photographed.[119] An exempt adult is nonetheless permitted to volunteer to have a photograph included on the front of the card. The Registrar of Motor Vehicles, or an employee or contractor of the BMV, may disclose an individual's photograph or digital image to ODJFS for this purpose.

The second requirement established by the bill requires the back of an EBT card to include a telephone number that can be called to report suspected SNAP fraud and the address of a website where suspected fraud can be reported.

The bill requires ODJFS to develop a strategy for issuing EBT cards that meet the requirements established by the bill in consultation with the BMV and the U.S. Food and Nutrition Service. The implementation strategy must be developed not later than one year after the bill's effective date.

All new EBT cards must comply with the bill's requirements beginning six months after the date ODJFS develops the implementation strategy. A card that is issued before that date must be replaced with a card that complies with these requirements within 12 months after the date the implementation strategy is developed if the household for which the card was issued continues to participate in SNAP.

The bill authorizes ODJFS to adopt rules for the efficient administration of these requirements.

Lost, stolen, or damaged cards

With respect to the EBT card issued to households participating in SNAP, the bill requires ODJFS to replace a lost, stolen, or damaged card within two business days of receiving notice of the card's condition, in accordance with federal law. The bill requires ODJFS to implement an option permitted in federal law, under which a state agency administering the SNAP program may withhold a replacement EBT card from a household if the household requests four or more replacement EBT cards in a 12-month period.[120] The bill specifies that ODJFS is prohibited from

[119] The federal Food and Nutrition Act of 2008 allows states to require that SNAP EBT cards include a photograph of one of more members of a household. However, states that do so must establish procedures to ensure that any other appropriate member of the household or authorized representative may use the card. 7 U.S.C. 2016(h)(9).

[120] See 7 C.F.R. 274.6(b).

withholding a replacement EBT card if the individual requesting a replacement card has a disability that is directly related to the loss of the card.

Deactivating unused cards

The bill specifies, to the maximum extent permitted by federal law, that if an EBT card is unused for six months, ODJFS must deactivate the card and return the funds to the SNAP program. Before deactivating an EBT card, the bill requires ODJFS to provide notice of that intent to the affected household, including specifying a cure period during which the household may use the card or notify ODJFS that the card is still in use.

SNAP child support contact information

(R.C. 5101.549)

The bill requires an individual receiving SNAP benefits who is the subject of a child support order to provide to ODJFS the individual's current telephone number, home address, and, if the individual is employed, a work address. An individual who fails to provide this information to ODJFS is disqualified from participating in the SNAP program.

Agreement with Ohio Association of Foodbanks

(Section 307.43)

The bill requires ODJFS to enter into a subgrant agreement with the Ohio Association of Foodbanks to enable the Association to: (1) provide food distribution to low-income families and individuals through the statewide charitable emergency food provider network, (2) support the transportation of meals for the Governor's Office of Faith-Based and Community Initiatives' Innovative Summer Meals programs for children, and (3) provide capacity building equipment for food pantries and soup kitchens.

Under the agreement, the Association must:

- Purchase food for the Agriculture Clearance and Ohio Food Programs. Information regarding the food purchase must be reflected in a plan for statewide distribution of food products to local food distribution agencies.
- Support the Capacity Building Grant program and purchase equipment for partner agencies needed to increase their capacity to serve more families eligible under the TANF program with perishable foods, fruits, and vegetables. Equipment purchases must include shelving, pallet jacks, commercial refrigerators, and commercial freezers.
- Submit a quarterly report to ODJFS not later than 60 days after the close of the quarter that includes a summary of the allocation and expenditure of grant funds; product type and pounds distributed by foodbank service region and county; and the number of households and households with children, a breakdown of individuals served by age ranges, and the number of meals served.
- Submit an annual report to the ODJFS Agreement Manager not later than 120 days after the end of the fiscal year, including a summary of the allocation and expenditure of grant funds; the number of households and households with children; a breakdown of

individuals served by age ranges, and the number of meals served; the quantity and type of food distributed and the total per pound cost of the food purchased; information on the cost of storage, transportation, and processing; and an evaluation of the success in achieving expected performance outcomes.

Reporting suspected child abuse

(R.C. 5101.28(B))

The bill expands the authorization of ODJFS, CDJFSs, and their employees to report suspected child abuse and neglect to a PCSA by removing the qualification that the child receive public assistance and circumstances indicate that the child's health or welfare is threatened. Under the bill, these individuals are not prohibited from reporting known or suspected physical or mental injury, sexual abuse or exploitation, or negligent treatment or maltreatment of *any* child, instead of only a child receiving public assistance, if the circumstances indicate the child's health or welfare is threatened.

ODJFS disclosure definitions

(R.C. 5101.26 and 5101.28)

In continuing law governing the disclosure of information about public assistance recipients, the bill broadens the definition of "law enforcement agency" to mean the office of a sheriff, the Ohio State Highway Patrol (OSHP), a county prosecuting attorney, or a governmental body that enforces criminal laws and has employees with the power of arrest, as opposed to listing specific entities.

Auditor of State report

(R.C. 5101.28(F))

The bill eliminates the requirement that the Auditor of State prepare an annual report on the outcome of information sharing agreements between law enforcement and ODJFS/CDJFSs. This report includes the number of fugitive felons, probation and parole violators, and violators of community control sanctions and post-release control sanctions apprehended as a result of the agreements.

Falsifying information on application for public assistance

(R.C. 5101.75)

The bill prohibits an individual applying for any of the following public assistance benefits from knowingly falsifying information on the application: (1) SNAP benefits, (2) benefits funded in whole or in part by the TANF block grant, (3) cash assistance under the Ohio Works First program, and (4) Medicaid program benefits.

The bill further provides that if a case worker responsible for conducting public assistance benefit eligibility determinations determines that an applicant for those programs knowingly falsified information, that applicant is ineligible to receive public assistance benefits for a period of six months, to the extent permitted by federal law.

Public assistance quarterly report

(R.C. 5101.98)

On a quarterly basis, the bill requires ODJFS to compile a report of public assistance programs and submit it to the Senate President and Speaker of the House, who are required to distribute the report to the chairpersons of the legislative committees with jurisdiction over public assistance programs. The report must include all of the following:

- Regarding the SNAP program:
  - The number of SNAP accounts with high balances, as determined by the Department;
  - The number of SNAP out-of-state transactions;
  - The number of SNAP transactions when the final amount processed was a whole dollar amount.
- Regarding all public assistance programs, including Medicaid, SNAP, services provided under the TANF block grant, and cash assistance provided under Ohio Works First:
  - The payment error rate of each program, including the dollar amount of the payment errors;
  - The number of work requirement exemptions issued in each program;
  - The number of confirmed cases of intentional program violation and fraud in each program.

UNEMPLOYMENT

Identity verification

(R.C. 4141.28)

The bill requires an individual filing an application for determination of benefit rights for unemployment compensation to furnish proof of identity at the time of filing in the manner prescribed by the ODJFS Director.

Under continuing law, determining eligibility for unemployment benefits is a two-phase process. In the first phase, an individual files an initial application for a determination of benefit rights, which generally examines whether the individual worked and earned enough to be eligible for benefits ("monetary eligibility"). This application is used to establish the individual's benefit year, which is the 52-week period during which the individual may file claims for benefits based on satisfying the monetary eligibility requirements. After filing a valid initial application and establishing a benefit year, an individual enters the second phase of the process. In the second phase, the individual must file a claim for benefits each week the individual seeks benefits during the benefit year. At this point, the individual must satisfy "nonmonetary requirements." The

nonmonetary requirements concern filing appropriate paperwork, the reason why the individual is unemployed, and work search requirements.[121]

Benefit reductions based on receiving certain pay

(R.C. 4141.31)

The bill requires a claimant's unemployment benefits for any week of unemployment be reduced by the full amount of holiday pay or allowance paid to the claimant for that week. Continuing law applies the same weekly reduction to vacation pay or allowance.

The bill also requires a claimant's benefits for any week of unemployment be reduced by the amount of any bonus payable under the law, the terms of a collective bargaining agreement, or other employment contract. The reduction amount equals the claimant's weekly benefit amount in the first and each succeeding week following the claimant's separation from the employer making the bonus payment until the total bonus amount is exhausted.

Under continuing law, no benefits are paid to a claimant for any week in which the claimant receives remuneration equal to or exceeding the claimant's weekly benefit amount. If the amount of remuneration is less than the claimant's weekly benefit amount, continuing law requires the amount of remuneration that exceeds 20% of the claimant's weekly benefit to be deducted for that week. Under current law, holiday pay and bonuses are considered remuneration and the amount of those forms of remuneration that exceeds 20% of the claimant's weekly benefit is deducted for that week.[122]

Disclosure of information

(R.C. 4141.21, 4141.211, 4141.22, and 4141.43)

The bill specifies that information maintained by the ODJFS Director or the Unemployment Compensation Review Commission (UCRC), or furnished to the ODJFS Director or UCRC by employers and employees under the Unemployment Compensation Law, is not a public record under the Ohio Public Records Act.[123] This is consistent with continuing law that specifies that the information is for the exclusive use and information of ODJFS and the UCRC and may not be disclosed unless an exception applies.

The bill allows for the disclosure of unemployment compensation information if the disclosure is permitted by federal law under the following circumstances:

- The information is, or regards, appeal records and decisions or precedential determinations on coverage of employers, employment, and wages, provided that any social security numbers and personal health information have been removed.

[121] R.C. 4141.28 and R.C. 4141.01 and 4141.29, not in the bill.

[122] R.C. 4141.30(C), not in the bill.

[123] R.C. 149.43.

- The information is about an individual or employer and is disclosed to that individual or employer.
- The information is about an individual or employer and is disclosed to the individual's or employer's agent, if the agent presents a written release from the individual or employer or another form of permissible consent if the agent demonstrates that a written release is impossible or impracticable to obtain.
- The information is disclosed to an elected official performing constituent services who presents reasonable evidence that an individual or employer has authorized a disclosure about that individual or employer.
- The information is about an individual or employer and is disclosed to an attorney who is retained for purposes related to unemployment compensation law and asserts that the attorney represents the individual or employer.
- The information is about an individual or employer and is disclosed to a third party who is not an agent, but is providing a service or benefit to the individual or employer or is carrying out administration or evaluation of a public program, if the third party obtains a written release from the individual or employer that is signed and does all of the following:
  - Specifically identifies the information to be disclosed;
  - States which files will be accessed to obtain the information;
  - Specifies the purpose for which the information is sought and that the information will only be used for that purpose;
  - Indicates all of the parties who may receive the information.
- The information is disclosed to a public official, or an agent or contractor of such an official, for use in the performance of official duties, including research related to the administration of those duties (the information may not be used for the purpose of solicitation of contributions or expenditures to or on behalf of a candidate for public or political office or to a political party).
- The information is disclosed to the federal Bureau of Labor Statistics pursuant to a cooperative agreement with the Bureau.
- The information is disclosed in response to a subpoena or court order, provided the subpoena or order is properly served on the ODJFS Director or the UCRC, and a court has previously issued a binding precedential decision that requires disclosures of this type or an established pattern of prior court decisions requiring the type of disclosure exists.
- The information is disclosed to a local, state, or federal government official, other than a clerk of court on behalf of a litigant.
- The information is disclosed to a federal or state official for purposes of unemployment compensation program oversight and audits or to a federal agency that the U.S. Department of Labor (which administers federal unemployment law) has determined to

have adequate safeguards to satisfy confidentiality and safeguard requirements under federal law.

- The disclosure of information is required by law.

The allowed disclosures discussed above replace current law that simply allows the ODJFS Director to cooperate with departments and agencies in the exchange or disclosure of information as to wages, employment, payrolls, unemployment, and other information. The bill also eliminates the following:

- The prohibition against information maintained by the ODJFS Director or the UCRC being used in any court or as evidence in any action, other than one arising under the Unemployment Compensation Law;
- The requirement that all information and records necessary or useful in a claim determination or necessary in verifying a charge to an employer's account must be available for examination and use by the employer and the employee involved or their authorized representatives in the hearing of those cases;
- Authorization for the ODJFS Director to employ, jointly with one or more agencies or departments, auditors, examiners, inspectors, and other employees necessary for the administration of the Unemployment Compensation Law and employment and training services.

The bill eliminates the ODJFS Director's authority to adopt rules defining the requirements for the release of individual income verification information to a consumer reporting agency, and instead, defines what constitutes "wage information" that may be disclosed to a consumer reporting agency under continuing law. The bill defines "wage information" to mean the name, Social Security number, quarterly wages paid to, and weeks worked by an employee, and the name, address, and state and federal tax identification number of an employer reporting wages under the Unemployment Compensation Law.

The bill allows the following information to be disclosed to accredited colleges and universities, accredited educational institutions, nonprofit research organizations, and other organizations conducting research, if the disclosure is for the purpose of assisting in research or for use in providing or improving the provision of government services:

- Wage information as defined above;
- Whether an individual is receiving, has received, or has applied for unemployment benefits;
- The amount of unemployment benefits an individual is receiving or entitled to receive;
- An individual's current or most recent home address;
- Whether an individual has refused an offer of work and, if so, a description of the job offered including the terms, conditions, and rate of pay;
- Any other information contained in the records of the ODJFS Director which is needed by the requesting agency to verify eligibility for, and the amount of, benefits;

- Employment and training information;
- Employer information.

The ODJFS Director may require recipients of unemployment compensation information under the bill to enter into a written agreement to receive the information. A recipient of that information, other than an individual or employer receiving information about that individual or employer, cannot re-disclose the information without approval to do so from the ODJFS Director and must safeguard the information against unauthorized access or re-disclosure. Failure to comply with bill's disclosure provisions may result civil or criminal penalties, including penalties for unauthorized disclosure of unemployment information under continuing law, as applicable. Under continuing law, an unauthorized disclosure of unemployment information may result in a fine of $100 to $1,000, imprisonment of up to one year, or both.[124]

For purposes of the bill's disclosure of information provisions, "unemployment compensation information" means information maintained by the ODJFS Director or the UCRC, or furnished to the Director or the UCRC by employers or employees pursuant to the Unemployment Compensation Law, that pertains to the administration of the Unemployment Compensation Law. It includes a wage report collected under the Income and Eligibility Verification System established under continuing law only if it is obtained by ODJFS for determining unemployment compensation monetary eligibility or is downloaded to ODJFS's files as a result of a crossmatch.[125] "Unemployment compensation information" does not include any of the following:

- Information in the New Hires Directory maintained by ODJFS under continuing law[126] or in the National Directory of New Hires, if the information has not been used in the administration of the unemployment compensation program;
- ODJFS personnel or fiscal information;
- Information that is in the public domain.

Participation in certain federal programs

(R.C. 4141.43)

The bill specifies that the law requiring the ODJFS Director to take action as necessary to secure all advantages available under certain federal laws does not require the Director to participate in, nor preclude the Director from ceasing to participate in, any voluntary, optional, special, or emergency program offered by the federal government under federal laws or any other federal program enacted to address exceptional unemployment conditions.

[124] R.C. 4141.99, not in the bill.

[125] R.C. 4141.162, not in the bill.

[126] R.C. 3121.894, not in the bill.

Acceptable collateral from certain reimbursing employers

(R.C. 4141.241)

Continuing law requires a nonprofit employer wishing to be a reimbursing employer under the Unemployment Compensation Law to submit collateral to the ODJFS Director. The bill makes surety bonds the only acceptable form of that collateral. Thus, it eliminates the ability to submit other forms of collateral approved by the Director, such as bonds and securities.

Ohio's unemployment system has two types of employers: contributory employers and reimbursing employers. Employers who are assigned a contribution rate and make contributions to the Unemployment Compensation Fund are contributory employers. Most private sector employers are contributory employers. Certain employers are allowed to reimburse the fund after benefits are paid; they are known as "reimbursing employers."[127]

OTHER PROVISIONS

OhioMeansJobs training dashboard

(R.C. 6301.13)

The bill requires ODJFS to establish a dashboard of training options to be available on the OhioMeansJobs website. The dashboard must include training options, for students and young adults, that are either funded by ODJFS and other state agencies or are partnerships entered into with private entities and are available at no cost.

Workforce report for horizontal well production

(Repealed R.C. 6301.12)

The bill eliminates the requirement that the Office of Workforce Development within ODJFS prepare an annual workforce report for horizontal well production. Under that law, the Office must comprehensively review the direct and indirect economic impact of businesses engaged in the production of horizontal wells in Ohio and prepare the report annually by July 30.

Office of the Migrant Agricultural Ombudsperson

(R.C. 3733.471; repealed R.C. 3733.49 and 4141.031; conforming changes in R.C. 3733.41, 3733.43, 3733.431, 3733.45, 3733.46, 3733.47, and 5321.01)

The bill eliminates the Office of the Migrant Agricultural Ombudsperson established under the authority of the ODJFS Director. Current law requires the Migrant Agricultural Ombudsperson to oversee agricultural labor camps in Ohio, including collecting and disseminating information regarding housing for migrant agricultural laborers and agricultural labor camps, becoming familiar with state and federal laws and programs concerning migrant agricultural laborers and agricultural labor camps, receiving and referring complaints or

[127] R.C. 4141.01(L), not in the bill.

questions, and preparing an annual report regarding migrant agricultural labor conditions and recommendations for change.

Current law also allows a person to report a violation regarding agricultural labor camps – including a violation of the Minor Labor Law[128] or Minimum Fair Wage Standards Law[129] – to the Ombudsperson. The bill instead requires the person to make the report to the State Monitor Advocate, who must forward the reports to the Attorney General for investigation and possible action, similar to continuing law.

Under federal law, the workforce development agency of each state (in Ohio, ODJFS) must appoint a State Monitor Advocate. The State Monitor Advocate's duties include similar duties to the Migrant Agricultural Ombudsperson, such as collecting and reviewing data regarding the living and working conditions of migrant and seasonal farmworkers and receiving complaints and referring alleged violations to enforcement agencies. The State Monitor Advocate also is responsible for oversight activities for migrant and seasonal farmworkers, including conducting on-site reviews and field visits, monitoring the provision of employment services, and promoting the Agricultural Recruitment System to connect job seekers to employers.[130]

[128] R.C. Chapter 4109.

[129] R.C. Chapter 4111.

[130] 20 C.F.R. 653.108 and Monitor Advocate System, which may be accessed by conducting a keyword "Monitor advocate" search on the U.S. Department of Labor website: dol.gov.

JOINT COMMITTEE ON AGENCY RULE REVIEW

Rule adoption and review

- Tolls the time during which a concurrent resolution invalidating a proposed rule may be adopted when the agency that filed the rule informs the Joint Committee on Agency Rule Review (JCARR) that the agency intends to file a revised version.
- Eliminates prohibitions against JCARR reviewing an administrative rule when JCARR becomes aware that the rule has an adverse impact on business but has not been analyzed by the Common Sense Initiative Office.

Administration

- Makes the JCARR chairperson and vice-chairperson co-chairs and requires the House-appointed co-chair to conduct meetings during the first regular session of a General Assembly and the Senate-appointed co-chair to do so during the second.
- Allows the JCARR chairperson in charge of calling and conducting meetings to select a date for JCARR's public hearing on a proposed rule that is earlier than 41 days after the rule was filed.

Principles of law or policy

- Increases, from three to six, the number of months an agency has after the expiration of a governor's term to transmit to JCARR the agency's report concerning principles of law or policies relied on by the agency that have not been stated in an administrative rule.
- Exempts a legislative agency from the requirement to report to JCARR on principles of law or policies relied on by the agency that have not been stated in an administrative rule.

Rule adoption and review

(R.C. 106.02, 106.031, and 121.83, repealed, with conforming changes in 107.51, 121.81, 121.811, 308.21, and 1710.02)

Concurrent resolution invalidating a proposed rule

The bill allows an agency that has filed a proposed administrative rule for review by the Joint Committee on Agency Rule Review (JCARR) to inform JCARR that the agency intends to file a revised version of the rule. When the agency so informs JCARR, the time during which the General Assembly may adopt an invalidating concurrent resolution is tolled. If the agency revises and refiles the proposed rule 35 or fewer days after filing the original, JCARR must review the revised version, and an invalidating concurrent resolution may be adopted, no later than 65 days after the original rule was filed. If, however, the agency files the revised rule more than 35 days after it filed the original, the General Assembly may adopt an invalidating resolution no later than 30 days after the agency filed the revised rule with JCARR.

Subject to limited exceptions, continuing law requires an agency that intends to adopt an administrative rule to file the proposed rule and related documents with JCARR at least 65 days before the rule's intended effective date.[131] JCARR reviews the proposed rule and, if JCARR makes specific findings, JCARR may recommend the General Assembly adopt a concurrent resolution invalidating the proposed rule.[132] In most cases, the General Assembly must adopt the resolution no later than the 65th day after the day on which the agency filed the proposed rule.

Jurisdiction

The bill eliminates a prohibition against JCARR reviewing an administrative rule having an adverse impact on business before the rule has been analyzed by the Common Sense Initiative Office (CSIO). Under continuing law, an agency proposing a new rule (or performing a mandatory five-year review of an existing rule) must evaluate the rule using a business impact analysis instrument developed by CSIO to determine whether the rule has an adverse impact on business. If it has such an impact, the agency must transmit a copy of the rule and the agency's analysis to CSIO. CSIO analyzes the rule and makes recommendations on how to eliminate or reduce the adverse impact on business.[133]

Currently, JCARR does not have jurisdiction to review, and must reject, a rule if JCARR discovers that the rule has an adverse impact on business and the agency did not put it through the CSIO process.

Administration

(R.C. 101.35 and 106.02, with conforming changes in 101.352, 101.353, 103.0521, 106.032, 106.04, and 106.041)

Chairperson

The bill makes the JCARR chairperson and vice-chairperson co-chairs. Currently, the Speaker of the House appoints the chairperson in the first regular session of the General Assembly, and the Senate President appoints the vice-chairperson. In the second regular session, the President appoints the chair and the Speaker appoints the vice-chair.

Under the bill, the Speaker and Senate President each appoint one co-chair. The House-appointed co-chair calls and conducts meetings during the first regular session of a General Assembly, and the Senate-appointed co-chair does so during the second. If the co-chair responsible for calling and conducting meetings is absent or temporarily unable to perform the chairperson's duties, the other co-chair acts as a substitute. As with the chair and vice-chair under current law, the co-chairs serve until their respective successors are appointed or until they are no longer members of the General Assembly.

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[131] R.C. 111.15 and R.C. 119.03, not in the bill.

[132] R.C. 106.021, not in the bill.

[133] R.C. 121.81 to 121.811 and R.C. 107.52 to 107.54 and 121.82, not in the bill.

Public hearings on proposed rules

The bill allows the JCARR chairperson responsible for calling and conducting meetings to select a date for JCARR's public hearing on a proposed rule that is earlier than 41 days after the rule was filed. However, the bill also requires the JCARR chairperson to try to not hold the hearing before the 41st day. Currently, JCARR may not hold a public hearing on a proposed rule earlier than the 41st day after the agency filed it.

Policy and principal of law reporting

(R.C. 121.93)

The bill increases the time an agency has to transmit to JCARR the agency's report concerning principles of law or policies relied on by the agency that have not been stated in an administrative rule. Continuing law requires most state agencies periodically to review their operations and identify principles of law or policy that have not been stated in a rule and that the agencies are relying on for either of the following activities:

- Conducting adjudications or other determinations of rights and liabilities;
- Issuing writings and other materials.

Currently, an agency must perform at least one review during a governor's term and, within three months after the end of the governor's term, transmit a report to JCARR stating that the agency has completed one or more of the required reviews and certain steps the agency is taking regarding those reviews. The bill extends the report due date to within six months after the end of the governor's term.

The bill also exempts an agency, commission, or committee created in the legislative branch of government or to serve the General Assembly (a "legislative agency") from the reporting requirement. Legislative agencies include, but are not limited to, all of the following:

- The Joint Legislative Ethics Committee;
- The Joint Medicaid Oversight Committee;
- The Correctional Institution Inspection Committee;
- The Legislative Service Commission;
- The Legislative Information Services;
- The Capitol Square Review and Advisory Board.

The Governor, Lieutenant Governor, Secretary of State, Auditor of State, Treasurer of State, Attorney General, state institutions of higher education, and the state retirement systems are exempt from the reporting requirement under continuing law.[134]

[134] R.C. 121.933, not in the bill.

JUDICIARY-SUPREME COURT

Court electronic filings and computerization fees

- Allows electronic filing of pleadings or documents in municipal and county courts.
- Allows municipal, county, and common pleas court clerks to increase their additional fees to cover office computerization costs from $10 to $25.
- Delays the effective date of the provisions regarding electronic filing of pleadings in municipal and county courts until January 1, 2025.

Appeals of administrative orders

- Restructures and modifies the current Administrative Procedure Act provisions regarding appeals by a party adversely affected by an order of an agency by:
  - Retaining current law that specifies that, subject to the provisions described below, an appeal from an order of an agency issued pursuant to an adjudication denying an applicant admission to an examination, denying the issuance or renewal of a license or registration of a licensee, revoking or suspending a license, or allowing the payment of a forfeiture must be filed in the county in which the place of business of the licensee is located or the county in which the licensee is a resident.
  - Retaining and modifying current law that requires that appeals of orders of specified agencies must be to the Franklin County Court of Common Pleas or, as added, the county in which the place of business of the licensee is located or in which the licensee is a resident.
  - Retaining and modifying current law that requires, instead of permits, appeals from orders of the State Fire Marshal be to the court of common pleas of the county in which the aggrieved person's building is located.
  - Retaining current law pertaining to appeals from a decision of the State Personnel Board of Review or a municipal or civil service township civil service commission.
  - Requiring, instead of permitting as under current law, that appeals from specified administrative orders by any party who is not a resident of and has no place of business in Ohio must be to the Franklin County Court of Common Pleas.
  - Retaining and modifying current law providing that any party adversely affected by any agency order issued pursuant to any other adjudication may appeal to the Franklin County Court of Common Pleas or, as added, the county in which the business of the party is located or in which the party is a resident.
- Modifies specific statutes governing adjudication orders of specified agencies to replace current provisions regarding appeals of the orders to the Franklin County Court of Common Pleas, the Environmental Division of the Franklin County Municipal Court, or the court of the county in which an appointing authority resides, with the bill's venue provision described in the first dot point.

Special court procedures

- Provides special court procedures regarding the consideration and determination of:
  - Cases that, prior to its effective date, would have been solely within the jurisdiction on appeal of the 10th District Court of Appeals, and that on that date are pending in a common pleas court and are not pending in the 10th District.
  - Matters that, on or after its effective date, are being considered by a court of appeals other than the 10th District or a common pleas court within the territory of a court of appeals other than the 10th District and that, prior to that date, would have been solely within the jurisdiction on appeal of the 10th District.

No claim preclusion in zoning appeals

- Provides that a final judgment on the merits by a court pursuant to its power of review of administrative orders on claims brought under the law regarding county rural zoning or the renewal of slums and blighted areas in a county, the Township Zoning Law, or the law regarding municipal zoning, regional and county planning commissions, or interstate regional planning commissions does not preclude later claims for damages.
- States that the General Assembly intends that the above provisions in the respective laws be construed to override the federal Sixth Circuit Court of Appeals decision in the case of *Lavon Moore v. Hiram Twp.*, 988 F.3d 353 (6th Cir. 2021).

Changes related to S.B. 288 of the 134th General Assembly

- Makes a series of changes to the Criminal Code to correct inconsistencies, ambiguities, oversights, and technical issues created by the passage of S.B. 288 of the 134th General Assembly, including changes related to all of the following:
  - Sealing and expungement;
  - Criminal and traffic offense penalties;
  - Crime victims – notice and opportunity to be heard;
  - Adult Parole Authority warrantless search authority;
  - Removal of warrants from the National Crime Information Center;
  - Emergency judicial release;
  - Other technical changes.

Court electronic filings and computerization of courts

(R.C. 1901.261, 1901.313, 1907.202, 1907.261, 2303.081, and 2303.201)

The bill permits pleadings or documents to be filed with county and municipal clerks of court either in paper format or electronic format. Additionally, the bill specifies that such pleadings or documents filed in paper format may be converted to an electronic format, and

permits documents created by a county or municipal clerk in the exercise of the clerk's duties to be created in an electronic format. Finally, the bill specifies that, in county and municipal courts, when pleadings or documents are received or created in, or converted to, an electronic format, the pleadings or documents in that format must be considered the official version of the record. These new provisions that the bill applies to county and municipal courts regarding electronic filing of pleadings or documents already apply to courts of common pleas under existing law.

Applicable to municipal, county, and common pleas courts, the bill specifies that the clerk must determine whether the filing of pleadings or documents in electronic format may be accomplished either by electronic mail or through the use of an online platform. The fee for filing pleadings or documents in electronic format may be paid after the filing. The clerk cannot require that any fee for the filing of pleadings or documents in electronic format be paid before the filing, unless the clerk has provided for an electronic payment system for such filing. Finally, the clerk cannot require a fee for the filing of pleadings or documents in electronic format that exceeds the applicable fee for the filing of pleadings or documents in paper format. However, the bill specifies that the provisions described in this paragraph do not apply to the filing of pleadings or documents in a probate court or juvenile court.

The bill permits the clerk of the common pleas court, rather than the court, to charge an additional fee for the computerization of the clerk's office and disburse those funds and also permits elected municipal and county court clerks to charge a computerization fee and disburse those funds.

In a county in which the clerk of the municipal court or county court is appointed, the bill retains existing law under which the municipal court or the county court may make the determination as to whether additional funds are necessary and, upon that determination, include a computerization fee in its schedule of fees.

The bill also permits municipal, county, and common pleas courts to increase the maximum amount of their additional fees from $10 to $25 to cover the computerization of the clerk's office.

The bill delays the effective date of the provisions regarding electronic filing of pleadings or documents in municipal and county courts until January 1, 2025.

Appeal of administrative agency order

(R.C. 119.12, 124.34, 956.11, 956.15, 3794.09, 3901.321, 3913.13, 3913.23, 5101.35, and 5164.38; Section 701.130)

Current law

Place of appeal

The current Administrative Procedure Act (R.C. Chapter 119, the APA) generally provides that a "party" (see below) adversely affected by any order of an "agency" (see below) issued pursuant to an adjudication denying an applicant admission to an examination, denying the issuance or renewal of a license or registration of a licensee, revoking or suspending a license, or allowing the payment of a forfeiture rather than suspending operations of a liquor permit holder by order of the Liquor Control Commission, may appeal from the order of the agency to the court

of common pleas of the county in which the place of business of the licensee is located or the county in which the licensee is a resident (the provisions do not apply to appeals from the Department of Taxation).

But other provisions regarding appeals of such an order specify that:

1. An appeal of such an order issued by any of the following agencies must be made to the Franklin County Court of Common Pleas (Franklin County CCP): (a) Liquor Control Commission, (b) Ohio Casino Control Commission, (c) State Medical Board, (d) State Chiropractic Board, (e) Board of Nursing, and (f) Bureau of Workers' Compensation regarding participation in the health partnership program administered by the Bureau.

2. If a party appealing from such an order is not an Ohio resident and has no place of business in Ohio, the party may appeal to the Franklin County CCP.

3. A party adversely affected by any order of an agency issued pursuant to any other adjudication may appeal to the Franklin County CCP, except that: (a) appeals from orders of the State Fire Marshal issued under R.C. Chapter 3737 may be to the court of common pleas of the county in which the building of the aggrieved person is located, and (b) appeals under R.C 124.34(B) from a decision of the State Personnel Board of Review or a municipal or civil service township civil service commission must be taken to the court of common pleas of the county in which the appointing authority is located or, in the case of an appeal by the Department of Rehabilitation and Correction (DRC), to the Franklin County CCP.

Definitions

As used in the APA:

1. "Agency" means, except as otherwise specified, any official, board, or commission having authority to promulgate rules or make adjudications in the Civil Service Commission, the Division of Liquor Control, the Department of Taxation, the Industrial Commission, the Bureau of Workers' Compensation, the functions of any administrative or executive officer, department, division, bureau, board, or commission of the government of the state specifically made subject to the APA, and the licensing functions of any administrative or executive officer, department, division, bureau, board, or commission of the government of the state having the authority or responsibility of issuing, suspending, revoking, or canceling licenses. The Act does not apply to certain specified government entities or certain specified types of conduct of government entities (e.g., the Public Utilities Commission; the Controlling Board; or certain actions of the Superintendent of Financial Institutions and the Superintendent of Insurance; etc.). "Agency" also means any official or work unit having authority to promulgate rules or make adjudications in the Department of Job and Family Services, but only with respect to both of the following: (1) the adoption, amendment, or rescission of rules required under R.C. 5101.09 to be adopted in accordance with the APA, and (2) the issuance, suspension, revocation, or cancellation of licenses.

2. "Party" means the person whose interests are the subject of an adjudication by an agency.

Operation of the bill

The bill modifies current law by providing that a party adversely affected by an order of an agency issued pursuant to an adjudication may appeal from the order to the court of common pleas of the county described in the next paragraph.

Under the bill, an appeal by a party adversely affected by any order of an agency issued pursuant to an adjudication must be filed in the county designated as follows:

1. Except as otherwise described below in (2), an appeal from an order of an agency issued pursuant to an adjudication denying an applicant admission to an examination, denying the issuance or renewal of a license or registration of a licensee, revoking or suspending a license, or allowing the payment of a forfeiture rather than suspending operations of a liquor permit holder by order of the Liquor Control Commission must be filed in the county in which the place of business of the licensee is located or the county in which the licensee is a resident (current law states that such an appeal may be filed in the court of common pleas in either of the specified counties).

2. An appeal from an order issued by any of the following agencies must be made to the Franklin County CCP or the court of common pleas in the county in which the place of business of the licensee is located or the county in which the licensee is a resident: (a) Liquor Control Commission, (b) Ohio Casino Control Commission, (c) State Medical Board, (d) State Chiropractic Board, (e) Board of Nursing, and (f) Bureau of Workers' Compensation regarding participation in the health partnership program administered by the Bureau (currently, such an appeal must be made to the Franklin County CCP).

3. Appeals from orders of the State Fire Marshal issued under R.C. Chapter 3737 must be to the court of common pleas of the county in which the building of the aggrieved person is located (currently, those appeals may be to that court of common pleas or to the Franklin County CCP).

4. As under current law, appeals under R.C. 124.34(B) from a decision of the State Personnel Board of Review or a municipal or civil service township civil service commission must be taken to the court of common pleas of the county in which the appointing authority is located or, in the case of an appeal by DRC, to the Franklin County CCP.

5. If a party appealing from an order described above in (1) or (2) or described below in (6) is not an Ohio resident and has no place of business in Ohio, the party must appeal to the Franklin County CCP (current law states that such an appeal may be to the Franklin County CCP).

6. A party adversely affected by any order of an agency issued pursuant to any other adjudication may appeal to the Franklin County CCP or the court of common pleas of the county in which the business of the party is located or in which the party is a resident (currently, the party may appeal to the Franklin County CCP).

Appeal from order of specific agencies

The bill's provision above that a party adversely affected by an order of an agency may appeal from the order to the court of common pleas of the county in which the place of business

of the party is located or the county in which the party is a resident is expressly made applicable to any of the following appeals:

- In cases of removal or reduction in pay for disciplinary reasons, the appointing authority or the officer or employee in the classified service may appeal from the decision of the State Personnel Board of Review or the municipal civil service commission of the city or city school district. The bill replaces current law that provides for the appeal to be made to the court of common pleas of the county in which the appointing authority is located, or to the Franklin County CCP.
- In cases in which the Director of Agriculture or a designated representative impounds and seizes a dog from a high volume breeder or dog broker for violation of applicable law or rule, the high volume breeder's owner or operator or the person acting as a dog broker may appeal from such determination at an adjudication hearing. The bill replaces the existing provision that specifies that the appeal may be made only to the environmental division of the Franklin County Municipal Court.
- In cases in which an application for a license as a high volume breeder or dog broker is denied or such license is suspended or revoked upon a determination of the Director of Agriculture at an adjudication hearing, the applicant or licensee may appeal from such determination. The bill replaces the existing provision that specifies that the appeal may be made only to the environmental division of the Franklin County Municipal Court.
- In cases in which a proprietor of a public place or place of employment or an individual against whom a finding of a violation of any prohibition under the Smoking Ban Law is made by the Director of the Department of Health or designee, the proprietor or individual may appeal the finding. The bill replaces current law that provides that the proprietor or individual may appeal the finding to the Franklin County CCP.
- In cases in which, after a public hearing, the Superintendent of Insurance issues an order of disapproval of any merger or other acquisition of control of a domestic insurer, the order may be appealed by filing a notice of appeal with the Superintendent and a copy of the notice of appeal with the court that will hear the appeal, within 15 calendar days after the transmittal of the copy of the order. The bill replaces current law that specifies that the order of disapproval may be appealed to the Franklin County CCP.
- In cases in which the Superintendent of Insurance issues an order regarding the conversion of a domestic mutual life insurance company to a stock life insurance company, an adversely affected policyholder may appeal the order. The bill replaces current law that provides that a policyholder adversely affected by such order may appeal to the Franklin County CCP.
- In cases in which the Superintendent of Insurance issues an order regarding the conversion of a domestic mutual insurance company other than life to a stock insurance corporation other than life, an adversely affected policyholder may appeal the order. The bill replaces current law that provides that a policyholder adversely affected by such order may appeal to the Franklin County CCP.

- In cases in which an appellant who appeals an order of an agency administering a family services program, who is granted a state hearing, and who disagrees with the state hearing decision and generally makes an administrative appeal to the Department of Job and Family Services (JFS), the appellant may appeal from the JFS administrative appeal decision. The bill replaces current law that provides that the person may appeal to the court of common pleas of the county in which the person resides, or to the Franklin County CCP if the person does not reside in Ohio. The bill's new venue provision described above and current law on an appeal by a nonresident to the Franklin County CCP would apply, and the eliminated provision regarding a nonresident would be duplicative.
- In cases in which an adversely affected party may appeal from the Medicaid Department's adjudication order regarding: (1) refusal to enter into a provider agreement with a Medicaid provider, (2) refusal to revalidate a Medicaid provider's provider agreement, (3) suspension or termination of a Medicaid provider's provider agreement, or (4) taking any action based upon a final fiscal audit of a Medicaid provider. The bill replaces current law that provides that any party who is adversely affected by the issuance of any such adjudication order may appeal to the Franklin County CCP.

Special court procedures

Related to the provisions described above in "**Appeal of administrative agency order**," the bill specifies that:

1. All cases pending in the 10th District Court of Appeals on the bill's effective date that were appropriately filed in that court are to be adjudicated by the 10th District;

2. All cases that, prior to the bill's effective date, would have been solely within the jurisdiction on appeal of the 10th District Court of Appeals, and that on that effective date are pending in a common pleas court that is an appropriate venue and are not pending in the 10th District, are to be adjudicated by that common pleas court and remain solely within the jurisdiction on appeal of the 10th District, on and after that effective date;

3. If, on or after the bill's effective date, a court of appeals other than the 10th District Court of Appeals or a common pleas court within the territory of a court of appeals other than the 10th District is considering a matter that, prior to that effective date, would have been solely within the jurisdiction on appeal of the 10th District, all of the following apply:

a. The court of appeals or common pleas court considering the matter may consider judicial decisions of the Franklin County Common Pleas Court and the 10th District that were decided prior to that effective date, in deciding the matter;

b The judicial decisions of the Franklin County Common Pleas Court and the 10th District that were decided prior to that effective date are not binding on the court of appeals or common pleas court considering the matter; and

c. The court of appeals or common pleas court considering the matter is not required to issue any findings of fact explaining why the court, in deciding the matter, did not consider or follow any precedent on the matter set forth in any judicial decision of the Franklin County Common Pleas Court or the 10th District.

No claim preclusion in zoning appeals

(R.C. 303.65, 519.26, and 713.16)

The bill provides that a final judgment on the merits issued by a court of competent jurisdiction pursuant to its power of review of orders of administrative officers and agencies on claims brought under the law regarding county rural zoning or the renewal of slums and blighted areas in a county, the Township Zoning Law, or the law regarding municipal zoning, regional and county planning commissions, or interstate regional planning commissions does not preclude later claims for damages, including claims brought under 42 U.S.C. 1983, even if the common law doctrine of *res judicata* would otherwise bar the claim.

The bill states that the General Assembly intends that the above provisions in the respective laws be construed to override the federal Sixth Circuit Court of Appeals' decision in the case of *Lavon Moore v. Hiram Twp.*, 988 F.3d 353 (6th Cir. 2021).

Changes related to S.B. 288 of the 134th General Assembly

Sealing and expungement

(R.C. 2953.31, 2953.32, 2953.33, and 2953.34)

The bill allows a defendant who is found not guilty of an offense, who is named in a dismissed complaint, indictment, or information, or against whom a no bill is entered by a grand jury, to apply to the court for an order to expunge the person's official records in the case. Current law only permits sealing of those records. The process for expungement, as added by the bill, mirrors the process for sealing records in cases of dismissal, not guilty, or no bill, except that expungement requires the court to weigh the interests in the person having the records *expunged* against legitimate governmental needs to maintain such records, while the court in determining whether records should be sealed weighs such legitimate governmental needs against the interests in having the records *sealed*.

S.B. 288 of the 134th General Assembly similarly enacted new provisions under which a person may apply for expungement of a *conviction* record in the same manner that a person may apply for sealing of a conviction record and specified that the procedures applicable to determining a sealing application also generally apply to such an expungement application. The bill clarifies that expungement of criminal records under these provisions requires the destruction, deletion, or erasure of those records so that those records are permanently irretrievable, except to the extent those records are kept by the Bureau of Criminal Identification and Investigation for the limited purpose of determining an individual's qualification or disqualification for law enforcement employment.

Additionally, the bill prohibits the sealing or expungement of convictions of a third degree felony if the offender has more than one other conviction of any felony or, if the person has exactly two convictions of a third degree felony, has more convictions in total than those two third degree felony convictions and two misdemeanor convictions. It also allows for the sealing of a conviction of fourth degree misdemeanor domestic violence, but prohibits expungement of the record. Finally, the bill allows a person who has been arrested for any misdemeanor offense and who has effected a bail forfeiture for the offense to apply for the expungement of a record

of a misdemeanor offense after one year, or after six months for a minor misdemeanor, rather than three years as under current law.

Regarding sealed records specifically, the bill permits a legal representative of a person who is the subject of sealed records to apply to allow the subject to inspect them, exempts officers or employees of the state or a political subdivision from liability for disclosing sealed or expunged records to the subject or the subject's legal representative, and corrects erroneous cross references.

Criminal and traffic offense penalties

(R.C. 2907.231 and 4511.204)

Engaging in prostitution

The bill eliminates an ambiguity in prescribed penalties for the criminal offense of engaging in prostitution. Current law prohibits, as "engaging in prostitution," a person from recklessly inducing, enticing, or procuring another to engage in sexual activity for hire in exchange for the person giving anything of value to the other person. A violation is a first degree misdemeanor. If the other person is a person with a developmental disability and the offender knows or has reason to believe that is the case, the offense is engaging in prostitution with a person with a developmental disability, a felony of the third degree. Current law also requires the sentencing court to require the offender to attend an education or treatment program aimed at preventing behavior that constitutes "engaging in prostitution" and allows the court to impose a fine on the offender of up to $1,500, despite the financial penalties that ordinarily apply to a first degree misdemeanor.

The bill makes clear that the requirement for education or treatment aimed at behavior that constitutes "engaging in prostitution" applies to all offenders convicted of "engaging in prostitution" or "engaging in prostitution with a person with a developmental disability" and clarifies that the $1,500 maximum fine that applies to a violation does not apply to "engaging in prostitution with a person with a developmental disability," a third degree felony.

Distracted driving

S.B. 288 of the 134th General Assembly amended Ohio's distracted driving law to create the new unclassified misdemeanor offense of "operating a motor vehicle while using an electronic wireless communication device" (OMVUEWCD). Penalties prescribed for OMVUEWCD may be escalated if the offender has previously been convicted of OMVUEWCD. Current law allows for offenders subject to a $150 penalty and points assessment for OMVUEWCD to avoid the penalty and points assessment by attending a distracted driving safety course. The bill clarifies that this penalty waiver applies only to OMVUEWCD that does not involve a prior conviction within two years of the violation.

Crime victims – notice and opportunity to be heard

(R.C. 2930.171, 2953.39, and 2967.26)

The bill applies the notice and victim consideration requirements to sections of the Revised Code enacted in S.B. 288 of the 134th General Assembly to conform those sections to the crime victim's rights provisions of H.B. 343 of the 134th General Assembly.

Victims reimbursing for law enforcement services

(R.C. 2930.20)

The bill modifies a current law prohibition against charging a victim of rape, attempted rape, domestic violence, dating violence, abuse, or a sexually oriented offense, or the property owner where the victim resides for the cost of law enforcement assistance related to the offense. The bill modifies the prohibition so that it applies to victims of rape, attempted rape, domestic violence, dating violence, or a sexually oriented offense, and not to victims of "abuse" generally. Additionally, the bill defines "dating violence" and "sexually oriented offense" for purposes of the prohibition.

Adult Parole Authority warrantless searches

(R.C. 2967.131)

The bill expands the search authority of the Adult Parole Authority (APA) to allow authorized field officers to search the person, residence, motor vehicle, and other personal property of a felon released from prison on post-release control when the Adult Parole Authority requires the felon's consent to searches as part of terms and conditions of post-release control.

S.B. 288 of the 134th General Assembly expanded the search authority of the APA regarding an individual who is a felon and is granted a conditional pardon or parole, transitional control, or another form of authorized release from prison and each felon who is under post-release control. Under S.B. 288, APA field officers have the search authority, during the specified period of authorized release, to search, with or without a warrant, the felon's person or residence, and a motor vehicle, another item of tangible or intangible personal property, or other real property in which the felon has a right, title, or interest or for which the felon has the express or implied permission of a person with a right, title, or interest to use, occupy, or possess if: (1) the APA requires the felon's consent to searches as part of the terms and conditions of the conditional pardon or parole, of the transitional control, or of the other form of authorized release from prison granted to a person and that involves the placement of the person under the APA's supervision, and the felon agreed to those terms and conditions, or (2) the felon otherwise provides consent for the search.

Removal of warrants from NCIC

(R.C. 2935.10)

Current law requires that any warrant issued for a "tier one offense" (32 specified serious offenses) must be entered, by the law enforcement agency requesting the warrant within 48 hours after receipt of the warrant, into the Law Enforcement Automated Data System (LEADS) and the appropriate National Crime Information Center (NCIC) database. Existing law also

requires a law enforcement agency to remove a warrant from LEADS and NCIC within 48 hours of warrant service or dismissal or recall by the issuing court. The bill specifies that the removal requirement likewise applies only to tier one offenses.

Emergency judicial release

(R.C. 2929.20)

Current law allows for a special procedure for the judicial release of certain qualifying offenders during a state of emergency. The bill clarifies that the once-every-six-months filing limit applies separately to each declared state of emergency. The bill also requires the court ruling on a motion for judicial release of an emergency-qualifying offender to notify the prosecuting attorney of that ruling and clarifies that the prosecuting attorney must notify the victim's representative, if applicable, if the court grants a motion for judicial release or if a hearing is held on an offender's judicial release or revocation of judicial release.

Other technical changes

(R.C. 2743.671, 2907.13, 2925.11, 2930.06, and 4731.862)

S.B. 288 of the 134th General Assembly addressed the matter of emergency awards for reparations of "funeral expenses" for victims of crime. The bill clarifies that "funeral expenses" for that purpose, means the payment of cremation or burial services of the decedent, rather than the potentially competing definition of "funeral expenses" that applies to the Crime Victims Reparations Law generally.

S.B. 288 also enacted a civil action for the recovery of remedies for an assisted reproduction procedure performed without consent "and performed recklessly." The act stated that a person may bring a separate action for each child born to the patient or spouse as a result of an assisted reproduction procedure performed without consent – but in this provision, it did not include as a criterion that the procedure was "performed recklessly." The bill adds this criterion.

The bill also corrects an apparently erroneous reference to "health care provider" in the criminal offense of fraudulent assisted reproduction, as enacted by S.B. 288 of the 134th General Assembly. The bill replaces the erroneous reference with a reference to a "health care professional," a defined term in the offense of fraudulent assisted reproduction.

The bill eliminates the orphaned definition of "drug treatment program" from the so-called "good Samaritan law" that applies to specified minor drug possession offenses. The phrase "drug treatment program" is not used in that law.

Finally, the bill corrects an incomplete cross-reference to Ohio's Speedy-Trial Law.

LOTTERY COMMISSION

Rules and operating procedures

- Allows the State Lottery Commission (LOT) to adopt operating procedures for the conduct of lottery games, instead of adopting administrative rules.
- Requires LOT to publish its operating procedures on its official website by 30 days after these provisions of the bill take effect.
- Requires LOT still to adopt rules under the Administrative Procedure Act concerning specific topics listed in current law as matters that must be addressed under the Administrative Procedure Act.
- Provides generally that LOT's existing rules remain in effect unless LOT formally rescinds them.
- Allows LOT to eliminate rules that it replaces with operating procedures on or before the date that is 30 days after the provision's effective date, by notifying LSC to remove them from the Administrative Code, instead of by formally rescinding them.

Withholding child and spousal support from winnings

- Eliminates references in the law to an obsolete paper-based process for LOT to withhold past due child or spousal support from a person's lottery winnings.
- Requires LOT still to withhold those amounts using a computerized database maintained by the Department of Job and Family Services (ODJFS).

Rules and operating procedures

(R.C. 3770.03; Section 737.10)

The bill allows LOT to adopt operating procedures for the conduct of lottery games, instead of adopting administrative rules. The operating procedures must include all of the following:

- The type of lottery to be conducted;
- The prices of tickets in the lottery;
- The number, nature, and value of prize awards;
- The manner and frequency of prize drawings;
- The manner in which prizes must be awarded to winners.

Under the bill, LOT must publish all of its operating procedures on its official website and make copies available to the public upon request. LOT must publish all of its operating procedures not later than 30 days after these provisions of the bill take effect.

Currently, LOT must adopt lottery rules under the Administrative Procedure Act (R.C. Chapter 119), except that instant game rules are adopted under R.C. 111.15. (The Administrative Procedure Act prescribes notice, hearing, and other requirements for administrative rulemaking, while R.C. 111.15 prescribes a separate, less restrictive set of rulemaking procedures that typically applies to internal management matters.) Rules for instant games are not subject to review by the Joint Committee on Agency Rule Review (JCARR).[135]

The bill requires LOT to continue to follow the Administrative Procedure Act in adopting rules about matters that are specifically listed as being subject to that requirement under continuing law. For example, the Administrative Procedure Act continues to apply to LOT rules concerning lottery sports gaming, the location and manner of selling lottery tickets, and the licensing and compensation of lottery sales agents.

All of LOT's existing rules remain in effect unless LOT rescinds them in accordance with the Administrative Procedure Act or R.C. 111.15, as applicable. However, the bill allows LOT to eliminate any rule that it replaces with an operating procedure during the 30 days after these provisions of the bill take effect, without formally rescinding it. LOT must notify LSC's Director of any eliminated rule, and LSC must remove the rule from the Ohio Administrative Code.

Withholding child and spousal support from winnings

(R.C. 3123.89, 3770.071, and 3770.99)

The bill eliminates references in the law to an obsolete paper-based process for LOT to withhold past due child or spousal support from a person's lottery winnings. However, LOT still must withhold those amounts using a computerized database.

Under continuing law, when a person's lottery winnings meet a certain dollar threshold, LOT must check a Department of Job and Family Services (ODJFS) database to determine whether the person owes any past due child or spousal support. If the person does owe past due support, LOT must withhold the past due amount from the person's winnings and send the money to ODJFS. Continuing law also requires LOT to withhold income taxes and any debts owed to the government. The dollar threshold for withholding is based on the federal income tax reporting threshold for gambling winnings, which is generally $600 for lottery games.[136]

In addition to referencing the ODJFS database, existing law describes an older process that requires ODJFS and LOT to communicate with each other using paper forms to identify lottery winners who owe past due support and withhold the amount from the winnings. The bill removes that process and requires LOT and ODJFS to use the database.

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[135] For more information, see LSC's Members Brief, Administrative Rulemaking (PDF), available at lsc.ohio.gov/publications.

[136] See R.C. 3770.072 and 3770.073, not in the bill; 26 U.S.C. 6041; and Internal Revenue Service, Instructions for Forms W-2G and 5754 (01/2021), available at irs.gov under "Forms and Instructions."

DEPARTMENT OF MEDICAID

Medicaid eligibility

Medicaid coverage for workers with a disability

- Requires the Medicaid program to cover the optional eligibility group consisting of certain workers with a disability.
- Declares that the General Assembly's intent in requiring the coverage described above is to provide coverage consistent with Ohio's existing Medicaid Buy-In for Workers with a Disability program for workers with disabilities age 65 or older.

Medicaid eligibility verification

- Prohibits the Department of Medicaid (ODM) from taking certain actions related to verifying income and nonincome-related Medicaid program eligibility.

Applied behavioral analysis coverage report

- Requires ODM to submit an annual report regarding applied behavioral analysis (ABA) coverage to the General Assembly.
- Requires the report to address data from the previous fiscal year, be organized by current procedural terminology (CPT) code, and include specified information such as how many enrolled children with autism spectrum disorder were prescribed and received ABA services and the number of prior authorization denials and subsequent appeals for ABA coverage.
- Requires ODM to develop outreach material regarding services for children with autism spectrum disorder.

Post-COVID Medicaid unwinding

- Requires ODM to use third-party data to conduct an eligibility redetermination of all Ohio Medicaid recipients at the conclusion of the COVID-19 emergency period.
- Requires ODM to conduct an eligibility review of all recipients, based on the recipient's eligibility review date, and to disenroll those recipients who are no longer eligible.
- Requires ODM to complete a report containing its findings from the verification and submit it to the Joint Medicaid Oversight Committee (JMOC).
- Repeals requirements ODM must follow if it receives federal Medicaid funding contingent on a temporary maintenance of effort restriction or otherwise limiting its ability to disenroll ineligible recipients.

Medicaid program cost savings report

- Requires ODM to conduct an annual cost savings study of the Medicaid program and submit a report to the Governor recommending measures to reduce Medicaid program costs.

Nursing facilities

Special Focus Facility Program

- Aligns statutory language regarding the Special Focus Facility (SFF) Program with federal changes to the program and prohibits a nursing facility provider from appealing an order issued by ODM terminating a nursing facility's participation in Medicaid based on the facility's participation in the SFF program.

Nursing facility case-mix scores

- Updates the formula and terminology used to calculate nursing facility case-mix scores to correspond to the new federal Patient Driven Payment Model.

Debt summary reports; debts related to exiting operators

- Regarding determining the actual amount of debt an exiting operator of a nursing facility owes ODM, requires ODM to issue a final debt summary report instead of having an initial or revised debt summary report become the final debt summary report.
- Eliminates various provisions related to debts an exiting operator owes to the Centers for Medicare and Medicaid Services (CMS).

Nursing facility field audit manual and program

- Eliminates the requirement that ODM establish a program and manual for field audits of nursing facilities.
- Eliminates certain required procedures for auditors that must be included in the manual.
- Requires audits conducted by ODM to be conducted by an audit plan developed before audit begins, and that audits conducted by auditors contracted with ODM be conducted by procedures agreed upon by the auditor and ODM, subject to certain continuing requirements.

Nursing facility per Medicaid day payment rate

- Modifies the nursing facility per Medicaid day payment rate calculation by removing a $1.79 deduction, including a deduction for low occupancy nursing facilities, and increasing the add-on to the initial rate for new nursing facilities.

Ancillary and support costs and direct care costs

- Beginning on January 1, 2024, during the remainder of FY 2024 and all of FY 2025, requires ODM to determine each nursing facility's direct care costs rate by multiplying the per case-mix unit determined for the peer group by the case-mix score selected by the nursing facility.

Quality incentive payments

- Extends nursing facility quality incentive payments indefinitely.

- Regarding the quality incentive payment rate calculation, adds an occupancy metric beginning in FY 2024 for facilities with specified occupancy thresholds and adds three new quality incentive metrics beginning in FY 2025.
- Eliminates exclusions from the quality incentive payment for facilities that meet enumerated criteria.
- Adds to the calculation of the total amount to be spent on quality incentive payments an additional component based on 60% of the amount the facility's ancillary and support costs and direct care costs changed as a result of the FY 2024 rebasing.
- Caps the add-on to the total amount to be spent on quality incentive payments at $100 million in each fiscal year.
- Grants an operator of a new nursing facility or, under certain circumstances, a facility that undergoes a change in operator, a quality incentive payment.

Rebasing

- Expedites the rate of rebasing beginning in FY 2024 to every two years, from at least every five years.
- Specifies that the costs are measured from the calendar year immediately before the start of the fiscal year in which a rebasing is conducted, instead of two calendar years before.
- In calculating a facility's FY 2024 and FY 2025 base rates, limits any increases in the direct care cost and ancillary and support cost centers from the most recent rebasing to only 40% of the increase.

Medicaid provider payment rates

Payment rates for community behavioral health services

- Permits ODM to establish Medicaid payment rates for community behavioral health services provided during FY 2024 and FY 2025 that exceed the Medicare rates for those services.

Competitive wages for direct care workforce

- Requires certain funds contained in the bill for provider rate increases to be used to increase wages and needed workforce supports to ensure workforce stability and greater access to care for Medicaid recipients.

Assisted Living program payment rates

- Requires ODM, in consultation with ODA, to establish both (1) an assisted living services base payment rate, (2) an assisted living memory care service payment, and (3) a critical access payment rate for assisted living facilities participating in the Medicaid-funded component of the Assisted Living program.

Direct care provider payment rates

- Increases direct care wages to $17 an hour in FY 2024 beginning January 1, 2024, and to $18 an hour for all of FY 2025 for certain direct care services provided under the Medicaid home and community-based services waivers administered by ODM or ODA.

Federally qualified health center payment rates

- Appropriates funds to increase payment rates to federally qualified health centers (FQHCs) and FQHC look-alikes.

Vision and eye care services provider payment rate

- Earmarks funds to increase Medicaid provider payment rates for vision services and medically billed eye care provided to Medicaid recipients during FY 2024.

Dental provider payment rates

- Appropriates $122 million in FY 2024 and $244 million in FY 2025 to increase the payment rate to dental providers treating Medicaid enrollees.

Medicaid MCO credentialing

- Repeals a requirement that ODM permit Medicaid MCOs to create a credentialing process for providers.

Payment of claims by third parties

- Decreases to 60 days (from 90 days) the time period in which specified third parties must respond to a request by ODM for payment of a claim.

Medicaid payment rate for neonatal and newborn services

- Specifies that the Medicaid payment rate for certain neonatal and newborn services must be *at least* 75% of the Medicare payment rate for the services, rather than equaling 75% of the Medicare payment rate.

Medicaid providers

Interest on payments to providers

- Limits the time frame when interest is assessed against a Medicaid provider on an overpayment to the time period determined by ODM, instead of from the payment date until the repayment date.

Provider penalties

- Clarifies that when a Medicaid provider agreement is terminated due to a provider engaging in prohibited activities, the provider may not provide Medicaid services on behalf of any other Medicaid provider.

Suspension of Medicaid provider agreements and payments

- Revises the law governing the suspension of Medicaid provider agreements and payments in cases of credible allegations of fraud or disqualifying indictments against

Medicaid providers or their officers, agents, or owners, including by prohibiting a suspension if the provider or owner can demonstrate good cause.

Criminal records checks

- Revises the law governing the availability of criminal records check reports for Medicaid providers, independent providers, and waiver agencies and their employees, including by authorizing reports to be introduced as evidence at certain administrative hearings and requiring them to be admitted only under seal.

HHA and PCA training

- Prohibits ODM from requiring more hours of pre-service training and annual in-service training than required by federal law for home health aides (HHAs) providing services under the Integrated Care Delivery System (MyCare).
- Prohibits ODM from requiring more than 30 hours of pre-service training and six hours of annual in-service training for personal care aides (PCAs) providing services under MyCare.
- Permits a registered nurse or a licensed practical nurse to supervise an HHA or PCA providing services under MyCare.

ICF/IID bed conversion to OhioRISE program

- Prohibits an ICF/IID from reserving or converting a portion of its beds from beds that provide ICF/IID services to beds that provide services to individuals enrolled in the OhioRISE program, if reserving or converting a bed would require the ICF/IID operator to discharge or terminate services to a resident occupying that bed.

Medicaid MCO medical loss ratio report

- Requires each Medicaid MCO to submit an annual medical loss ratio report with the information required under federal law.
- Requires ODM to post on its public website the information used to calculate a Medicaid MCO's medical loss ratio and each Medicaid MCO's medical loss ratio report.

Special programs

Care Innovation and Community Improvement Program

- Requires the Director to continue the Care Innovation and Community Improvement Program for the FY 2024-FY 2025 biennium.

Ohio Invests in Improvements for Priority Populations

- Continues the Ohio Invests in Improvements for Priority Populations Program as a directed payment program for inpatient and outpatient hospital services provided to Medicaid managed care recipients.
- Provides that, under the program, state university-owned hospitals with fewer than 300 beds can directly receive payment for program services.

- Requires participating hospitals to remit to ODM, through intergovernmental transfer, the nonfederal share of payment for those services.

Physician directed payment program

- Permits the Medicaid Director to seek federal approval to establish a physician directed payment program for nonpublic hospitals and related health systems.
- Provides that, under the program, participating hospitals receive payments directly for physician services provided to enrollees.
- Caps directed payments under the programs at the average commercial level paid to participating health systems for physician and other covered professional services that are provided to Medicaid MCO enrollees.
- Requires eligible public entities to transfer, through intergovernmental transfer, the nonfederal share of those services.

Hamilton County hospital directed payment program

- Permits ODM to establish a hospital directed payment program for directed payments to hospitals in Hamilton County that meet enumerated criteria.
- Permits eligible public entities to transfer funds, through intergovernmental transfer, to ODM for the directed payments, and limits payment amounts to not more than the average commercial level paid for inpatient and outpatient services under the care management system.

Hospital Care Assurance Program; franchise permit fee

- Continues, until October 2023, the Hospital Care Assurance Program and the franchise permit fee imposed on hospitals under Medicaid.

General

Medicaid coverage of services at outpatient health facilities

- Repeals law that requires Medicaid to cover comprehensive primary health services provided by outpatient health facilities that are operated by a city or general health district, another public agency, or certain types of nonprofit private agencies or organizations that receive at least 75% of their operating funds from public sources.

Report on projected program trends

- Requires ODM to submit a report to the JMOC, by October 1 of each even-numbered year, detailing historical and projected expenditure and utilization trend rates and interventions to curb the per member per month cost of the Medicaid program.

Medicaid program reforms

- When calculating the per member per month growth rate in the Medicaid program for purposes of required Medicaid program reforms, requires the Director to include all

Medicaid costs, with the exception of one-time expenses or expenses unrelated to enrollees.

- Requires ODM, not later than October 1 of each even-numbered year, to submit a report to JMOC detailing Medicaid reforms during the two previous fiscal years.

HCBS Direct Care Worker Wages Task Force

- During the fiscal biennium, requires ODM, ODA, and the Department of Developmental Disabilities to jointly submit an annual report outlining the wages paid to direct care staff providing services to enrollees under the Medicaid home and community-based services waivers.
- Establishes the HCBS Direct Care Worker Wages Task Force made up of representatives of enumerated organizations to analyze specified matters relating to HCBS direct care staff and to submit a report of its findings to the General Assembly and JMOC.
- Specifies that the Task Force ceases to exist after submitting its report.

In-home care professionals study committee

- Requires ODM to establish a study committee to examine the training requirements for professionals providing in-home services to patients through ODM and ODA.

General Assembly oversight of Medicaid program changes

- Requires the Medicaid Director to provide written notice to JMOC not later than 65 days before applying for a Medicaid waiver or seeking federal approval for a change to the Medicaid program.
- If JMOC determines that the waiver or change should not proceed, permits JMOC to recommend that the General Assembly adopt a concurrent resolution to invalidate the proposed waiver or change, either in whole or in part.
- If the General Assembly adopts a concurrent resolution invalidating a waiver or change, generally prohibits ODM from seeking any version of the waiver or change for the duration of that term of the General Assembly, unless authorized to do so by the General Assembly.

Medicaid work requirements

- Between November 1, 2024, and December 1, 2024, requires the ODM Director to apply to CMS for a new waiver establishing Medicaid work requirements.

MyCare Ohio expansion

- Requires the Medicaid Director to seek CMS approval to expand the Integrated Care Delivery System, or its successor program, to all Ohio counties.
- Requires the Director to select the managed care entities for the expanded program from among the existing Medicaid managed care organizations.

- Requires ODM to establish requirements for care management and coordination of waiver services, subject to enumerated requirements.

Medicaid presumptive eligibility error rate training

- Requires each entity or provider qualified to make presumptive eligibility determinations to submit a corrective action plan to ODM and provide training when the entity or provider's error rate exceeds 7.5% in a calendar month.
- Provides that any qualified entity or provider that exceeds a presumptive eligibility error rate of 7.5% in six or more months in a 24-month period is disqualified from making presumptive eligibility determinations for 60 months.

Medicaid coverage of remote ultrasounds and fetal nonstress tests

- Requires Medicaid coverage of remote ultrasound procedures and remote fetal nonstress tests under certain circumstances.

Payments for family caregivers prohibited

- Prohibits the Medicaid Director from adopting rules that allow family members in the same household as a minor child receiving covered services administered by a county board of developmental disabilities from receiving Medicaid payments for providing services to the child.

Lockable and tamper-evident containers

- Requires ODM, during FY 2024 and FY 2025, to reimburse pharmacists and physicians for expenses related to dispensing or personally furnishing, respectively, drugs used in medication-assisted treatment in lockable or tamper-evident containers.

Obsolete Medicaid waiver repeal

- Repeals the Unified Long-Term Services and Support Medicaid Waiver component that was never implemented.

Medicaid eligibility

Medicaid coverage for workers with a disability

(R.C. 5163.06 and 5163.063; Sections 333.310 and 812.40)

The bill requires the Medicaid program to provide coverage to employed individuals with disabilities whose family income is less than 250% of the federal poverty level. Under federal law, states have the option of extending Medicaid coverage to this group of individuals.[137] The bill requires the Director to adopt any rules necessary to provide the coverage.

[137] 42 U.S.C. 1396a(a)(10)(A)(ii)(XIII).

In requiring the Medicaid program to cover this group of individuals, the bill declares that it is the intent of the General Assembly to establish Medicaid coverage for employed individuals with disabilities who are 65 years of age or older in a manner that is consistent with the coverage that is provided to individuals who participate in the Medicaid Buy-In for Workers with Disabilities (MBIWD) program established under existing law.

Under continuing law unchanged by the bill, the MBIWD program provides Medicaid coverage to employed individuals with disabilities and employed individuals with medically improved disabilities who are between 16 and 64 years of age.[138] The individuals covered under the MBIWD program are individuals who make up two other optional eligibility groups under federal law.[139] However, under federal law, an employed individual with a disability is no longer eligible to participate in the MBIWD program upon reaching 65 years of age. The optional eligibility group the bill requires the Medicaid program to cover also consists of employed individuals with a disability, but federal law authorizing Medicaid coverage for this group does not include an age limit.

The bill delays, for one year after its effective date, implementation of Medicaid coverage for this new group. Additionally, the bill provides that upon approval of a state plan amendment by CMS that authorizes the Medicaid coverage, the Medicaid Director may certify to the OBM Director the necessary amount needed to pay for coverage of the optional eligibility group in FY 2025. Upon this certification, the bill appropriates that amount to the Department of Medicaid (ODM).

Medicaid eligibility verification

(R.C. 5163.51; Section 812.60)

The bill prohibits ODM, to the extent permitted by federal law, from taking the following actions related to Medicaid program eligibility:

- Conducting post-enrollment verification of income or nonincome-related eligibility;
- Designating itself as a qualified health entity to conduct presumptive eligibility determinations, unless expressly authorized to do so by statute;
- Accepting self-attestations of income;
- Accepting self-attestations of alternate insurance coverage; and
- Requesting approval from CMS to forgo the federal requirements that ODM (1) periodically check any available income-related data sources for eligibility, and (2) comply with public notice requirements when changes to the Medicaid state plan are proposed.

The bill delays these eligibility-related prohibitions until the later of either January 1, 2024, or the date a Medicaid state plan amendment is approved if an amendment is necessary.

[138] R.C. 5163.09 through 5163.098, not in the bill.

[139] 42 U.S.C. 1396a(a)(10)(A)(ii)(XV) and (XVI).

If an amendment to the Medicaid state plan is not required, the provisions take effect January 1, 2024.

Applied behavioral analysis coverage report

(R.C. 5162.138)

The bill requires ODM to submit an annual report to the General Assembly regarding access to applied behavioral analysis (ABA) for enrolled children diagnosed with autism spectrum disorder. The data in the report must be organized by current procedural terminology (CPT) code. The report must include the following:

- The number of certified behavior analysts practicing in Ohio who are Medicaid providers;
- The number of Medicaid enrollees who are children with an autism spectrum disorder diagnosis who received ABA services;
- The number of Medicaid enrollees who are children with an autism spectrum disorder diagnosis who did not receive health care provider-recommended ABA services;
- The number of prior authorization requests for ABA services that were denied and the number of appeals resulting from the denials;
- The median of recommended hours and the median of received hours of ABA services for Medicaid enrollees who are children with an autism spectrum disorder diagnosis who were approved for and received ABA but did not receive the number of hours recommended by the child's health care provider;
- The median of recommended hours and the median of covered hours of ABA services for Medicaid enrollees who are children with an autism spectrum disorder diagnosis for whom the Medicaid program covered fewer ABA hours than were recommended by the child's health care provider;
- Recommendations to improve the adequacy of the network of ABA providers who are Medicaid providers;
- Other recommendations to improve access to ABA services.

The bill requires ODM to make every effort to collect the data for the report mentioned above from ABA providers and enrollees. ODM must also develop education and outreach materials in order to inform and educate the parents and legal guardians of enrolled children with autism spectrum disorder diagnoses about relevant services the children are eligible for and to explain how to access those services.

Post-COVID Medicaid unwinding

(Section 333.210; repealed R.C. 5163.52)

After the expiration of the federal COVID-19 emergency period,[140] the bill requires ODM or its designee to use third-party data sources and systems to conduct eligibility redeterminations of all Ohio Medicaid recipients. To the full extent permitted by state and federal law, ODM or its designee must verify Medicaid recipients' enrollment records against third-party data sources and systems, including any other records ODM considers appropriate to strengthen program integrity, reduce costs, and reduce fraud, waste, and abuse in the Medicaid program. These provisions are similar to provisions enacted in the last main operating budget, which required ODM to conduct a redetermination of all Ohio Medicaid recipients within 90 days of the expiration of the federal COVID-19 emergency period, using enumerated sources of information.

Upon the conclusion of the federal COVID-19 emergency period, the bill requires ODM or its designee to conduct an eligibility review of Medicaid recipients based on the recipient's next eligibility review date. ODM must disenroll those Medicaid recipients who are determined to no longer be eligible based on this expedited review, and must oversee the county determinations and administration to ensure timely and accurate compliance with these requirements.

Additionally, 13 months after the federal COVID-19 emergency period expires, the bill requires ODM to complete a report containing its findings from the redetermination, including any findings of fraud, waste, or abuse in the Medicaid program. The last main operating budget, H.B. 110 of the 134th General Assembly, required the report to be submitted within six months of the emergency's expiration and specified additional agencies as recipients.

Additionally, the bill repeals law enacted in the last main operating budget that establish requirements ODM must follow if it receives federal Medicaid funding contingent on a temporary maintenance of effort restriction or otherwise limiting ODM's ability to disenroll ineligible recipients, such as the maintenance of effort requirements under the Families First Coronavirus Response Act (FFCRA).[141] First, ODM must conduct eligibility redeterminations for the Medicaid program and act on them to the fullest extent permitted by federal law. Second, within 60 days of the end of the restriction, ODM must conduct an audit where it:

- Completes and acts on eligibility redeterminations for all recipients who have not had a redetermination in the last 12 months;
- Requests approval from the U.S. Centers for Medicare and Medicaid Services (CMS) to conduct eligibility redeterminations for each recipient enrolled for at least three months during the restriction; and
- Submits a report summarizing the results to the Speaker of the House and Senate President.

[140] 42 U.S.C. 1320b-5(g)(1)(B).

[141] Section 6008, Pub. L. No. 116-127.

Unwinding the federal maintenance of effort requirements

The FFCRA granted states a 6.2% point increase in federal matching funds during the federal COVID-19 public health emergency (referred to as the enhanced FMAP). As a condition of that increase, states were required to provide continuous Medicaid coverage to Medicaid beneficiaries enrolled at the beginning of the public health emergency. The Consolidated Appropriations Act, 2023,[142] signed by President Biden on December 29, 2022, decouples the continuous coverage requirement from the COVID-19 public health emergency. Under that act, the federal matching rate increases begin to phase out on April 1, 2023, and will be fully eliminated by December 31, 2023. The continuous coverage requirement also ends on April 1, 2023. States have up to one year to initiate all Medicaid renewals, and must conduct those renewals in accordance with federal requirements, which include some temporary flexibilities intended to smooth the unwinding process. The public health emergency is scheduled to end on May 11, 2023.

Medicaid program cost savings report

(R.C. 5162.137)

The bill requires ODM to annually (1) conduct a cost savings study of the Medicaid program and (2) prepare a report based on the study, recommending measures to reduce Medicaid program costs, and submit the report to the Governor.

Nursing facilities

Special Focus Facility Program

(R.C. 5165.771)

The bill makes changes to the law regarding the federal Special Focus Facility (SFF) Program to align with federal changes to the program. First, the bill references standard health surveys, which, under the federal changes, are comprehensive on-site inspections conducted every six months by the state nursing facility licensing agency on behalf of CMS. The bill replaces references to the old SFF tables and instead requires ODM to terminate a nursing facility's participation in the Medicaid program if it has not graduated from the SFF program after two standard health surveys, instead of based on the time the facility is listed in SFF tables.

Second, the bill prohibits a nursing facility from appealing to ODM an ODM order terminating the facility's participation in the Medicaid program if the appeal challenges (1) standard health findings under the SFF program or (2) a CMS determination to terminate the nursing facility's participation in the Medicare or Medicaid program. Instead, the appeals must be brought to (1) the Department of Health or (2) CMS, respectively.

[142] Pub. L. No. 117-164.

Nursing facility case-mix scores

(R.C. 5165.01, 5165.152, and 5165.192)

The bill updates the terminology used to calculate nursing facility case-mix scores to correspond to a new federal model. Effective October 1, 2019, CMS implemented a new payment model for nursing homes under the Medicare and Medicaid programs. The model, referred to as the Patient Driven Payment Model, consists of case-mix adjusted components (relative resources needed to provide care and habilitation to residents).

The bill updates the terminology and formula used to calculate the case-mix scores, to accord with the new federal model. Specifically, the bill (1) removes from the case-mix calculation language adjusting case-mix values based on Ohio wage differentials, establishing a hierarchy for case-mix categories, and permitting the case-mix calculation to include an index maximizer element and (2) updates terminology relating to nursing facility case-mix scores from "low resource utilization resident" to "low case-mix resident" to accord with the new model.

Debt summary reports; debts related to exiting operators

(R.C. 5165.52, 5165.521, 5165.525, 5165.526, and 5165.528)

The bill makes several changes related to exiting operators of nursing facilities and various related duties of ODM. Regarding a requirement that ODM determine the actual amount of debt an exiting operator owes ODM, the bill requires ODM to issue a final debt summary report. This is in place of existing law under which an initial or revised debt summary report may automatically become the final debt summary report.

Also regarding exiting operators, the bill eliminates the following provisions related to debts an operator owes to CMS:

- A requirement that ODM determine other actual and potential debts the exiting operator owes or may owe to CMS;
- Authorization for ODM to withhold from a payment due to an exiting operator the total amount the exiting operator owes or may owe to CMS;
- A requirement that ODM determine the actual amount of debt an exiting operator owes to CMS by completing all final fiscal audits not already completed and performing other appropriate actions;
- Regarding releasing amounts withheld from an exiting operator, authorization for ODM to deduct any amount an exiting operator owes CMS; and
- Authorization for moneys in the Medicaid Payment Withholding Fund to be used to pay CMS amounts an exiting operator owes CMS under Medicaid.

All of the above-described provisions are retained as they relate to debt owed to ODM under current law, and eliminated only with regard to debt owed to CMS. The bill, however, eliminates law expressly requiring ODM's debt estimate methodology to address any final civil monetary and other penalties.

Nursing facility field audit manual and program

(R.C. 5165.109)

Under continuing law, ODM may conduct audits for any cost reports filed as either an annual cost report by a nursing home or by an exiting operator of a nursing home. The bill removes the requirement that ODM establish a program and publish a manual for those audits conducted in the field. Instead, the bill specifies general parameters for field audit procedures. Specifically, ODM must develop an audit plan before the audit begins for any audits it conducts, but the scope of the audit may change during its course based on the observations and findings. Field audits conducted by an auditor under contract with ODM must be conducted by procedures agreed upon between ODM and the auditor.

The bill eliminates the requirements, as part of the eliminated field manual, that all auditors conducting field audits:

- Comply with federal Medicare and Medicaid law;
- Consider standards prescribed by the American Institute of Certified Public Accountants;
- Include a written summary with each audit about whether cost report that is the subject of the audit complied with state and federal laws and the reported allowable costs were documented, reported, and related to patient care;
- Completed each audit within a time period specified by ODM; and
- Provide to the nursing home provider written information about the audit's scope and ODM's policies, including examples of allowable cost calculation.

Nursing facility per Medicaid day payment rate

(R.C. 5165.15 and 5165.151)

The bill modifies the formula used to calculate the Medicaid payment amount ODM makes to nursing facilities for Medicaid residents (referred to as the per Medicaid day payment rate in the Revised Code) as follows:

- Removes the $1.79 deduction that is part of calculating a facility's base rate;
- Incudes a deduction for low occupancy nursing facilities;
- For the initial rate paid to new nursing facilities, increases the add-on to $16.44 from $14.65.

Ancillary and support costs and direct care costs

(R.C. 5165.16 and 5165.19)

The bill makes changes to two of the cost center calculations that are used as part of the per Medicaid day payment rate formula. First, the bill removes inflationary adjustments for those cost centers.

Additionally, during FY 2024 and FY 2025, the bill adds another modification to the direct care costs calculation. Beginning on January 1, 2024, through the end of the biennium, ODM must

determine each nursing facility's direct care costs rate by multiplying the per case-mix unit determined for the peer group under the calculation by the case-mix score selected by the nursing facility. A facility may select either of the following for its case-mix score:

1. The semi-annual case-mix score determined under the regular calculation; or

2. The facility's quarterly case-mix score from March 31, 2023, which will apply during the period from January 1, 2024, through June 30, 2025.

If a facility does not select its case-mix score mechanism by October 1, 2023, the case-mix score determined under the regular calculation applies.

Quality incentive payments

(R.C. 5165.26 and 5165.15; Section 333.290)

Under continuing law, a nursing facility's per Medicaid day payment rate includes a quality incentive payment, which is determined through a specified calculation. The bill modifies the quality incentive payment rate calculation by adding new components and removing existing components, as follows.

First, the bill extends the quality incentive payments. Under H.B. 110 of the 133rd General Assembly, the quality incentive payments were only in effect during FY 2022 and FY 2023. The bill removes that limitation and continues the quality incentive payments in perpetuity.

Second, the bill includes provisions in the event CMS develops new nursing facility metrics. A nursing facility's quality points are based on the number of points that CMS assigned to the facility using its five-star quality rating system, known as the Nursing Home Care Compare, for specified quality metrics. The bill specifies that in the event CMS develops new quality metrics, the calculation is to be based on the successor metrics on the same topics.

Third, the bill adds an occupancy adjustment to the calculation. If a nursing facility's occupancy rate is greater than 75% but no more than 80%, the facility receives an additional 2.5 points. If the facility's occupancy rate is greater than 80% but no more than 85%, the facility receives an additional five points. If the facility's occupancy rate is more than 85%, it receives an additional 7.5 points.

ODM must calculate a nursing facility's occupancy rate using the facility's occupancy rate for licensed beds on its cost report for the calendar year preceding the fiscal year for which the rate is determined, or if the facility is not licensed, its occupancy rate for certified beds. If the facility surrenders licensed or certified beds before May 1 of the calendar year in which the fiscal year begins, ODM must calculate the facility's occupancy rate by dividing the number of inpatient days reported on the facility's cost report for the calendar year preceding the fiscal year for which the rate is determined by the product of (1) the number of days in the calendar year and (2) the facility's number of licensed or certified beds on May 1 of the calendar year in which the fiscal year begins.

Fourth, beginning with FY 2025, the bill adds three new quality metrics to the calculation. Beginning on July 1, 2024, ODM must add the number of points the facility receives in ODM's Nursing Home Care Compare, or successor metrics, for the following metrics:

1. The percentage of the facility's long-stay residents whose need for help with daily activities has increased;

2. The percentage of the facility's long-stay residents experiencing one or more falls with major injury; and

3. The percentage of the facility's long-stay residents who were administered antipsychotic medication.

In its notice to nursing facilities with their FY 2024 rates, ODM must notify each facility of how many quality points the facility would have received, based on calendar year 2022 data, for the new quality metrics.

Fifth, the bill removes exemptions to the quality incentive payments. Under current law, nursing facilities do not receive quality payments under the following circumstances that the bill removes:

- If a nursing facility's total number of points for the quality metrics is less than the 25th percentile of all nursing facilities, its points are reduced to zero.
- A facility does not receive a quality incentive payment if its occupancy percentage was less than 80% in the applicable fiscal year, *unless* (1) the facility had a quality score of at least 15 points, (2) the facility was initially certified for participation in Medicaid on or after January 1, 2019, (3) one or more of the beds were unable to be used due do causes beyond the reasonable control of the operator, or (4) the facility underwent a renovation between 2018 and 2020 that involved capital expenditures of at least $50,000 and that directly impacted the area where the facility's licensed beds were located.
- A facility does not receive a quality incentive payment if the facility was designated on the Special Focus Facility List maintained by the U.S. Department of Health and Human Services of facilities with quality issues.

Sixth, the bill adds a component to be included in the calculation for the total amount to be spent on quality incentive payments based on the facility's cost centers. As part of the calculation, ODM must include 60% of the sum of the per diem amount by which the nursing facility's rate for ancillary and support costs and its rate for direct care costs changed as a result of the rebasing conducted for FY 2024.

Seventh, the bill caps the amount that is to be added to the amount to be spent on quality incentive payments in a fiscal year at $100 million in each fiscal year, instead of $25 million in FY 2022 and $125 million in FY 2023.

Eighth, the bill grants quality incentive payments to new nursing facilities and, under certain circumstances, nursing facilities that undergo a change of operator. Under current law, neither receive a quality incentive payment for the initial year or the year of the change, as applicable. Under the bill, beginning July 1, 2023, a new nursing facility receives a quality incentive payment for the fiscal year of its initial provider agreement and the immediately following fiscal year equal to the median quality incentive payment amount determined for

nursing facilities for the fiscal year. After those years, the facility receives a payment based on the normal calculation.

A nursing facility that undergoes a change of operator effective April 1, 2023, or after will not receive a quality payment until the earlier of the January 1 or July 1 that is six months after the effective date of the change. Thereafter, the payment rate will be determined by the normal calculation. To receive the payment, the entering operator must own the physical assets of the nursing facility or have at least a majority ownership of the entity that owns the assets of the nursing facility.

Rebasing

(R.C. 5165.36; Section 333.300)

Under continuing law, at least every five years, ODM must recalculate each nursing facility's cost centers to account for increasing costs over time and use those figures when determining a nursing facility's per Medicaid day payment rate. The bill increases the frequency of rebasing to once every two years beginning in FY 2024. The bill also removes provisions, added in H.B. 110 of the 134th General Assembly, that require nursing facility providers to spend additional money received as a result of the FY 2022 rebasing on direct care costs, ancillary and support costs, and tax cost centers only. The bill further provides that for FY 2024 and FY 2025, ODM must include in each nursing facility's per Medicaid day payment base rate only 40% of the sum of the increase in the facility's rate for direct care costs and its rate for ancillary and support costs that result from the FY 2024 rebasing.

Medicaid provider payment rates

Payment rates for community behavioral health services

(Section 333.140)

The bill permits ODM to establish Medicaid payment rates for community behavioral health services provided during FY 2024 and FY 2025 that exceed the Medicare rates for those services. This authorization does not apply to those services provided by hospitals on an inpatient basis, nursing facilities, or ICFs/IID.

Competitive wages for direct care workforce

(Section 333.230)

The bill includes funding from ODM, in collaboration with the Department of Developmental Disabilities and ODA, to be used for provider rate increases, in response to the adverse impact experienced by direct care providers as a result of the COVID-19 pandemic and inflationary pressures. The bill requires the provider rate increases be used to increase wages and workforce supports to ensure workforce stability and greater access to care for Medicaid recipients.

Assisted Living program payment rates

(Section 333.240)

The bill requires ODM, in consultation with ODA, to adopt rules, effective November 1, 2023, to do both of the following:

1. Establish an assisted living services base payment rate of at least $130 per day for residential care facilities (commonly known as "assisted living" facilities) participating in the Medicaid-funded component of the Assisted Living program.

2. Establish an assisted living memory care service payment rate for such facilities that is at least $25 more per day than the base payment rate described above. The memory care service payment rate must be based on additional costs that a provider may incur from serving individuals with dementia. It is only available for patients who were determined by a practitioner to need a memory care unit and who reside in units with a direct care staff to resident ratio that is at least 20% higher for individuals with dementia than for individuals without.

The bill also requires the departments to adopt rules establishing an assisted living critical access payment rate for residential care facilities participating in the Medicaid-funded Assisted Living program that averaged at least 50% of their residents receiving Medicaid-funded services during the last fiscal year. For such facilities, the critical access payment must be at least $15 more per day than the base payment rate described above and the memory care service payment rate must be at least $10 higher than the critical access payment rate. No date is specified for the adoption of these rules.

Finally, the departments must, in consultation with industry stakeholders, adopt rules by July 1, 2024, establishing a methodology for determining assisted living service rates, including memory care services and critical access services.

Direct care provider payment rates

(Section 333.29)

The bill earmarks Medicaid funds to be used to increase the provider base wages to $17 an hour in FY 2024, beginning January 1, 2024, and $18 an hour in FY 2025, beginning July 1, 2024, for the following services provided under Medicaid components of the home and community-based services waivers administered by ODM or ODA:

1. Personal care services;

2. Adult day services;

3. Community behavioral health services; and

4. Other waiver services under the HCBS waivers administered by the departments.

Federally qualified health center payment rates

(Section 333.17)

The bill earmarks $20.7 million in each fiscal year to increase payment rates to federally qualified health centers (FQHCs) and FQHC look-alikes. FQHCs are nonprofit health clinics that

qualify for and receive federal funds, where services are provided on a fee based on a patient's ability to pay. FQHC look-alikes qualify for but do not receive federal funding.

Vision and eye care services provider payment rate

(Section 333.25)

The bill earmarks funds to increase Medicaid provider payment rates for vision services and medically billed eye care provided to Medicaid recipients during FY 2024. The increase is added to FY 2023 payment rates and must be maintained during FY 2025.

Dental provider payment rates

(Section 333.27)

The bill earmarks $122 million in FY 2024 and $244 million in FY 2025 to increase the payment rate to dental providers treating Medicaid enrollees.

Medicaid MCO credentialing

(Repealed R.C. 5167.102; R.C. 5167.12)

The bill repeals law that requires ODM to permit Medicaid MCOs to create a credentialing process for providers, because ODM is now credentialing Medicaid providers instead of Medicaid MCOs. As a conforming change, the bill modifies language that prohibits a Medicaid MCO from imposing a prior authorization requirement on certain antidepressant or antipsychotic drugs that are prescribed by a physician credentialed by the Medicaid MCO to instead refer to a physician who has registered with ODM.

Payment of claims by third parties

(R.C. 5160.40)

The bill decreases to 60 days the time period in which a third party must respond to a claim for payment of a medical item or service submitted to the third party by ODM. Under current law, a third party must respond to a claim described above not later than 90 days after receiving written proof of the claim.

Medicaid payment rate for neonatal and newborn services

(R.C. 5164.78)

The bill requires that the Medicaid payment rate for the neonatal and newborn services specified in continuing law must be *at least* 75% of the Medicare payment rate for the services, rather than equaling 75% of the Medicare payment rate as required by current law.

Medicaid providers

Interest on payments to providers

(R.C. 5164.35 and 5164.60)

The bill limits the time frame when interest is assessed against a Medicaid provider (1) that willingly or by deception received overpayments or unearned payments or (2) that receives an overpayment without intent, to the time period determined by ODM, but not

exceeding the time period from the payment date until the repayment date. Current law permits the imposition of interest for the time period from the payment date until the repayment date.

Provider penalties

(R.C. 5164.35)

The bill clarifies that when a Medicaid provider agreement is terminated due to the provider engaging in prohibited activities, the provider may not provide Medicaid services *on behalf of* any other Medicaid provider, instead of to any other Medicaid provider.

Suspension of Medicaid provider agreements and payments

(R.C. 5164.36)

The bill revises the law governing the suspension of Medicaid provider agreements when there are credible allegations of fraud or disqualifying indictments against Medicaid providers or their officers, agents, or owners in all of the following ways. First, the bill prohibits ODM from suspending a provider agreement or Medicaid payments if the provider or owner can demonstrate good cause. It directs ODM to specify by rule what constitutes good cause as well as the information, documents, or other evidence that must be submitted as part of a good cause demonstration.

Second, the bill maintains the law prohibiting ODM from suspending a provider agreement or Medicaid payments if the provider or owner can demonstrate, by written evidence, that the provider or owner did not sanction the action of an agent or employee resulting in a credible allegation of fraud or disqualifying indictment. Under the bill, ODM must grant the provider or owner – before suspension – an opportunity to submit the written evidence. The bill also eliminates law allowing a Medicaid provider or owner, when requesting ODM to reconsider its suspension, to submit documents pertaining to whether the provider or owner can demonstrate that it did not sanction the agent's or employee's action resulting in a credible allegation of fraud or disqualifying indictment.

Third, the bill adds two other circumstances to the existing two circumstances until which the suspension of a provider agreement may continue – the provider (1) pays in full fines and debts it owes ODM and (2) no longer has certain civil actions pending against it. The suspension must continue until the latest of the four circumstances occurs.

Fourth, when, under current law, a provider or owner requests ODM to reconsider a suspension, the bill eliminates the requirement that ODM complete not later than 45 days after receiving documents in support of a reconsideration both of the following actions: (1) reviewing the documents and (2) notifying the provider or owner of the results of the review.

Criminal records checks

(R.C. 5164.34, 5164.341, and 5164.342)

The bill revises the law governing the availability of criminal records check reports for Medicaid providers, independent providers, and waiver agencies and their employees. Current law specifies that the reports are not public records and prohibits making them available to any person, with certain limited exceptions.

In the case of a waiver agency, the bill authorizes a report of an employee's criminal records check to be made available to a court, hearing officer, or other necessary individual involved in a case or administrative hearing dealing with a denial, suspension, or termination of a Medicaid provider agreement.

With respect to a Medicaid provider or independent provider, the bill authorizes a report of an employee's or provider's criminal records check to be made available to a court, hearing officer, or other necessary individual involved in a case or administrative hearing dealing with a provider agreement suspension. Current law already authorizes such a report to be made available to the court, hearing officer, or other necessary individual in a case involving a denial or termination of a provider agreement.

The bill further authorizes a criminal records check report to be introduced as evidence at an administrative hearing concerning a provider agreement denial, suspension, or termination. If admitted, the bill specifies that the report becomes part of the hearing record. It also requires such a report to be admitted only under seal and specifies that the report maintains its status as not a public record.

HHA and PCA training

(R.C. 5164.913)

The bill prohibits the Department from requiring PCAs providing services under MyCare to receive more than 30 hours of pre-service training and six hours of annual in-service training. The Department determines what training is acceptable. The Department may not require HHAs providing services under MyCare to receive more pre-service training and annual training than required by federal law. The bill also permits a registered nurse or licensed practical nurse to supervise an HHA or PCA.

Under federal regulations, HHAs providing services through Medicare or Medicaid are required to receive 75 hours of pre-service training and 12 hours of annual in-service training. Additionally, federal regulations require that an HHA providing Medicare or Medicaid services be supervised by a registered nurse or other appropriate professional (such as a physical therapist, speech-language pathologist, or occupational therapist).[143]

ICF/IID bed conversion to OhioRISE program

(R.C. 5124.75)

The bill prohibits an ICF/IID operator from reserving or converting any portion of the ICF/IID's beds from beds that provide ICF/IID services to beds that provide services to individuals receiving services through the OhioRISE program for children and youth involved in multiple state systems or children and youth with other complex behavioral health needs, if reserving or converting a bed would require the ICF/IID operator to discharge or terminate services to a resident occupying that bed.

[143] 42 C.F.R. 484.80.

Medicaid MCO medical loss ratio report

(R.C. 5167.50; Section 803.250)

Medical loss ratio in Medicaid managed care is a rate setting approach that requires a certain percentage of the per member per month rate paid by ODM to Medicaid managed care organizations be spent on services and quality improvement and that health plan administrative expenses be kept at a sufficient level to meet that percentage.

The bill requires each Medicaid managed care entity to prepare and submit to ODM an annual medical loss ratio report, which is required under federal law. As defined in the bill, a Medicaid managed care entity includes all Medicaid managed care organizations, the care management system's state pharmacy benefit manager, the Integrated Care Delivery System known as MyCare Ohio, the Ohio Resilience through Integrated Systems and Excellence (OhioRISE) Program, or other similar entity contracted with ODM. The report must include all of the following under the bill and federal law:

- Total incurred claims;
- Expenditures on quality improvement activities;
- Fraud prevention activities;
- Nonclaims costs;
- Premium revenue;
- Taxes, licensing, and regulatory fees;
- Methodology for allocation of expenditures;
- Any credibility adjustment applied;
- The calculated medical loss ratio;
- Any remittance owed to the state, if applicable;
- A description of the aggregation method used to calculate any remittance owed to the state;
- A comparison of this information with the Medicaid MCO's audited financial report required;
- The number of member months.

Website

ODM must post the following information on its public website:

1. Information used to calculate a Medicaid managed care entity's medical loss ratio, including any prescription drug rebates it receives;

2. Each Medicaid managed care entity's cost report.

Subcontractors

The bill requires a subcontractor of a Medicaid managed care entity, upon the request of ODM, the Auditor of State, or the Attorney General, to do all of the following:

- Provide all requested data in the format and manner requested within 30 days of the request, unless the requestor grants an extension;
- Cooperate fully in any investigation or prosecution by the requestor;
- Make personnel available for interviews with the requestor;
- Permit consultants or other experts engaged by a requestor to receive copies of any provided data.

Confidentiality and rules

The bill specifies that any information described above must be provided, regardless of whether it is considered proprietary, confidential, or a trade secret by the holder. ODM must adopt rules as necessary to implement these medical loss ratio provisions.

Special programs

Care Innovation and Community Improvement Program

(Section 333.60)

The bill requires the Director to continue the Care Innovation and Community Improvement Program for the FY 2024-FY 2025 biennium. The Director was originally required to establish it for the FY 2018-FY 2019 biennium.[144]

Any nonprofit hospital agency affiliated with a state university and any public hospital agency may volunteer to participate in the program if the hospital has a Medicaid provider agreement. The agencies that participate are responsible for the state share of the program's costs and must make or request that appropriate government entity to make intergovernmental transfers to pay for the costs. The Director must establish a schedule for making the transfers.

The bill requires each participating hospital agency to jointly participate in quality improvement initiatives that align with and advance the goals of ODM's quality strategy.

Under the program, each participating hospital agency receives supplemental Medicaid payments for physician and other professional services that are covered by Medicaid and provided to Medicaid recipients. The payments must equal the difference between the Medicaid rate and the average commercial payment rates for the services. The Director may terminate, or adjust the amount of, the payments if funding for the program is inadequate.

The Director must maintain a process to evaluate the work done under the program by nonprofit and public hospital agencies and their progress in meeting the program's goals. The

[144] Section 333.320 of H.B. 49 of the 132nd General Assembly, Section 333.220 of H.B. 166 of the 133rd General Assembly, and Section 333.60 of H.B. 110 of the 134th General Assembly.

Director may terminate a hospital agency's participation if the Director determines that it is not participating in required quality improvement initiatives or making progress in meeting the program's goals.

The bill does not include the requirement that existed in the prior budget that, not later than December 31 of each year, the Director must submit a report to the Speaker of the House, the Senate President, and the Joint Medicaid Oversight Committee (JMOC) that details the efficacy, trends, outcomes, and number of hospital agencies enrolled in the program.

All intergovernmental transfers made under the program must be deposited into the existing Care Innovation and Community Improvement Program Fund. Money in the fund and the corresponding federal funds must continue to be used to make the supplemental payments to hospital agencies under the program.

Ohio Invests in Improvements for Priority Populations

(Section 333.170)

The bill continues the Ohio Invests in Improvements for Priority Populations Program as a directed payment program for inpatient and outpatient hospital services provided to Medicaid managed care recipients receiving care at state university-owned hospitals with fewer than 300 inpatient beds.

Under the program, participating hospitals receive payments directly (instead of through the contracted Medicaid MCO) for inpatient and outpatient hospital services provided under the program and remit to ODM the nonfederal share of payment for those services. The hospital must pay ODM through intergovernmental transfer. Funds transferred under the program must be deposited into the Hospital Directed Payment Fund.

In general, under federal law, states are prohibited from (1) directing Medicaid MCO expenditures or (2) making payments directly to providers for Medicaid MCO services ("directed payments") unless permitted under federal law or subject to federal authorization.[145] Therefore, the bill requires the Director to seek CMS approval to operate the program.

Physician directed payment program

(Section 333.260)

The bill also permits the Medicaid Director to seek CMS approval to establish one or more physician directed payment programs for directed payments for nonpublic hospitals and the related health systems. The programs must advance the maternal and child health goals of ODM's quality strategy.

Under the program, participating hospitals receive payment directly for physician services provided to enrollees and remit to ODM the nonfederal share of those services through intergovernmental transfer. The directed payments may equal up to the average commercial

[145] CMS directed payments letter (PDF), January 8, 2021, available by conducting a keyword search of that date on CMS's website: medicaid.gov.

level for participating health systems for physician and other covered professional services provided to Medicaid MCO enrollees. Eligible public entities may transfer funds to be used for the directed payments through intergovernmental transfer into the Health Care/Medicaid Support and Recoveries Fund.

Under the programs, ODM may only make directed payments to the extent local funds are available for the nonfederal share of the cost for the services. If receipts credited to the program exceed the available amounts in the fund, the Director can adjust the directed payment amounts or terminate the program.

Hamilton County hospital directed payment program

(Section 333.265)

The bill requires the Medicaid Director to create a hospital directed payment program for a hospital that meets the following criteria:

- It is located in Hamilton County;
- It is a nonprofit hospital;
- It has a Level 1 trauma center;
- It is affiliated with an Ohio public medical school; and
- It is not a children's hospital.

The program must advance at least one of the health goals established in ODM's quality strategy, which must be submitted to and approved by CMS. Under the program, participating hospitals will receive payments directly for inpatient and outpatient services provided to Medicaid enrollees and remit to ODM the nonfederal share of those services through intergovernmental transfer. Payments under the program cannot exceed the average commercial level paid for inpatient and outpatient services provided to Medicaid recipients under the care management system. The bill requires transfers for the program to be deposited into the Health Care/Medicaid Support and Recoveries Fund and permits the Director to adjust payment amounts or terminate the program if receipts credited to the program exceed available funds in the account.

Hospital Care Assurance Program; franchise permit fee

(Sections 610.80 and 610.81, amending Sections 125.10 and 125.11 of H.B. 59 of the 130th G.A.)

The bill continues the Hospital Care Assurance Program (HCAP) for two additional years. The program had been scheduled to end October 16, 2023. The act extends it to October 16, 2025. Under HCAP, hospitals are annually assessed an amount based on their total facility costs, and government hospitals make annual intergovernmental transfers. The Department distributes to hospitals money generated by the assessments and intergovernmental transfers along with federal matching funds. A hospital compensated under the program must 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.

The bill also continues for two additional years another assessment imposed on hospitals; that assessment is to end on October 1, 2025, rather than October 1, 2023. The assessment is in addition to HCAP, but like that program, it raises money to help pay for the Medicaid program. To distinguish the assessment from HCAP, the assessment is sometimes called a hospital franchise permit fee.

General

Medicaid coverage of services at outpatient health facilities

(Repealed R.C. 5164.05)

The bill repeals law that requires the Medicaid program to cover comprehensive primary health services provided by "outpatient health facilities." An outpatient health facility, as defined by the repealed law, is a facility that (1) provides comprehensive primary health services by or under the direction of a physician at least five days per week on a 40-hour per week basis to outpatients, (2) is operated by the board of health of a city or general health district or another public agency or by a nonprofit private agency or organization under the direction and control of a governing board that has no health-related responsibilities other than the direction and control of outpatient health facilities, and (3) receives at least 75% of its operating funds from public sources.

Report on projected program trends

(R.C. 103.414)

The bill requires the Department of Medicaid (ODM), not later than October 1 of every even-numbered year, to submit a report to the Joint Medicaid Oversight Committee (JMOC) that details the historical and projected Medicaid program expenditures and utilization trend rates for each year of the upcoming fiscal biennium broken down by Medicaid program and service category. The report must include all actuarial data utilized by ODM in producing these trends. Additionally, the bill requires that the report detail the interventions taken by ODM to restrain the growth in the per member per month cost of the Medicaid program.

Medicaid program reforms

(R.C. 5162.70)

Under continuing law, the Director must limit the growth in the Medicaid program for a fiscal biennium to not more than the lesser of the average increase in inflation for the most recent three-year period for which there is data on the first day of the biennium, or the JMOC projected medical inflation rate for the fiscal biennium. The Director must limit the growth by implementing reforms that utilize cost-savings measures and fraud and abuse prevention, reduce the prevalence of comorbid health conditions among, and the mortality rates of, Medicaid recipients, and reduce infant mortality rates among Medicaid recipients. The bill prohibits the Director from excluding any Medicaid eligibility group, provider wages, or Medicaid service when calculating the growth in the per member per month cost of the Medicaid program. The Director may, however, exclude one-time expenses or expenses that are not directly related to enrollees. Not later than October 1 of every even-numbered year, the bill requires the Medicaid Director to

submit a report to JMOC detailing the reforms required by existing law unchanged by the bill that ODM implemented in the preceding two fiscal years.

HCBS Direct Care Worker Wages Task Force

(Sections 751.20 and 751.21)

The bill requires ODM, ODA, and the Department of Developmental Disabilities to work jointly to submit a report regarding wages paid to direct care workers providing home and community-based services to enrollees in Medicaid waiver components administered by those agencies. The report, submitted to the General Assembly not later than July 1 each year, must be divided by service type and detail the wages paid by each agency to direct care workers in the previous fiscal year.

The bill also creates the HCBS Direct Care Worker Wages Task Force and stipulates technical and administrative support must be provided by ODM staff. The task force is responsible for submitting a report to the General Assembly and Joint Medicaid Oversight Committee on its findings in the following areas:

- Analysis and evaluation of the cost of providing services under Medicaid HCBS waivers;
- Evaluation and review of direct care worker wages in other states;
- Analysis and evaluation of existing HCBS services and strategies for (1) expansion of services, and (2) cost of service reduction;
- Analysis and evaluation of options to ensure HCBS reimbursement rates and direct care wages are reviewed regularly and adjusted to reflect the cost of providing services; and
- Identification and cost estimation of regulatory burdens on Medicaid and HCBS providers and recommendations to reduce the regulatory burden.

Members of the task force must be appointed within 60 days of the bill's effective date and must include one representative from each of the following interested parties:

- Coalition of Age-Friendly Communities;
- LeadingAge Ohio;
- The Ohio Adult Day Healthcare Association;
- The Ohio Alzheimer's Association;
- The Ohio Association of Area Agencies on Aging;
- The Ohio Association of Senior Centers;
- The Ohio Coalition for Adult Protective Services;
- The Ohio Council for Home Care & Hospice;
- The Ohio Health Care Association; and
- The Ohio Provider Resource Association.

The bill provides that the task force will cease to exist after the submission of its report.

In-home care professionals study committee

(Section 333.330)

The bill requires ODM to establish a study committee to examine the training requirements for professionals providing in-home and community-based services to patients through Medicaid or Medicaid waivers administered by ODM or ODA. Committee members include the Medicaid Director, the Director of Aging, or the Directors' designees, and any industry stakeholders designated and appointed by the Medicaid Director. The industry stakeholders may not include members of the General Assembly.

The study committee is responsible for reviewing the training requirements for all professionals, including home health aides and personal care aides, who provide home and community-based services through ODM or ODA. This includes services provided through the PASSPORT program and the Integrated Care Delivery System (known as "MyCare Ohio"). By April 1, 2024, ODM must submit a report to JMOC detailing the training requirements for in-home and community-based care providers that specifies which training requirements are federal and which are established by Ohio law or rule. The report must also include suggestions for how to modify training requirements to increase the in-home care workforce while maintaining high standards of care.

General Assembly oversight of Medicaid program changes

(R.C. 5162.07)

The bill requires the Medicaid Director to provide written notice to JMOC not later than 65 days before applying for a Medicaid waiver or seeking federal approval to make a change to the Medicaid program. Upon review of the proposed waiver or change, and a determination that the waiver or change should not proceed, the bill permits JMOC to recommend that the General Assembly adopt a concurrent resolution to invalidate the proposed waiver or change, either in whole or in part.

If the General Assembly adopts a concurrent resolution to invalidate a proposed waiver or change, the bill prohibits ODM from seeking any version of that waiver or change for the remainder of that term of the General Assembly. If the 65-day notice period described above has lapsed but federal approval has not yet been obtained for the proposed waiver or change when the concurrent resolution is adopted, ODM must immediately withdraw its request for a waiver or change. Following the adoption of a concurrent resolution to invalidate a proposed waiver or change, the General Assembly may adopt a subsequent concurrent resolution authorizing ODM to seek a new waiver or change. A new waiver or change is subject to the 65-day notice requirement described above.

Medicaid work requirements

(R.C. 5166.37)

The bill requires the ODM Director, not earlier than November 1, 2024, and not later than December 1, 2024, to apply to the U.S. Centers for Medicare and Medicaid Services (CMS) to implement a new waiver establishing Medicaid work requirements.

H.B. 49 of the 132nd General Assembly required the ODM Director to establish a Medicaid waiver component under which individuals eligible for Medicaid on the basis of being included in the Medicaid expansion eligibility group were required to meet work requirements to be eligible to receive Medicaid benefits. ODM applied for this waiver in April 2018, and the request was approved by CMS in March 2019. However, before it could be implemented, the work requirement waiver was placed on hold as a result of the COVID-19 pandemic, and approval of the waiver was subsequently withdrawn by CMS in August 2021.

MyCare Ohio expansion

(Section 333.320)

The bill requires the Medicaid Director, by July 1, 2024, to seek approval from CMS to expand the MyCare Ohio program (known in the Revised Code as the "Integrated Care Delivery System") to all Ohio counties. If the Medicaid Director terminates MyCare Ohio, the bill requires the successor program to expand to all Ohio counties as well. The entities selected to function as the managed care organizations for the expanded system must be selected by the Director from among Medicaid managed care organizations that have a current managed care contract with ODM on the bill's effective date.

The bill requires ODM to establish requirements for care management and coordination of wavier services in the expanded program, subject to the following:

- The selected managed care organizations must employ the applicable area agency on aging to be coordinators of home and community-based services under a Medicaid waiver component available for eligible individuals over age 59;
- The managed care organizations may delegate to the area agency on aging full care coordination function for home and community-based services and other health care services received by those eligible individuals;
- Individuals enrolled in the managed care organization's plan may choose the organization or its designee as the care coordinator, as an alternative to the area agency on aging;
- ODM may specify an alternative approach to care management and coordination of waiver services if the area agency on aging's performance does not meet the program requirements or if ODM determines that the needs of a defined group of individuals require an alternative approach.

Medicaid presumptive eligibility error rate training

(R.C. 5163.103)

The bill imposes requirements related to presumptive eligibility, which, under federal law, is an option by which states may elect to grant temporary Medicaid benefits to certain eligible individuals as a result of an initial, simplified eligibility determination while the individual applies for full Medicaid coverage. Related to presumptive eligibility determinations, the bill defines presumptive eligibility error rate as the rate at which entities or providers that are qualified to conduct presumptive eligibility determinations deem an individual presumptively eligible for Medicaid but the individual is ineligible. Under the bill, ODM must require qualified entities and providers to take the following steps when the entity or provider has a presumptive eligibility error rate greater than 7.5% in a calendar month:

1. Submit for ODM's approval a corrective action plan specifying the steps the entity or provider will take to reduce its error rate, including required trainings; and

2. Provide training for all presumptive eligibility determination staff to ensure thorough knowledge of prescreening procedures.

The bill imposes penalties when a qualified entity or provider exceeds this error rate limit. When a qualified entity or provider's error rate exceeds 7.5% in six or more months in a 24-month period, ODM must notify the entity or provider that it is no longer qualified to make eligibility determinations. A qualified entity or provider that receives such a notice is no longer qualified to conduct presumptive eligibility determinations for 60 months.

Medicaid coverage of remote ultrasounds and fetal nonstress tests

(R.C. 5164.092)

The bill requires the Medicaid program to cover remote ultrasound procedures and remote fetal nonstress tests when the patient is in a different location from the patient's Medicaid provider. ODM must adopt rules to implement the coverage requirement. The coverage applies only if the Medicaid provider uses digital technology that:

- Is used only to collect medical and other data from a patient and electronically transmit that data securely to a health care provider in a different location for the provider's examination of the data; and
- Has been approved by the U.S. Food and Drug Administration for remote data acquisition, if required.

Medicaid reimbursement for remote fetal nonstress tests is applicable only if the current procedural terminology (CPT) code that was used includes a place of service modifier for at home monitoring using remote monitoring solutions that are cleared by the FDA for monitoring fetal heart rate, maternal heart rate, and uterine activity.

Payments for family caregivers prohibited

(R.C. 5164.02)

The bill prohibits the Medicaid Director from adopting rules allowing family members to receive Medicaid payment for certain services provided to minor children. Under the bill, ODM is prohibited from rulemaking that would allow family members living in the same household as a minor child eligible for services administered by a county board of developmental disabilities to receive Medicaid payments for providing those services.

Lockable and tamper-evident containers

(Sections 333.270 and 333.10)

The bill requires ODM to reimburse pharmacists and physicians for expenses related to dispensing or personally furnishing, respectively, drugs used in medication-assisted treatment in lockable containers or tamper-evident containers. The bill defines "lockable container" as a container that (1) has "special packaging," which is generally defined under federal law as packaging designed to be significantly difficult for children to open, but not difficult for normal adults to use, and (2) can be unlocked physically using a key, or physically or electronically using a code or password. "Tamper evident container" is defined by the bill as a container that has special packaging and displays a visual sign in the event of unauthorized entry or displays the time the container was last opened.

The reimbursements are to be made during FY 2024 and FY 2025, or until appropriated funds – $500,000 in each fiscal year – run out.

Obsolete Medicaid waiver repeal

(Repealed 5166.14 (primary) with conforming changes in various other R.C. sections)

The bill repeals the requirement that ODM create a Long-Term Services and Support Medicaid waiver component and removes all references to the waiver component, as it was never implemented.

STATE MEDICAL BOARD

Practitioner impairment monitoring

- Revises the law governing the State Medical Board's confidential program for treating and monitoring impaired practitioners, including by extending the program to practitioners unable to practice because of mental or physical illness, rather than only those impaired by drugs, alcohol, or other substances as under current law.

Medical Board license holders – retired status

- Establishes a process by which practitioners licensed by the Medical Board who meet certain eligibility conditions may have their licenses placed on retired status.
- Prohibits the holder of a license placed on retired status from practicing under the license, but permits the holder to continue to use any title authorized for the license so long as the title also indicates that the practitioner is retired.
- Establishes a process by which a license placed on retired status may be reactivated by the Board.
- Authorizes the Board to take the same disciplinary action against retired status license holders and applicants as it may take against any other license holders or applicants.

Criminal records checks under Interstate Medical Licensure Compact

- Clarifies that applicants under the Interstate Medical Licensure Compact are required to comply with Ohio's existing procedure for criminal records checks for physicians.

Sonographer use of intravenous ultrasound enhancing agents

- Authorizes a sonographer to administer intravenously ultrasound enhancing agents under physician delegation if certain conditions are met.

Supervision of general x-ray machine operators

- Authorizes a general x-ray machine operator to perform, in certain circumstances, radiologic procedures under the general supervision of a physician or another supervising practitioner, rather than under direct supervision as required by current law.

Physician assistant prescribing for outpatient behavioral health

- Authorizes a physician assistant (PA) to prescribe a schedule II controlled substance at an outpatient behavioral health practice where the PA would otherwise not be permitted to prescribe the drug under current law, but only if the PA has entered into a supervisory agreement with a physician employed by the same practice.

Certified mental health assistants

- Establishes licensure by the Medical Board for certified mental health assistants (CMHAs).

- Authorizes CMHAs to provide mental health care under the supervision, control, and direction of a physician with whom the CMHA has entered into a supervision agreement.
- Authorizes CMHAs to prescribe and personally furnish drugs and therapeutic devices in the exercise of physician-delegated prescriptive authority, including certain identified controlled substances.
- Requires the Medical Board to approve CMHA educational programs, requires education programs be accredited by an organization the Board recognizes, and specifies minimum course subject areas that must be covered.
- Authorizes the Medical Board to discipline CMHAs in a manner similar to that of other Board licensees.
- Prohibits an individual from claiming to be able to function as a CMHA if that individual does not hold a CMHA license, and imposes criminal penalties violations of that and other related prohibitions.

Practice of acupuncture and herbal therapy

- Authorizes a licensed acupuncturist with a national certification in Chinese herbology or oriental medicine to practice herbal therapy.
- Eliminates supervisory requirements for newly licensed acupuncturists, including duties and reimbursement allowances for supervising physicians and chiropractors.

Subpoenas for patient record information

- Eliminates requirements that the supervising member of the Medical Board approve the issuance of subpoenas for patient record information and be involved in probable cause determinations related to such subpoenas.

Time limit to issue adjudicative order

- Increases the time the Medical Board has to issue a final adjudicative order related to the summary suspension of a physician assistant's license to 75 days (from 60).

Public address information for licensees

- Eliminates a requirement that the Medical Board's public directory of licensees include a licensee's contact information, and instead requires it to include the licensee's business address.
- Eliminates a requirement that the Board's register of applicants and licensees show the residential address of an applicant to practice respiratory care.

Legacy Pain Management Study Committee

- Establishes the Legacy Pain Management Study Committee to study and evaluate the care and treatment of patients experiencing chronic or debilitating pain, in particular those who have been prescribed opioids for lengthy periods of time, often referred to as legacy patients.

- Requires the committee, by December 1, 2024, to prepare and submit to the General Assembly a report of its recommendations for legislation addressing the care and treatment of legacy patients.

Practitioner impairment monitoring

(R.C. 3701.89, 4730.25, 4730.32, 4731.22, 4731.224, repealed and new 4731.25, repealed and new 4731.251, 4731.252, 4731.253, 4731.254, 4731.255, 4759.07, 4759.13, 4760.13, 4760.16, 4761.09, 4761.19, 4762.13, 4762.16, 4774.13, 4774.16, 4778.14, and 4778.17)

The bill revises the law governing the State Medical Board's confidential program for evaluating, treating, and monitoring practitioner and applicant impairment because of drugs, alcohol, and other substances.

At present, the Board is responsible for licensing and regulating the following practitioners: physicians, physician assistants, limited branch of medicine practitioners, dietitians, respiratory care professionals, anesthesiologist assistants, acupuncturists, radiologist assistants, and genetic counselors. The Board's regulation may include imposing disciplinary sanctions for drug, alcohol, and substance use impairment.

Program name

The bill names the program the Confidential Monitoring Program, replacing the current name One-Bite. The bill also describes the program as nondisciplinary.

Mental or physical illness

While the One-Bite Program applies to practitioners and applicants whose ability to practice is impaired because of habitual or excessive use or abuse of drugs, alcohol, or other substances, the bill expands the meaning of impairment to include the inability to practice by reason of mental or physical illness. The bill also eliminates current law references to habitual use of drugs, alcohol, or other substances.

Potential impairment

The bill specifically allows practitioners and applicants who may be impaired to participate in the Confidential Monitoring Program. Under current law, the practitioner or applicant must be impaired in order to be eligible for participation.

Monitoring organization

The bill maintains the requirement that the Medical Board contract with a monitoring organization to conduct the program and perform monitoring services. But, it requires the monitoring organization, as a condition of eligibility to conduct the program, to be a "professionals health program" sponsored by a professional association or society of practitioners.

The bill also requires the monitoring organization to employ any licensed health care practitioners necessary for the program's operation, in place of the current law requirement to employ chemical dependency counselors, social workers, clinical counselors, and psychologists.

Practitioner eligibility

The bill modifies a condition of practitioner eligibility related to prior professional discipline, by instead prohibiting a practitioner from participating if still under the terms of a consent agreement or Board order.

Practice suspension

The bill eliminates the requirement that a practitioner suspend practice while participating in the program. It instead requires suspension only if the monitoring organization, evaluator, or treatment provider recommends it.

Practitioner relapse

Current law prohibits the monitoring organization from disclosing to the Medical Board the name of a participating practitioner or applicant. The prohibition, however, does not apply in certain circumstances, including when a practitioner or applicant relapses. The bill eliminates that circumstance.

Approval of evaluators and treatment providers

The bill transfers from the Medical Board to the monitoring organization the responsibility for approving treatment providers. The bill also requires the organization to approve program evaluators. However, the Board and organization together must develop criteria and procedures for evaluator and treatment provider approval. The Board also must adopt rules establishing standards for approval.

Note on treatment providers

The monitoring organization's approval of treatment providers under the bill is not limited to those serving the Confidential Monitoring Program. The bill also extends the organization's approval to those providing services as part of the Board's formal disciplinary processes.

Assistance with formal disciplinary action

Separate from the Confidential Monitoring Program, the Medical Board may contract with the monitoring organization to assist in the monitoring of impaired practitioners who are subject to formal disciplinary action by the Board.

Medical Board license holders – retired status

(R.C. 4730.14, 4730.141, 4730.25, 4730.28, 4731.22, 4731.222, 4731.282, 4731.283, 4759.06, 4759.063, 4759.064, 4759.07, 4760.061, 4760.062, 4760.13, 4761.06, 4761.061, 4761.062, 4761.09, 4762.061, 4762.062, 4762.13, 4774.061, 4774.062, 4774.13, 4778.06, 4778.071, 4778.072, and 4778.14)

The bill establishes a process by which the following practitioners licensed by the State Medical Board may have their licenses placed on retired status: physicians, massage therapists, physician assistants, dietitians, anesthesiologist assistants, respiratory therapists, acupuncturists, radiologist assistants, and genetic counselors.

An individual seeking retired status must file an application with the Board in the form and manner the Board prescribes. The application must be submitted before the end of a license renewal period.

Eligibility conditions

The bill requires the Medical Board to place a license on retired status if the applicant meets the following eligibility conditions and pays the application fee:[146]

- The applicant holds a current, valid license to practice;
- The applicant has retired voluntarily from practice;
- In the case of a physician or physician assistant applicant, the applicant does not hold an active registration with the federal Drug Enforcement Administration;
- The applicant does not have any criminal charges pending;
- The applicant is not the subject of discipline by, or an investigation pending with, a regulatory agency of Ohio, another state, or the United States;
- The applicant does not have any complaints pending with the Medical Board;
- At the time of application, the applicant is not subject to the Board's hearing, disciplinary, or compliance processes under the terms of a citation, notice of opportunity for hearing, Board order, or consent agreement.

Retired status duration

Once a license is placed on retired status, it remains on retired status for the life of the holder, unless suspended, revoked, or reactivated. While on retired status, the license does not require renewal.

Limitations while on retired status

During the period in which a license is on retired status, all of the following apply to the license holder:

- The holder is prohibited from practicing under any circumstance;
- The holder is not required to complete continuing education to maintain the license;
- The holder is prohibited from using the license to obtain a license to practice the profession in another state;
- The holder may use any title authorized for the license so long as the title also indicates that the practitioner is retired;

[146] Fee amounts differ depending on the type of practitioner. For example, a physician must pay $500, while an acupuncturist pays $150.

- In the case of a physician assistant, the holder's prescriber number, issued as part of the holder's physician-delegated prescriptive authority, also is placed on retired status;
- In the case of a physician who holds a certificate to recommend medical marijuana, the certificate also is placed on retired status;
- In the case of any physician, the physician is prohibited from holding or practicing under a volunteer's certificate.

Reactivation

The bill establishes a process by which the holder of a license placed on retired status may seek to reactivate the license. To do so, the holder must apply to the Medical Board in the form and manner it prescribes and must pay a reactivation fee. The fee is the same amount as the fee for placing a license on retired status.

The bill authorizes the Board to reactivate the license if the applicant certifies completion of continuing education and undergoes a criminal records check. The Board also may impose other terms and conditions, which may include requiring the applicant to obtain additional training, pass an examination, and undergo a physical examination and skills assessment.

If the applicant satisfies the foregoing conditions, the Board must reactivate the license, but only if, in its discretion, it determines that the results of the criminal records check do not make the applicant ineligible for active status.

Disciplinary actions

The bill authorizes the Medical Board to take disciplinary action against an applicant seeking retired status or reactivation who commits fraud, misrepresentation, or deception in applying for, or securing, the status or reactivation. The Board also may impose discipline if the holder practices while on retired status, uses the license to obtain licensure in another state, or uses a title that does not reflect the holder's retired status. In disciplining the holder, the Board may impose any sanction that it may impose under current law on any other license holder or applicant.

The bill also specifies that the placement of a practitioner's license on retired status does not remove or limit the Board's jurisdiction to take any disciplinary action against the practitioner with regard to the license as it existed before being placed on retired status.

Criminal records checks under Interstate Medical Licensure Compact

(R.C. 4731.08; repealed R.C. 4731.112)

The bill adds applicants under the Interstate Medical Licensure Compact to an existing Revised Code section that specifies criminal records check requirements for physicians. The bill repeals a separate, but substantively identical, section that applies only to Compact applicants.

Sonographer use of intravenous ultrasound enhancing agents

(R.C. 4731.37)

Conditions on delegation and administration

The bill authorizes a sonographer to administer, under a physician's delegation, an ultrasound enhancing agent intravenously if several conditions are met. These include the following:

- The delegating physician's normal course of practice and expertise must include the intravenous administration of ultrasound enhancing agents.
- The sonographer must have successfully completed an education and training program in sonography, be certified by a nationally recognized accrediting organization, and have successfully completed training in the intravenous administration of ultrasound enhancing agents. Under the bill, training in intravenous administration may be obtained as part of a sonography education and training program, training provided by the delegating physician, or a training program developed and offered by the facility where the physician practices.
- The sonographer must administer the agent in accordance with a written practice protocol developed by the facility. The protocol's standards for intravenous administration must align with clinical standards and industry guidelines.
- The delegating physician must be physically present at the facility where the sonographer administers the agent, though the bill specifies that the physician is not required to be in the same room as the sonographer.

Intravenous mechanism

Under the bill, the delegated authority to administer an ultrasound enhancing agent intravenously also includes the authority to insert, maintain, and remove an intravenous mechanism.

Exemptions

The bill specifies that it does not prohibit any of the following individuals from administering intravenously an ultrasound enhancing agent:

- An individual who is otherwise authorized by statutory law to administer intravenously ultrasound enhancing agents, including a physician assistant, registered nurse, or licensed practical nurse;
- An individual who is awaiting certification or registration as a sonographer and administers the agent under the general supervision of a physician and the direct supervision of either a sonographer with delegated authority to administer agents intravenously or an individual otherwise authorized to administer agents intravenously;
- A student who is enrolled in a sonography education and training program and, as part of the program, administers intravenously ultrasound enhancing agents.

Supervision of general x-ray machine operators

(R.C. 4773.06)

The bill authorizes a general x-ray machine operator to perform radiologic procedures under the general supervision of a supervising practitioner who is a physician, podiatrist, mechanotherapist, or chiropractor, but only if the both of the following are the case:

- The operator is performing radiologic procedures with an x-ray machine only on a patient's chest, spine, abdomen, or extremities; and
- The operator is performing the procedures in a facility being operated as an urgent care facility, occupational health care facility, or outpatient health care facility.

In all other circumstances, the general x-ray machine operator remains subject to current law's direct supervision requirement, as discussed below.

Direct vs. general supervision

Under existing law maintained by the bill, direct supervision does not require a supervising practitioner to observe each radiologic procedure performed, but does require the practitioner to be present at the location where the procedure is being performed. General supervision neither requires the supervising practitioner to observe radiologic procedures nor to be present at the location. Instead, general supervision requires the practitioner to be readily available for purposes of consultation and direction.

Physician assistant prescribing for outpatient behavioral health

(R.C. 4730.41)

The bill authorizes a physician assistant (PA) to prescribe a schedule II controlled substance if the prescription is issued at the site of a behavioral health practice that does not otherwise qualify under current law as a site where a PA may prescribe such a drug. The following limitations apply: (1) the behavioral health practice must be organized to provide outpatient services for treating mental health conditions, substance use disorders, or both, and (2) the PA must have entered into a supervisory agreement with a physician who is employed by the same practice.

Under current law, PAs cannot generally prescribe schedule II controlled substances, other than in limited amounts for terminally ill patients. A location-based exception exists that allows PAs to prescribe schedule II controlled substances to nonterminal patients. This exception applies to locations such as hospitals, nursing homes, and federally qualified health centers. It also allows such prescribing by PAs at medical practices, but only if (1) the practice is comprised of one or more physicians who also are owners of the practice, (2) the practice is organized to provide direct patient care, and (3) the PA has entered into a supervisory agreement with at least one of the physician owners who practice at that site. The bill creates an additional medical practice location from which PAs can prescribe schedule II controlled substances.

Certified mental health assistants

(R.C. Chapter 4772; conforming changes in numerous other R.C. sections; Sections 130.120 to 130.125)

Certified mental health assistant licensure

The bill establishes licensure for a new type of mental health professional. Under the bill, a certified mental health assistant (CMHA) is an individual who provides mental health care under the supervision, control, and direction of a physician with whom the CMHA has entered into a supervision agreement. A CMHA may practice in any setting within which a supervising physician has supervision, control, and direction of the CMHA.[147] A supervising physician may be a physician authorized to practice medicine and surgery or osteopathic medicine and surgery.[148]

Services that may be performed by a CMHA

The bill authorizes a CMHA to perform the following services authorized by the supervising physician that are part of the supervising physician's normal course of practice and expertise:[149]

1. Ordering diagnostic, therapeutic, and other medical services as appropriate based on the patient's diagnosis that has been made by the supervising physician;

2. Ordering, prescribing, personally furnishing, and administering drugs and medical devices as provided in the bill and discussed below;

3. Prescribing physical therapy or referring a patient to physical therapy, if related to the patient's diagnosis, or, in accordance with continuing law, provide services as an athletic trainer;[150]

4. Ordering occupational therapy or referring a patient to occupational therapy, if related to the patient's diagnosis;

5. Referring a patient to emergency medical services for acute safety concerns, so long the CMHA consults with the supervising physician as soon as practicable thereafter;

6. Referring a patient for voluntary or involuntary admission for substance use disorder treatment or inpatient psychiatric care, but only after consulting with the supervising physician; and

7. Performing any other services specified by the State Medical Board in rules.

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[147] R.C. 4772.01(A), 4772.09(A) and (B), 4772.11(A).

[148] R.C. 4772.01(E).

[149] R.C. 4772.09(C).

[150] See also R.C. 4755.48 and 4755.623.

Additionally, a CMHA may provide telehealth services in accordance with existing law that establishes standards for telehealth services for various health care professionals.[151]

Delegation of tasks

The bill authorizes CMHAs to delegate the performance of a task to implement a patient's care plan and, if certain conditions are met, delegate administration of a drug. The CMHA must be physically present at the location where the task is performed or the drug is administered. Before making such a delegation, the CMHA must determine that the task or drug is appropriate for the patient and the person to whom the delegation is made may safely perform the task or administer the drug. Generally, the delegation may be to any person.[152]

There are certain conditions that must be met for a CMHA to delegate administration of a drug, as follows:[153]

- The CMHA is granted physician-delegated prescriptive authority by the supervising physician and be authorized to prescribe the drug to be administered;
- The drug is not a controlled substance;
- The drug is not administered intravenously; and
- The drug is not administered in a hospital inpatient care unit, hospital emergency department, freestanding emergency department, or ambulatory surgical facility.

Prohibited services

A CMHA is prohibited from doing any of the following:[154]

1. Making an initial diagnosis;

2. Treating a patient for any diagnosis or condition not found in the most recent version of the Diagnostic and Statistical Manual of Mental Disorders (DSM) published by the American Psychiatric Association; and

3. Engaging in electroconvulsive therapy, transcranial magnetic stimulation, or any other intervention designated as invasive by Medical Board rules.

Supervision agreements

The bill requires a physician to enter into a supervision agreement with each CMHA who will be supervised by the physician. A supervision agreement can apply to one or more CMHAs, but generally may not apply to more than one physician, unless the physician chooses to designate in the supervision agreement other physicians to act as alternate supervising

[151] R.C. 4772.091 and 4743.09; see also R.C. 5164.95.

[152] R.C. 4772.092(A), (B), and (D).

[153] R.C. 4772.092(C).

[154] R.C. 4772.09(D); see also R.C. 4772.11(A)(2).

physicians. The supervision agreement must clearly state that the supervising physician is legally responsible and assumes legal liability for the services provided by the CMHA. It must be signed by the supervising physician and the CMHA. A supervision agreement may be amended.[155]

A supervision agreement must include the following terms:[156]

1. The responsibilities to be fulfilled by the supervising physician and the CMHA;

2. Any limitations on the responsibilities to be fulfilled by the CMHA; and

3. The circumstances under which the CMHA is required to refer a patient to the supervising physician.

The Medical Board, pursuant to an adjudication conducted in accordance with the Administrative Procedure Act, may take disciplinary action and impose a civil penalty against a CMHA that practices, or a supervising physician that supervises, in a manner that departs from, or fails to conform to, the terms of a supervision agreement, or otherwise fails to comply with the requirements for supervision agreements discussed above.[157]

Supervision requirements

Communication

Generally, the bill requires that a supervising physician must be continuously available for direct communication with a CMHA, either by being physically present where the CMHA is practicing or being readily available through telecommunication being located within a distance of where a CMHA is practicing such that the physician can reasonably assure proper care of patients. During the first 500 hours of practice, however, the supervising physician must be physically present at the location where the CMHA is practicing. This does not require the physician to be in the same room as the CMHA.[158]

Diagnosis and reevaluation

As discussed above, the supervising physician must initially diagnose a patient with a diagnosis or condition found in the DSM prior to a CMHA providing services to a patient. After the initial diagnosis, the supervising physician must personally and actively review the CMHA's professional activities at least weekly.[159] A patient must be reevaluated by the supervising physician at least every two years, or sooner if there is a significant change in the patient's

[155] R.C. 4772.10(A) and (B)(5) and (C); see also R.C. 4772.11(F).

[156] R.C. 4772.10(B).

[157] R.C. 4772.10(E).

[158] R.C. 4772.11(A)(1).

[159] R.C. 4772.11(A)(2) and (3)(a).

condition or possible change in diagnosis. Additionally, annual reevaluation is required if the CMHA prescribes a controlled substance to the patient.[160]

Quality assurance and review

The supervising physician must ensure a quality assurance system is implemented and maintained with respect to each CMHA the physician supervises. The supervising physician must regularly perform other reviews of the CMHA that the supervising physician considers necessary.[161]

A quality assurance system that is required under the bill must describe a process for all of the following:[162]

- Routine review by the supervising physician of selected patient record entries and medical orders made by the CMHA;
- Discussion of complex cases;
- Discussion of new medical developments relevant to the practice of the supervising physician and CMHA;
- Performance of quality assurance activities required in rules adopted by the Medical Board; and
- Performance of any other quality assurance activities that the supervising physician considers to be appropriate.

Supervising physicians and CMHAs must keep records of quality assurance activities and make them available to the Medical Board on request.[163]

Limit on the number of CMHAs that may be supervised at one time

While a physician may enter into supervision agreements with unlimited CMHAs, a physician can only supervise up to five CMHAs at one time.[164]

Liability – termination of agreement

The bill states that a supervising physician assumes liability for the services provided by a CMHA while the supervision agreement is pending. A supervising physician is not liable for any services provided by a CMHA after the supervision agreement expires or is terminated.[165]

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[160] R.C. 4772.11(A)(3)(b).

[161] R.C. 4772.11(A)(4) and (5).

[162] R.C. 4772.11(E)(2).

[163] R.C. 4772.11(E)(3).

[164] R.C. 4772.11(B).

[165] R.C. 4772.11(F).

Physician-delegated prescriptive authority

A licensed CMHA is authorized to prescribe and personally furnish drugs and therapeutic devices in the exercise of physician-delegated prescriptive authority. The prescriptive authority may be exercised only to the extent that that it is granted by the supervising physician. A CMHA must comply with all conditions placed on the prescriptive authority by the supervising physician. Examples of conditions that may be placed on the prescriptive authority include (1) identifying drugs and therapeutic devices that the physician chooses not to permit the CMHA to prescribe, (2) limits on dosage units and refills that may be prescribed, (3) circumstances for required physician referral, and (4) any other responsibilities a supervising physician must fulfill.[166]

Controlled substances

Controlled substances that may be prescribed

If a CMHA has physician-delegated prescriptive authority for controlled substances, the CMHA must register with the federal Drug Enforcement Administration. Only the following controlled substances may be prescribed by a CMHA:[167]

1. Buprenorphine, but only for patients actively engaged in opioid use disorder treatment;

2. Benzodiazepines, but only for patients diagnosed with chronic anxiety disorders or acute anxiety or agitation (in the latter case, only in an amount indicated for a period of seven or less days); and

3. FDA-approved stimulants for the treatment of attention deficit hyperactivity disorder (ADHD), but only if the supervising physician has diagnosed the patient with, or confirmed the diagnosis of, ADHD.

If a CMHA has physician-delegated prescriptive authority to prescribe a minor an opioid analgesic, the CMHA must comply with existing law that requires a discussion of risks and guardian consent.[168]

Regarding buprenorphine for use in medication-assisted treatment, the Medical Board is required to adopt rules establishing standards and procedures a CMHA must follow, including related to detoxification, relapse prevention, patient assessment, individual treatment planning, counseling and recovery supports, diversion control, and other related topics. The rules may apply to all circumstances, or only to prescribing in office-based practices or other specified practice locations. The rules must be consistent with rules previously adopted for advanced practice registered nurses, physician assistants, and physicians.[169]

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[166] R.C. 4772.12(A) and (B).

[167] R.C. 4772.13(A); see also R.C. 3719.06(A)(4).

[168] R.C. 4772.12(B)(4), citing R.C. 3719.061, not in the bill.

[169] R.C. 4772.13(D)(2).

Compliance with OARRS

Similar to other prescribers, a CMHA must comply with the following before prescribing a controlled substance:[170]

- Before the initial prescription, request from the Pharmacy Board's drug database, known as OARRS, a report related to the patient covering the past 12 months;
- If the patient's course of treatment continues for more than 90-days after the initial report, make periodic requests for OARRS reports until the treatment has ended, at least every 90 days; and
- Assess the requested reports and document it in the patient's record.

The above provisions do not apply in various enumerated circumstances, such as when a drug is prescribed for less than seven days, to a hospice patient in a hospice care program, or for administration in a hospital, nursing home, or assisted living facility.[171]

The Medical Board is required to adopt rules related to OARRS requirements.[172]

Other provisions related to prescribing

Similar to other prescribers, such as physician assistants, the bill includes provisions related to:

- CMHAs personally furnishing to patients samples of drugs and therapeutic devices that are included in the CMHA's physician-delegated prescriptive authority;[173]
- CMHAs personally furnishing to patients complete or partial supplies of drugs and therapeutic devices that are included in the CMHA's physician-delegated prescriptive authority;[174]
- CMHAs treating patients with medication-assisted treatment, and prerequisites in existing law that must be met;[175]
- CMHAs personally furnishing supplies of naloxone and prescriptions for naloxone, and authorizing it to be furnished or administered in accordance with protocols.[176]

[170] R.C. 4772.13(B).

[171] R.C. 4772.13(C).

[172] R.C. 4772.13(D)(1).

[173] R.C. 4772.14(A); see also R.C. 3719.81.

[174] R.C. 4772.14(B).

[175] R.C. 4772.15 and 3719.064; see also R.C. 4729.553, regarding office-based opioid treatment.

[176] R.C. 3715.50 to 3715.503; see also R.C. 4729.29 and 4729.514.

The bill includes corresponding changes to Ohio's criminal drug laws and pharmacy laws related to CMHA authority to possess, prescribe, furnish, administer, and sell drugs under the bill.[177]

License issuance and renewal

Application and education requirements

An individual who seeks a CMHA license must file a written application with the Medical Board. The application must include an application fee to be specified by the Board in rules.[178]

To be eligible for a CMHA license, an applicant must be 18 years old or older and meet one of the following education requirements:[179]

1. Hold a master's degree or higher from an education program approved by the Medical Board under the bill; or

2. Hold a diploma from an accredited medical school or osteopathic medical school and have completed 12 months of coursework from an education program approved by the Board under the bill.

A CMHA applicant also must comply with existing law regarding criminal records checks for professional licenses.[180]

Renewal

A CMHA license is valid for two years, unless earlier revoked or suspended.[181] A license may be renewed for additional two-year periods. The Medical Board must provide licensees with renewal notices at least one month before expiration. The biennial renewal fee is to be specified by the Board in rules. Self-reporting of any criminal offense that is grounds for refusing to issue a license under the bill is required as part of the renewal application. A renewal applicant must comply with continuing education requirements, discussed below.[182]

Similar to other licensees the Medical Board regulates, the bill includes provisions related to the automatic suspension of licenses not renewed, and reinstatement and restoration of those licenses.[183]

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[177] R.C. 2925.01, 2925.02, 2925.03, 2925.11, 2925.12, 2925.14, 2925.23, 2925.36, 2925.55, 2925.56, 4729.01, and 4729.51.

[178] R.C. 4772.04(A); See also R.C. 4772.26, regarding fees.

[179] R.C. 4772.04(B).

[180] R.C. 4772.041 and 4776.01; R.C. 4776.02 to 4776.04.

[181] R.C. 4772.06.

[182] R.C. 4772.08(A) to (C).

[183] R.C. 4772.08(E); See also R.C. 4772.082, regarding restoration of licenses.

Continuing education

Requirements

To be eligible for license renewal, a CMHA that has been granted physician-delegated prescriptive authority must (1) complete every two years at least 12 hours of continuing education in pharmacology through a Medical Board-approved program or course and (2) if the CMHA prescribes opioid analgesics or benzodiazepines, certify the CMHA has been granted access to the OARRS drug database, unless the Pharmacy Board has notified the Medical Board that the CMHA has been restricted from obtaining information from OARRS, the Pharmacy Board no longer maintains the drug database, or the CMHA does not practice in Ohio.[184]

The Medical Board may establish additional continuing education requirements in rules.[185]

Reductions and extensions

The Medical Board must provide for pro rata reductions for continuing education in pharmacology for CMHAs who have been disabled or absent from the country. It also must grant reporting extensions for CMHA serving on active duty during a reporting period.[186]

Investigating compliance

The Medical Board may investigate continuing education compliance though random sampling and other means. If the Board finds a violation, it may take disciplinary action in accordance with the Administrative Procedure Act or permit the individual to agree to complete the continuing education and pay a civil penalty. A civil penalty cannot exceed $5,000.[187]

Duplicate license

The bill requires the Medical Board, if requested by a CMHA, to issue a duplicate license to replace one that is missing or damaged, to reflect a name change, or for other reasonable cause. The duplicate license fee is $35.[188]

Approval of CMHA education programs

The bill requires the Medical Board to approve education programs for CMHAs. To be eligible for Board-approval, an education program must be accredited by a Board-recognized organization that is qualified to accredit mental health educational programs and include courses in the following areas:[189]

- Psychiatric diagnoses included in the DSM;

[184] R.C. 4772.081(A).

[185] R.C. 4772.081(C).

[186] R.C. 4772.081(A)(1) and (B) and 5903.12.

[187] R.C. 4772.08(D) and (F).

[188] R.C. 4772.07.

[189] R.C. 4772.05.

- Laboratory studies;
- Medical conditions that mimic or present as psychiatric conditions;
- Medical conditions associated with psychiatric conditions or treatment;
- Psychopharmacology;
- Psychosocial interventions;
- Conducting suicide and homicide risk assessments;
- Forensic issues in psychiatry, including involuntary hospitalization and mandated treatment;
- Basic behavioral health counseling;
- Clinical experiences in inpatient psychiatric units, outpatient mental health clinics, psychiatric consultation and liaison services, and addiction services; and
- Any other area established by rules.

The Medical Board may establish additional standards by rule.

Discipline

Against CMHAs

The Medical Board, by an affirmative vote of at least six members, may take various disciplinary actions against CMHAs, including limiting, revoking, and suspending licenses, refusing to issue, renew, or reinstate them, and reprimanding license holders. The reasons discipline may be imposed are similar to reasons for discipline for other health care professionals regulated by the Board. Generally, disciplinary actions must be taken pursuant to an adjudication under the Administrative Procedure Act.[190]

Also pursuant to an adjudication under the Administrative Procedure Act, in addition to the discipline described above, the Medical Board may impose civil penalties against CMHAs for violations of the bill's provisions. The amount of a civil penalty is to be determined by the Board in accordance with guidelines adopted by the Board, but cannot exceed $20,000.[191]

The bill addresses numerous other matters related to professional discipline in the standard manner that current law addresses those matters for other Medical Board licensees, such as physicians and physician assistants. These matters include:

[190] R.C. 4772.20(A) to (F).

[191] R.C. 4772.203.

- Consent agreements, Board-ordered mental and physical examinations of CMHAs, summary license suspensions in the case of a danger of immediate and serious harm to the public, and automatic license suspensions due to certain criminal convictions;[192]
- The handling of CMHAs in default of child support orders;[193]
- Probate court adjudications of mental illness or mental incompetence of a CMHA;[194]
- Board investigations of evidence related to violations of the bill's provisions, including subpoena powers, confidentiality of investigatory information, and quarterly Board reports concerning cases being investigated;[195]
- Prosecutor reporting of CMHA convictions related to sex offenses, drug offenses, or controlled substances violations, as well as prosecutor reporting of CMHA (1) convictions or procedural dismissals for other felonies and (2) misdemeanors committed in the course of practice or involving moral turpitude;[196]
- Reporting by health care facilities that take formal disciplinary actions against a CMHA;[197]
- Reporting by CMHAs, physicians, or professional associations or societies of CMHAs or physicians that believe a violation of the bill's provisions has occurred;[198]
- Reporting by CMHA professional associations or societies that suspend or revoke a CMHA's membership for violations of professional ethics, or reasons of professional incompetence or malpractice;[199]
- Reporting by insurers providing professional liability insurance to CMHAs for final dispositions resulting in damages over $25,000;[200]
- Enforcement of the bill's provisions by the secretary of the Medical Board;[201] and
- Injunctions against unlicensed CMHA practice.[202]

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[192] R.C. 4772.20(D) and (G) to (N); See also R.C. 3719.121.

[193] R.C. 4772.201; R.C. 3123.41 to 3123.50, not in the bill.

[194] R.C. 4772.202.

[195] R.C. 4772.21; See also R.C. 3719.13.

[196] R.C. 4772.22 and 2929.42.

[197] R.C. 4772.23(A).

[198] R.C. 4772.23(B).

[199] R.C. 4772.23(C).

[200] R.C. 4772.23(D).

[201] R.C. 4772.24.

[202] R.C. 4772.25.

Against supervising physicians

The bill authorizes the Medical Board to take any of the disciplinary action authorized under current law against a supervising physician who fails to maintain supervision of a CMHA in accordance with the bill's requirements.[203]

Criminal penalties

Prohibited conduct

The bill prohibits a nonlicensed CMHA from holding that person's self out as being able to function as a CMHA, or using words or letters indicating or implying that the person is a CMHA. It prohibits any person from practicing as a CMHA without the supervision, control, and direction of a physician, and without entering into a supervision agreement. It also prohibits the advertising of CMHA services, except when seeking employment, and prohibits a CMHA from failing to wear identification as a CMHA while practicing.[204]

Regarding physicians, the bill prohibits a supervising physician from authorizing a CMHA to perform services that are not within the physician's normal course of practice and expertise or that are inconsistent with the supervision agreement.[205]

Penalties

The bill specifies that a violation of any of the above "**Prohibited conduct**" is a first degree misdemeanor on the first offense, and a fourth degree felony for each subsequent offense.[206]

Additionally, the bill criminalizes violations of reporting duties, as described above, by health care facilities that take formal disciplinary actions against a CMHA; by CMHAs, physicians, or professional associations or societies of CMHAs or physicians that believe a violation of the bill's provisions has occurred; by CMHA professional associations or societies that suspend or revoke a CMHA's membership; and by insurers providing professional liability insurance to CMHAs. Those violations are a minor misdemeanor on the first offense, and a fourth degree misdemeanor on subsequent offenses, except that an individual guilty of a subsequent offense is not subject to imprisonment, but rather, only a fine of up to $1,000 for each offense.[207]

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[203] R.C. 4731.22(B)(55).

[204] R.C. 4772.02(A) through (C) and (E) and (F).

[205] R.C. 4772.02(D).

[206] R.C. 4772.99(A).

[207] R.C. 4772.99(B), citing R.C. 4772.23(A) through (D).

Rulemaking

As discussed in greater detail above, the bill requires the Medical Board to adopt rules related to the licensure of CMHAs. The rules must be adopted in accordance with the Administrative Procedure Act.[208]

Bill interpretation

The bill provides that it should not be construed to affect or interfere with the practice of medical personnel in the military or U.S. Veterans Administration employees. The bill does not prevent other individuals from performing services a CMHA is authorized to perform, if those services are within the individual's scope of practice under other Ohio laws. The bill does not prevent a physician from delegating to nurses and other qualified persons, so long as the physician does not hold the delegate out to be a CMHA. The bill should not be construed as authorizing a CMHA to independently order or direct the execution of procedures to a registered nurse or licensed practical nurse, except to the extent the CMHA is authorized to do so by a physician who is responsible for supervising the CMHA.[209]

Miscellaneous provisions

The bill adds CMHAs to various other provisions of Ohio law that apply to other types of health care providers. The provisions include:

1. Providing immunity to volunteer health care providers rendering care to indigent uninsured individuals;[210]

2. Liability of mental health professionals for failing to warn of violent behaviors of clients under certain circumstances;[211]

3. Patient requests for copies of medical records;[212]

4. Providing immunity for health care providers donating, accepting, or dispensing drugs under the drug repository program;[213]

5. Reporting to the Medical Board violation of certain health care professional licensing laws;[214]

[208] R.C. 4772.19.

[209] R.C. 4772.03.

[210] R.C. 2305.234.

[211] R.C. 2305.51.

[212] R.C. 3701.74.

[213] R.C. 3715.872.

[214] R.C. 4731.224.

6. Medical Board programs for practitioners suffering impairment of practice due to habitual or excessive use or abuse of drugs or alcohol;[215] and

7. Continuing education extensions for active duty military.[216]

Practice of acupuncture and herbal therapy

(Repealed R.C. 4762.11 and 4762.12; R.C. 2919.171, 2919.202, 4731.22, 4734.31, 4762.02, 4762.10, and 4762.19)

The bill permits a licensed acupuncturist to practice herbal therapy if the acupuncturist has received a certification from the National Certification Commission for Acupuncture and Oriental Medicine in Chinese herbology or oriental medicine. The bill does not, however, prohibit unlicensed individuals from practicing herbal therapy, so long as such individuals do not represent themselves as licensed to practice herbal therapy.

The bill eliminates an existing one-year supervisory period for newly licensed acupuncturists. To practice during the supervisory period, a referral or prescription from a physician or chiropractor is required and the practice must be under the general supervision of the referring or prescribing physician or chiropractor. The bill eliminates those requirements and makes conforming changes related to a supervising physician or chiropractor's duties and reimbursement allowances.

Finally, the bill removes outstanding references to "oriental medicine" or "oriental medicine practitioner" in the sections that are amended as described above. The change is related to a previous elimination of Medical Board licensure for oriental medicine practitioners from H.B. 442 of the 133rd General Assembly. Due to that previous elimination, most references to "oriental medicine" or "oriental medicine practitioners" in the Revised Code are obsolete.[217]

Subpoenas for patient record information

(R.C. 4730.26, 4731.22, 4759.05, 4760.14, 4761.03, 4762.14, 4774.14, and 4778.18)

The bill eliminates requirements that the supervising member of the Medical Board approve the issuance of subpoenas for patient record information and be involved in probable cause determinations related to such subpoenas. Under current law, both the supervising member and the secretary of the Board must be involved in such approvals and determinations, but under the bill, the secretary of the Board is solely responsible.

Time limit to issue adjudicative order

(R.C. 4730.25)

The bill increases the time the State Medical Board has to issue a final adjudicative order related to the summary suspension of a physician assistant's license to 75 days, up from 60.

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[215] R.C. 4731.25 and 4731.251.

[216] R.C. 5903.12.

[217] See R.C. 4762.011, not in the bill.

Public address information for licensees

(R.C. 4731.07 and 4731.071; conforming change in R.C. 2305.113)

The bill makes two changes regarding address information for licensees of the Medical Board:

1. It eliminates a requirement that the Board's public directory of licensees include a licensee's contact information, and instead requires it to include the licensee's business address;

2. It eliminates a requirement that the Board's register of applicants and licensees show the residential address of an applicant to practice respiratory care.

Legacy Pain Management Study Committee

(Section 335.20)

The bill establishes the Legacy Pain Management Study Committee to study and evaluate the care and treatment of patients suffering from chronic or debilitating pain, in particular those who have been prescribed opioids for lengthy periods of time, often referred to as legacy patients.

By December 1, 2024, the Committee must prepare and submit to the General Assembly a report of its recommendations for legislation addressing the care and treatment of legacy patients. The Committee ceases to exist on the submission of its report.

Membership

The Committee consists of the following nine members, each of whom must be appointed not later than 30 days after the bill's effective date:

- Four members of the 135th General Assembly, two appointed by the Speaker of the House and two by the Senate President;
- The Director of OhioMHAS or Director's designee;
- The President of the State Medical Board of Ohio or President's designee;
- The Executive Director of the Board of Pharmacy or Executive Director's designee;
- Two public members, one representing patients appointed by the Speaker and the other representing prescribers appointed by the Senate President.

Chairperson and meetings

Members are to select a chairperson from among the Committee's membership. The Committee must meet as necessary to satisfy the bill's requirements. The Medical Board is to provide to the Committee the administrative support necessary to execute its duties.

Topics for study and evaluation

In conducting the required study and evaluation, the Committee is to consider all of the following topics relating to legacy patients:

- The needs of patients experiencing chronic or debilitating pain;

- The challenges associated with tapering opioid doses for pain patients and the need for flexibility and tapering pauses when treating such patients;
- The ways in which communications between patients and prescribers can be improved;
- The availability of and patient access to pain management specialists;
- Any other topic the Committee considers relevant.

DEPARTMENT OF MENTAL HEALTH AND ADDICTION SERVICES

Certification of addiction and mental health services

- Authorizes the Ohio Department of Mental Health and Addiction Services (OhioMHAS) to specify by rule the mental health services and alcohol and drug addiction services that must be certified, makes failing to meet the certification requirement a crime, and eliminates a statutory list of specific types of alcohol and drug addiction services that must be certified by OhioMHAS.
- Eliminates an option to have a provider's certifiable services and supports accredited by a national accrediting organization in lieu of having OhioMHAS determine whether OhioMHAS's standards for certification have been satisfied; instead, requires providers to hold national accreditation as part of qualifying for certification by OhioMHAS.
- Creates an exemption to the above-described accreditation requirement for providers of prevention services.
- Establishes, in addition to the accreditation requirement, both of the following as conditions for certification: that an applicant (1) be adequately staffed and equipped to operate and (2) not have been subject to adverse action during the three-year period immediately preceding the application date.

ADAMHS board notification regarding community service providers

- Permits an ADAMHS board to provide input and recommendations to OhioMHAS when an application for initial or renewed certification has been submitted or when a provider is being investigated, if the board is aware of information that would be beneficial to the matter.
- Requires OhioMHAS to notify the applicable ADAMHS board within 14 days of receipt of an initial or renewal application for certification and, upon the board's request, provide a copy of the application.
- Requires OhioMHAS to notify the ADAMHS board within 30 days if it refuses certification, refuses renewal, or revokes a certification.
- Requires OhioMHAS to notify the ADAMHS board within ten business days after initiating an investigation of a provider if the board requests that OhioMHAS investigate the provider.
- Requires OhioMHAS to notify the ADAMHS board within three business days if OhioMHAS begins an investigation for any other reason.
- In either event of an investigation, requires OhioMHAS to inform the board of the status and final disposition of the investigation, upon the board's request.

Statistics supplied by providers

- Eliminates a criminal penalty for failure of a community addiction services provider or community mental health services provider to supply statistics and other information to OhioMHAS; instead, authorizes imposition of fines.

ADAMHS board contracts for services and supports

- Authorizes a board of alcohol, drug addiction, and mental health services (ADAMHS board), when contracting with community addiction and mental health services providers, to contract with providers that are government entities, for-profit entities, or nonprofit entities.
- Authorizes entities that are contracted with to be faith-based.

ADAMHS board publishing of opioid treatment programs

- Requires each ADAMHS board to annually update and publish on the board's website a list of all licensed opioid treatment programs operating within the board's district.

Withdrawal from a joint-county ADAMHS district

- Requires a board of county commissioner's comprehensive plan for withdrawal from a joint-county alcohol, drug addiction, and mental health service district ("joint-county district") to include additional information about the new district and its continuation of services.
- Requires the Director of the Ohio Department of Mental Health and Addiction Services (OhioMHAS) to approve the comprehensive plan within one year from the date the board adopts the resolution to withdraw.

Composition and appointment of ADAMHS boards

- Modifies the composition and appointment of boards of alcohol, drug addiction, and mental health services (ADAMHS boards) as follows:
  - Permits ADAMHS boards to have 18, 15, 14, 12, or 9 members, instead of only 18 or 14.
  - Expands the appointment authority of boards of county commissioners to two-thirds of ADAMHS board seats, and, proportionally reduces the appointment authority of the OhioMHAS Director to one-third of ADAMHS board seats.
- Permits the appointing authority to remove an ADAMHS board member at will, instead of for enumerated causes, and specifies that the pre-removal hearing be public.

ADAMHS board executive director

- Clarifies that the current authority of an ADAMHS board to remove its executive director for cause applies at any time, contingent upon any written contract between the board and the executive director.

Reports involving ADAMHS boards

- Eliminates the requirement that ADAMHS boards take certain actions based on data in monthly reports from community addiction services providers, made available to the boards by OhioMHAS.
- Removes obsolete provisions describing past local and statewide reports regarding each ADAMHS board's work on the existing county hub program to combat opioid addiction.

Exchange of Medicaid recipient information with ADAMHS boards

- Requires OhioMHAS and ODM to adopt rules establishing requirements and procedures for the exchange of Medicaid recipient data between ADAMHS boards and ODM.
- Requires the data to be exchanged accordingly.
- Requires OhioMHAS and ODM to each submit a report with specified information regarding the data exchange requirements and procedures.

Conditions of licensure – hospitals and residential facilities

- Requires a hospital or residential facility applicant, when applying for initial licensure or a renewal, to notify OhioMHAS of any adverse action taken against the applicant during the three-year period immediately preceding the application date.
- Establishes, as a condition of hospital and residential facility licensure, that an applicant be adequately staffed and equipped to operate.

Residential facility exemption from home health licensure

- Exempts from existing home health licensing requirements a residential facility that is licensed by OhioMHAS.

Monitoring of recovery housing residences

- Requires OhioMHAS to monitor the operation of recovery housing residences by either establishing a certification process through OhioMHAS or accepting accreditation, or its equivalent, from outside organizations specified in the bill.
- Beginning January 1, 2025, prohibits the operation of a recovery housing residence unless the residence is certified or accredited, as applicable, or actively in the process of obtaining certification or accreditation.
- Requires OhioMHAS to establish and maintain a registry of recovery housing residences.

Terminology regarding alcohol use disorder

- Replaces Revised Code references to "alcoholism" with "alcohol use disorder"; eliminates references to "alcoholic."
- Repeals an obsolete statute referring to alcohol treatment and control regions, which were abolished in 1990.

Behavioral health drug reimbursement program

- Combines two drug reimbursement programs administered by OhioMHAS into one behavioral health drug reimbursement program.
- Expands the new combined program to provide reimbursement for certain drugs that are administered or dispensed to individuals who are confined in community-based correctional facilities, in addition to continuing reimbursement for drugs administered or dispensed to inmates of county jails.

Substance use disorder treatment in drug courts

- Continues an OhioMHAS program to provide addiction treatment to persons with substance use disorders through drug courts with programs using medication-assisted treatment.
- Requires community addiction services providers to provide specified treatment to the program participants based on the individual needs of each participant.

Electroencephalogram (EEG) Combined Transcranial Magnetic Stimulation Program

- Requires the Director of Mental Health and Addiction Services to continue the Electroencephalogram (EEG) Combined Transcranial Magnetic Stimulation Program, which previously has been administered as a pilot program by the Director jointly with the Director of Veterans Services.
- Expands the program's eligibility criteria.
- Specifies that the program's operation is contingent upon an appropriation by the General Assembly designated for that purpose.

Mental health crisis stabilization centers

- Continues the requirement that ADAMHS boards establish and administer, in collaboration with the other ADAMHS boards that serve the same state psychiatric hospital region, six mental health crisis stabilization centers and substance use disorder stabilization centers.

Incompetency to stand trial

- Allows a defendant to complete outpatient competency restoration at a jail that employs or contracts with OhioMHAS, a public or community health facility, or a psychiatrist or another mental health professional to provide treatment or continuing evaluation and treatment at a jail.
- Allows a defendant who the court orders to undergo treatment and evaluation to be committed to a jail that employs or contracts with OhioMHAS, a public or community health facility, or a psychiatrist or another mental health professional to provide treatment or continuing evaluation and treatment at a jail.

Certification of addiction and mental health services

(R.C. 5119.35, 5119.36, 5119.367, and 5119.99; repealed R.C. 5119.361)

Services that must be certified

In the case of mental health services, current law does not directly require the services to be certified by the state, and in the case of addiction services, only a specific set of services are subject to direct certification requirements with criminal penalties for failing to comply. Instead, current law bases the certification of "certifiable services and supports" on eligibility for government funding. These certifiable services and supports are described as mental health services, alcohol and drug addiction services, and the types of recovery supports specified in rules adopted by the Director of the Ohio Department of Mental Health and Addiction Services (OhioMHAS). The government funds involved are described as state funds, federal funds, or funds administered by an alcohol, drug addiction, and mental health services (ADAMHS) board.

In place of the existing enforcement system for certification of services, the bill requires a person or government entity, as a condition of providing a mental health service or alcohol and drug addiction service, to have the service certified by OhioMHAS if the Director has adopted rules specifying it as a service that must be certified. Adoption of the rules is permissive.

As part of authorizing the OhioMHAS Director to adopt rules specifying services that are subject to certification, the bill eliminates a statutory list of alcohol and drug addiction services that must be certified by OhioMHAS. The eliminated list consists of:

- Withdrawal management addiction services provided in a setting other than an acute care hospital;
- Addiction services provided in a residential treatment setting;
- Addiction services provided on an outpatient basis.

Current law contains two exemptions from certification of the services identified above. Those exemptions apply under the bill to the services that may be specified in rules as requiring certification. The bill also adds an exemption for federally qualified health centers and federally qualified health center look-alikes.

The bill eliminates an existing criminal penalty (fifth degree felony) for violating the certification requirement in existing law as described above, and does not impose a criminal penalty for violating the modified certification requirement in the bill. Instead, if the OhioMHAS Director determines that a person or government entity is violating the bill's certification requirement, the Director may request, in writing, that the Attorney General petition an appropriate court of common pleas to enjoin the person or government entity from continuing to violate the certification requirement.

The bill maintains, with modifications, law establishing certification as a condition of eligibility for federal or state funds or funds administered by an ADAMHS board.

Any rules the OhioMHAS Director adopts to specify services that are required to be certified must be adopted in accordance with the Administrative Procedure Act (R.C. Chapter 119).

Standards for certification

Accreditation required

The bill eliminates an option to have a provider's certifiable services and supports accredited by a national accrediting organization in lieu of having OhioMHAS determine whether its standards for certification have been satisfied. Instead, the bill requires providers to hold national accreditation as part of qualifying for certification by OhioMHAS. The bill specifies that OhioMHAS' certification standards apply to both initial certification and certification renewal. The bill creates an exemption from accreditation for providers of prevention services, which are planned strategies designed to reduce the likelihood of or delay the onset of mental, emotional, and behavioral disorders.[218] Under the bill, accreditation is optional for prevention services providers, but the requirements for certification by OhioMHAS otherwise apply.

Under the bill, instead of requiring the OhioMHAS Director to evaluate applicants to determine whether the applicant's certifiable services and supports satisfy the standards established by rules, the Director must determine whether the applicant meets the following:

- For an initial applicant, the applicant must be accredited by one of the following: the Joint Commission, the Commission on Accreditation of Rehabilitation Facilities, the Council on Accreditation, or any other national accrediting organization the Director considers appropriate. Under current law, accreditation is not required but is an option the Director must accept in lieu of determining if the applicant meets OhioMHAS standards for certification.
- For a renewal applicant, beginning October 1, 2025, the applicant must be accredited by one of the organizations identified above. Prior to that date, for the Director may follow current law to evaluate renewal applicants.
- For an initial applicant and a renewal applicant, in addition to being accredited, the applicant must meet both of the following:
  - The applicant and all owners and principals of the applicant must not have been subject to adverse action during the three-year period immediately preceding the date of application, see "**Adverse action**," below;
  - The applicant must be adequately staffed and equipped to provide services.

If the OhioMHAS Director determines that the applicant has paid any required certification fee (exemptions may apply for reasons specified by rule), that the applicant's accreditation is appropriate for the services and supports for which the applicant seeks initial or renewed certification, that the applicant has not been subject to adverse action and is adequately

[218] O.A.C. 5122-29-20.

staffed and equipped as described above, and that the applicant meets any other requirements established by this section or rules, the Director must certify the services and supports or renew certification, as applicable. Subject to the on-site review authority described below, the Director must issue or renew the certification without further evaluation of the services and supports.

Review of accrediting organizations

The OhioMHAS Director may review the accrediting organizations specified above to evaluate whether the accreditation standards and processes used by the organizations are consistent with service delivery models the Director considers appropriate. The Director may communicate to an accrediting organization any identified concerns, trends, needs, and recommendations.

On-site review

The bill authorizes the OhioMHAS Director to conduct an on-site review or otherwise evaluate a community mental health services provider or community addiction services provider at any time based on cause, including complaints by or on behalf of persons receiving services and confirmed or alleged deficiencies brought to the Director's attention. An on-site review may be done in cooperation with an ADAMHS board that seeks to contract or has a contract with the applicant under law related to the board's community-based continuum of care. Any other evaluation must be in cooperation with such a board.

Information provided to Director

The OhioMHAS Director must require a community mental health services provider and a community addiction services provider to notify the Director not later than ten days after any change in the provider's accreditation status.

The Director may require a provider to submit cost reports pertaining to the provider.

Adverse action

The bill requires applicants for initial certification and renewal to notify OhioMHAS of any adverse action taken against the applicant, or any owner or principal of the applicant, within the three-year period immediately preceding the date of the application. The bill defines "adverse action" as an action by a state, provincial, federal, or other licensing or regulatory authority to deny, revoke, suspend, place on probation, or otherwise restrict a license, certification, or other approval to provide certifiable services and supports or an equivalent.

The notification must be provided to OhioMHAS within seven days of its receipt by the applicant, and must include a copy of the notice of adverse action received by the applicant.

As indicated above, to qualify for initial or renewed certification, OhioMHAS cannot have been notified, or otherwise be aware of, an adverse action as described above.

Certification exemption

As detailed above relating to services that must be certified, the bill states that nothing in it should be construed to require a federally qualified health center or federally qualified health center look-alike to seek or obtain certification under the provisions described above.

Rules

Under existing law, the OhioMHAS Director is required to adopt various rules relating to certification. In addition to all of the existing rules that must be adopted, the bill requires rules related to the following:

- Documentation that must be submitted as evidence of holding an appropriate accreditation;
- A process by which the Director may review the accreditation standards and processes used by the national accrediting organizations specified under the bill;
- Any reasons for which an applicant may be exempt from certification and renewal fees;
- Establishing a process by which the Director, based on deficiencies identified as a result of conducting an on-site review or otherwise evaluating a service provider, may take any range of correction actions, including revocation of the provider's certification.

ADAMHS board notification regarding community service providers

(R.C. 340.03 and 5119.36)

The bill includes provisions requiring OhioMHAS to notify alcohol, drug addiction, and mental health services (ADAMHS) boards regarding action the Department takes relating to its certification of the services and supports of community addiction services providers and community mental health services providers. It also requires notification regarding OhioMHAS's investigations of providers. Current law does not address involvement by ADAMHS boards in the certification or investigation process.

Certification

First, the bill permits an ADAMHS board to provide input and recommendations to OhioMHAS when an application for certification or the renewal of a certification has been submitted by a provider, if the board is aware of information that would be beneficial to OhioMHAS's consideration of the matter.

Second, the bill requires the OhioMHAS Director to inform the ADAMHS board serving the alcohol, drug addiction, and mental health service district in which the applicant's certifiable services and supports will be provided within 14 days of receipt of an initial or renewal application. Upon the request of the ADAMHS board, the Director must provide to the board a copy of the application.

Third, the bill requires the Director to notify the applicable ADAMHS board if a provider's certifiable services and supports cease to be certified for any reason. The notice must be given within 30 days after the certification ceases to be valid and must inform the board of the reason and date the certification became invalid. This requirement applies to a lapse in certification for any reason, including if the provider fails to renew the certification before the certification's expiration, the Director accepts the provider's surrender of the certification, or a final order is issued in a disciplinary action brought against the provider.

Finally, under the bill, the Director must notify the applicable ADAMHS board and provide the board opportunity to respond if the Director determines that the provider is out of compliance with the rules relating to certifiable services and supports or has been cited for a pattern of serious noncompliance or repeated violations of the statutes or rules.

Investigation

The bill also includes notification requirements regarding provider investigations by OhioMHAS. If an ADAMHS board requests that OhioMHAS investigate a provider, OhioMHAS must initiate the investigation within ten business days after receiving the request. If the Department initiates an investigation for any other reason, it must notify the applicable ADAMHS board of the investigation and the reason for the investigation within three business days after initiating the investigation. Upon the request of the ADAMHS board, OhioMHAS must provide the board with information specifying the status of the investigation and the final disposition of the investigation.

Statistics supplied by providers

(R.C. 5119.61 and 5119.99)

Related to a current law requirement that community addiction services providers and community mental health services providers supply, upon request of OhioMHAS, statistics and other information related to services provided, the bill eliminates a criminal penalty (fourth degree misdemeanor) for failure to supply those statistics.

Instead, the bill authorizes the OhioMHAS Director to fine a provider for a statistics violation. In determining whether to impose a fine, the Director must consider whether the provider has engaged in a pattern of noncompliance. The fines are $1,000 for the first violation and $2,000 for each subsequent violation. The Director must comply with the Administrative Procedure Act (R.C. Chapter 119) in imposing fines.

ADAMHS board contracts for services and supports

(R.C. 340.036)

Current law requires each ADAMHS board to contract with community addiction services providers and community mental health services providers for addiction services, mental health services, and related recovery supports. Related to those contracts, the bill specifies that an ADAMHS board may contract with a government entity, for-profit entity, or nonprofit entity. Additionally, any such entity may be faith-based.

ADAMHS board publishing of opioid treatment programs

(R.C. 340.08 and 5119.37)

The bill requires each ADAMHS board to annually update and publish on its website a list of all licensed opioid treatment programs operating within the board's district. The list is to be based on information obtained from (1) the federal Substance Abuse and Mental Health Services Administration's opioid treatment program directory, (2) an OhioMHAS-created resource directory, or (3) an OhioMHAS list maintained under existing law related to fines in certain drug trafficking cases that may be used to support eligible community addiction services providers.

Withdrawal from a joint-county ADAMHS district

(R.C. 340.01)

The bill establishes additional requirements for the comprehensive plan a board of county commissioners must submit when requesting withdrawal from a joint-county district for alcohol, drug addiction, and mental health services. Currently, the board of county commissioners of any county in a joint-county district may request withdrawal from the service district by submitting to the OhioMHAS Director, the impacted ADAMHS board, and the boards of county commissioners of each county in the district a resolution requesting withdrawal from the district with a comprehensive plan for the withdrawal. The plan must provide for the equitable adjustment and division of all district services, assets, property, debts, and obligations.

The bill requires the comprehensive plan for withdrawal to include the following additional information:

- Proposed bylaws for the operation of the new district;
- A list of potential board members;
- A list of the behavioral health services available in the new district, including inpatient, outpatient, prevention, and housing services;
- A plan ensuring no disruption in behavioral health services in the new district; and
- Provision for employing an executive director of the new district.

It also sets a deadline by which the OhioMHAS Director must approve the comprehensive plan for withdrawal. Specifically, the plan must be approved within one year of the date the resolution to withdraw was adopted by the board of county commissioners.

ADAMHS board membership

(R.C. 340.02(A) and (B) and 340.022)

The bill makes a number of changes relating to the composition and appointment of ADAMHS board members. As part of those changes, the bill includes associated revisions to eliminate outdated references to dates and prior versions of the statute and to make other adjustments related to statutory reorganization.

Number of board members

The bill creates additional options for the size of ADAMHS boards, which currently can have 18 or 14 members, and allows the size of the boards to be later revised. Former law, which established ADAMHS boards with 18 members, was amended to permit the boards to elect to reduce to 14 members before September 30, 2013. To reduce size in a single-county district, an ADAMHS board was required to notify the board of county commissioners and receive that board's approval. In a joint-county district, a proposed reduction could not occur if the proposal was rejected by a majority of the boards of county commissioners. The ADAMHS board and the one or more boards of county commissioners were required to notify OhioMHAS of an election

to reduce to a 14-member board by January 1, 2014. If notice was timely provided, the ADAMHS board seats reduced from 18 to 14 by attrition as current members' terms expired.

Under the bill, a new ADAMHS board may be established with any of the following number of members:

- 18 members;
- 15 members;
- 14 members;
- 12 members; or
- 9 members.

Similarly, an ADAMHS board that exists on the bill's effective date can continue as an 18-member or 14-member board, or can elect to change to 18, 15, 14, 12, or 9 members.

In a single-county district, the size of the ADAMHS board is determined by the board of county commissioners of the county that constitutes the district. In a joint-county district, the size of the board is determined jointly by all of the boards of county commissioners that constitute the district.

To establish a new ADAMHS board or change the size of an existing ADAMHS board, the one or more relevant boards of county commissioners must adopt a resolution specifying the selected size and notify OhioMHAS of the selection. After the first determination, a resolution regarding an ADAMHS board's size cannot be adopted more than once every four calendar years. Before adopting a resolution to change the size of an ADAMHS board, the board or boards of county commissioners must send a representative to a meeting of the impacted ADAMHS board to solicit feedback about the matter and consider the feedback.

Appointment of board members

(R.C. 340.02(C))

The bill expands the appointment authority of boards of county commissioners to two-thirds of ADAMHS board seats and, proportionally, reduces the appointment authority of the OhioMHAS Director to one-third of the seats. Under current law, the board or boards of county commissioners appoint ten members of 18-member ADAMHS boards and eight members of 14-member boards. The OhioMHAS Director appoints eight members of 18-member boards and six members of 14-member boards.

Removal of board members

The bill permits the appointing authority to remove an ADAMHS board member at will, and it specifies that the pre-removal hearing must be public. Current law permits the appointing authority to remove a board member for neglect of duty, misconduct, or malfeasance in office.

ADAMHS board executive director

(R.C. 340.04)

The bill specifies that the current authority of an ADAMHS board to remove its executive director for cause applies *at any time*, contingent upon any written contract between the board and the executive director.

Reports involving ADAMHS boards

Monthly reports on waiting lists for addiction services

(Repealed R.C. 340.20, with a conforming change in R.C. 5119.363)

The bill eliminates the current requirement that ADAMHS boards take certain actions based on data in monthly reports from community addiction services providers, made available to the boards by OhioMHAS. The required actions involve making a determination from the reports on whether any opioid and co-occurring drug addiction services and recovery supports are not meeting the needs of the ADAMHS board's service district.

Under current law, unchanged by the bill, a community addiction services provider must report monthly to OhioMHAS specified data and information regarding individuals on the provider's wait list. It further requires OhioMHAS to make the reports available electronically to ADAMHS boards, in a manner that provides information about an individual to the individual's ADAMHS board.[219]

County hub program reports

(R.C. 340.30)

The bill removes outdated requirements pertaining to past reports on the county hub program to combat opioid addiction, but does not otherwise alter the operation of the program. The provisions being removed require that:

1. By January 1, 2020, each ADAMHS board submit a report to OhioMHAS summarizing the board's work on, and progress toward, addressing each of the purposes of the county hub program to combat opioid addiction, as enumerated under existing law; and

2. OhioMHAS aggregate the reports and submit a report of statewide data to the Governor and the General Assembly.

Exchange of Medicaid recipient information with ADAMHS boards

(R.C. 340.035 and 5160.45)

The bill requires OhioMHAS and ODM, by December 31, 2024, to develop and implement standards and procedures for the exchange of Medicaid recipient information between ADAMHS

[219] R.C. 5119.362 and 5119.364, not in the bill.

boards and ODM, to the fullest extent permitted by federal law. The information must be exchanged in accordance with those standards and procedures.

By March 31, 2025, each of the departments must prepare a report specifying how the respective department has met the information exchange requirements, the extent to which the department determined that information could be exchanged pursuant to federal law, and the reasoning supporting those determinations. Upon completion of its report, each department must submit the report to the General Assembly.

Conditions of licensure – hospitals and residential facilities

(R.C. 5119.33, 5119.334, 5119.34, and 5119.343)

The bill revises the law governing the licensure of hospitals and residential facilities by OhioMHAS in several ways.

It requires an applicant, when applying for an initial hospital or residential facility license or a renewal, to notify OhioMHAS of any adverse action taken against the applicant during the three-year period immediately preceding the application date. Under the bill, an adverse action is an action by a state, provincial, federal, or other licensing or regulatory authority to deny, revoke, suspend, place on probation, or otherwise restrict a license, certificate, or other approval to operate a hospital or residential facility or practice a health care profession.

The bill allows an initial hospital or residential facility license to be issued only if OhioMHAS has not been notified or is not otherwise aware of an adverse action taken against the applicant during the three-year period. In the case of a residential facility applicant, the bill also includes a provision specifying that the initial license may be issued only if OhioMHAS has not been notified or is not otherwise aware of an adverse action taken against the applicant for resident abuse, neglect, or exploitation.

As part of requiring an applicant to notify OhioMHAS of an adverse action, the bill eliminates current law provisions generally prohibiting an applicant from seeking OhioMHAS licensure if the applicant has been the owner, operator, or manager of a residential facility for which a license to operate was revoked or for which renewal was refused during the two-year period preceding the date of application.

The bill also requires the holder of a hospital or residential facility license to notify OhioMHAS of any adverse action from a licensing or regulatory authority other than OhioMHAS not later than seven days after the holder receives notice of the adverse action.

The bill establishes – as a condition of hospital or residential facility licensure – that an applicant be adequately staffed and equipped to operate. In the case of a residential facility, it must be managed and operated by qualified persons, which is already required of a hospital under current law.

Residential facility exemption from home health licensure

(R.C. 3740.01)

The bill exempts residential facilities that are licensed by OhioMHAS from licensure by the Ohio Department of Health (ODH) under the home health licensing law. It does so by specifying

that an OhioMHAS-licensed residential facility is not a home health agency and a person who operates an OhioMHAS-licensed residential facility on a self-employed basis is not a nonagency provider. Other exemptions in existing law that are continued include exemptions for residential facilities licensed by the Department of Developmental Disabilities and nursing homes and residential care facilities licensed by ODH.

Monitoring of recovery housing residences

(R.C. 5119.39 to 5119.397 and 340.034; related changes in other sections)

The bill requires OhioMHAS to monitor the operation of recovery housing residences by either (1) certifying them or (2) accepting accreditation, or its equivalent, from the Ohio affiliate of the National Alliance for Recovery Residences, Oxford House, Inc., or another organization designated by OhioMHAS.

The bill defines "recovery housing residence" as a residence for individuals recovering from alcohol use disorder or drug addiction that provides an alcohol and drug-free living environment, peer support, assistance with obtaining alcohol and drug addiction services, and other recovery assistance for alcohol use disorder and drug addiction. Under existing law, recovery housing is generally regulated only to the extent that it is required to be included in the community-based continuum of care established by ADAMHS boards. The bill modifies that law by requiring recovery housing residences in the continuum of care to be certified or accredited, as applicable, under the bill.

Prohibitions

The bill prohibits, beginning January 1, 2025, a person or government entity from operating a recovery housing residence unless the residence is (1) certified by OhioMHAS or accredited by one of the organizations identified above, as applicable, or (2) actively engaged in efforts to obtain certification or accreditation and has been in operation for not more than 18 months. The bill permits the OhioMHAS Director to request, in writing, that the Attorney General seek a court order enjoining operation of any recovery housing residence in violation of the prohibition.

Also beginning January 1, 2025, the bill prohibits:

- A person or government entity from advertising or representing a residence or building to be a recovery housing residence, sober living home, or similar substance free housing for individuals in recovery unless the residence is on the registry described below or is regulated by the Department of Rehabilitation and Correction as a halfway house or community residential center. There is not a criminal penalty associated with this prohibition, but the OhioMHAS Director may request, in writing, that the Attorney General seek a court order enjoining operation of any recovery housing residence in violation of the prohibition.
- A community addiction services provider or community mental health services provider from referring clients to a recovery housing residence unless it is on the registry described below on the date of the referral. There is not a criminal penalty associated with this

prohibition, but the OhioMHAS Director may refuse to renew or revoke its certification of a provider found to be in violation of this prohibition.

Required form

The bill requires each person or government entity that will operate a recovery housing residence, including those already operating prior to the bill's effective date, to file with OhioMHAS a form with various information, including name and contact information, the date the residence was first occupied or will be occupied, and information related to any existing accreditation the residence has or is in the process of obtaining.

For any recovery housing residence that is operating before the bill's effective date, the form must be filed within 30 days of the bill's effective date. For a recovery housing residence that will begin operating on or after the bill's effective date, the form must be filed within 30 days after the first resident begins occupying the residence.

Complaints and investigations

The bill requires OhioMHAS to establish a procedure to receive and investigate complaints from residents, staff, and the public regarding recovery housing residences. OhioMHAS may contract with one or more of the organizations identified above to fulfill some or all of the complaint and investigation procedure. Any such organization under contract must make investigation status reports to OhioMHAS regarding investigations. The reports must be made monthly. In addition, the contractor must report to OhioMHAS if the contractor makes an adverse decision regarding an accreditation accepted by OhioMHAS. The report must be made as soon as practicable, but not later than ten days after the adverse decision is made.

Registry of recovery housing residences

OhioMHAS must establish and maintain a registry of recovery housing residences that are certified or accredited or are making efforts to obtain certification or accreditation within the bill's permitted timeframe. The registry must include information from the form described above that OhioMHAS chooses to include on the registry, information regarding any complaints that have been investigated and substantiated, and any other information required by OhioMHAS. The registry must be available on OhioMHAS's website.

Rules

The bill authorizes the OhioMHAS Director to adopt rules to implement its monitoring of recovery housing residences. If OhioMHAS certifies recovery housing residences, the rules must establish requirements for initial certification and renewal, as well as grounds and procedures for disciplinary action.

The rules must be adopted in accordance with the Administrative Procedure Act (R.C. Chapter 119).

Terminology regarding alcohol use disorder

(R.C. 5119.01 with conforming changes in other sections; repealed R.C. 3720.041)

The bill replaces Revised Code references to "alcoholism" with "alcohol use disorder." It also eliminates references to "alcoholic." The bill defines alcohol use disorder as a medical condition characterized by an individual's impaired ability to stop or control the individual's alcohol use despite adverse social, occupational, or health consequences. It may be mild, moderate, or severe.

The bill repeals an obsolete statute referring to alcohol treatment and control regions, which no longer exist. These regions were abolished in 1990 when the current system of ADAMHS boards and districts was established and the former Department of Alcohol and Drug Addiction Services was created.

Behavioral health drug reimbursement program

(R.C. 5119.19; repealed R.C. 5119.191)

The bill combines a psychotropic drug reimbursement program with another drug reimbursement program that is for drugs used in medication-assisted treatment (MAT) and drugs used in withdrawal management or detoxification. The combined program, still to be administered by OhioMHAS, is referred to as a "behavioral health drug reimbursement program."

Similar to current law for the separate programs, the combined behavioral health drug reimbursement program reimburses counties for the cost of certain drugs administered or dispensed to inmates of county jails. The reimbursable drugs continue to be psychotropic drugs, drugs used in MAT, and drugs used in withdrawal management or detoxification. The combined program is more expansive than current law in that it also provides reimbursement for drugs administered or dispensed to individuals confined in community-based correctional facilities. Other details of the combined program are the same as those for each separate program under current law.

Substance use disorder treatment in drug courts

(Section 337.60)

The bill continues a requirement that OhioMHAS conduct a program to provide substance use disorder (SUD) treatment, including MAT, withdrawal management and detoxification, and recovery supports, to persons who are eligible to participate in a MAT drug court program. OhioMHAS's program is to be conducted in a manner similar to programs that were established and funded by the previous four main appropriations acts.

In conducting the program, OhioMHAS must collaborate with the Ohio Supreme Court, the Department of Rehabilitation and Correction, and any state agency that may be of assistance in accomplishing the program's objectives. OhioMHAS also may collaborate with the local ADAMHS boards and local law enforcement agencies serving the county where a participating court is located.

OhioMHAS must conduct its program in collaboration with any counties in Ohio that are conducting MAT drug court programs. It also may conduct its program in collaboration with any other court with a MAT drug court program.

Selection of participants

A MAT drug court program must select the participants for OhioMHAS's program. The participants are to be selected because of having a SUD. Those who are selected must be either (1) criminal offenders, including offenders under community control sanctions, or (2) involved in a drug or family dependency court. They must meet the legal and clinical eligibility criteria for the MAT drug court program and be active participants in that program or be under a community control sanction with the program's participating judge. After being enrolled, a participant must comply with all of the MAT drug court program's requirements.

Treatment

Under OhioMHAS's program, only a community addiction services provider is eligible to provide SUD treatment, including any recovery supports. The provider must:

- Provide treatment based on an integrated service delivery model that consists of the coordination of care between a prescriber and the provider;
- Assess potential program participants to determine whether they would benefit from treatment and monitoring;
- Determine, based on the assessment, the treatment needs of the participants;
- Develop individualized goals and objectives for the participants;
- Provide access to the drug therapies that are included in the program's treatment;
- Provide other types of therapies, including psychosocial therapies, for both SUD and any co-occurring disorders;
- Monitor program compliance through the use of regular drug testing, including urinalysis, of the participants; and
- Provide access to time-limited recovery supports that are patient-specific and help eliminate barriers to treatment, such as assistance with housing, transportation, child care, job training, obtaining a driver's license or state identification card, and any other relevant matter.

Regarding the drug therapies included in the program's SUD treatment:

- A drug may be used only if it is (1) a drug that is federally approved for use in MAT, which involves treatment for alcoholism, drug addiction, or both, or (2) a drug that is federally approved for use in, or a drug in standard use for, mitigating alcohol or opioid withdrawal symptoms or assisting with detoxification;
- One or more drugs may be used, but each drug that is used must constitute either or both: (1) long-acting antagonist therapy or partial or full agonist therapy or (2) alpha-2 agonist therapy for withdrawal management or detoxification;

- If a partial or full agonist therapy is used, the program must provide safeguards, such as routine drug testing of participants, to minimize abuse and diversion.

Planning

To ensure that funds appropriated to support OhioMHAS's program are used in the most efficient manner, with a goal of enrolling the maximum number of participants, the bill requires the Medicaid Director to develop plans in collaboration with major Ohio health care plans. However, there can be no prior authorizations or step therapy for program participants to have access to any drug included in the program's SUD treatment. The plans must ensure:

- The development of an efficient and timely process for review of eligibility for health benefits for all program participants;
- A rapid conversion to reimbursement for all health care services by the participant's health care plan following approval for coverage of health care benefits;
- The development of a consistent benefit package that provides ready access to and reimbursement for essential health care services, including primary health care, alcohol and opioid detoxification services, appropriate psychosocial services, drugs used in MAT, and drugs used in withdrawal management or detoxification; and
- The development of guidelines that require the provision of all treatment services, including medication, with minimal administrative barriers and within time frames that meet the requirements of individual patient care plans.

Electroencephalogram (EEG) Combined Transcranial Magnetic Stimulation Program

(R.C. 5902.02 (renumbered to 5119.20); Sections 337.10, 337.160, and 512.10)

The bill requires the Director of Mental Health and Addiction Services to continue the Electroencephalogram (EEG) Combined Transcranial Magnetic Stimulation (TMS) Program. This program currently is administered as a pilot program by the Director jointly with the Director of Veterans Services. Under the bill, the Director of Veterans Services is no longer involved with the program.

The bill expands the program's eligibility criteria to include civilian employees of the U.S. Department of Defense and the Central Intelligence Agency and to include the spouse of any eligible individual. Under continuing law, the program is for veterans, first responders, and law enforcement officers, and eligible individuals must have substance use disorders, mental illness, sleep disorders, traumatic brain injuries, sexual trauma, post-traumatic stress disorder and accompanying comorbidities, concussions or other brain trauma, or other issues identified by the individual's qualified medical practitioner as issues that would warrant treatment under the program.

The bill specifies that the program's operation is contingent upon an appropriation by the General Assembly designated for that purpose. Therefore, the Director has no authority, or requirement, to operate the program without a current appropriation identified for its purposes.

The bill also makes the following changes to the program:

- Retains the requirement that TMS frequency pulses are tuned to the patient's physiology and biometric data, but removes the requirement that this be done at the time of each treatment using a pre and post TMS EEG.
- Authorizes each branch site to operate one or more portable units or EEG combined neuromodulation portable units. Current law states that each branch site may be a mobile unit or EEG combined neuromodulation portable unit.
- Requires that each individual who receives treatment under the program receive neurophysiological monitoring, monitoring for symptoms of substance use and mental health disorders, and access to counseling and wellness programming. Current law requires that each individual who receives treatment receive pre and post neurophysiological monitoring with EEG and automatic nervous systems assessments, daily checklists of symptoms of alcohol, opioid, or other substance use, and weekly medical counseling and wellness programming.
- Requires any individual who receives treatment at the clinical practice to be eligible for an additional EEG for every ten treatments, in addition to the minimum of two EEG required under current law.

Mental health crisis stabilization centers

(Sections 337.40 and 337.130)

The bill continues a requirement that OhioMHAS allocate among ADAMHS boards, in each of FY 2024 and FY 2025, $1.5 million for six mental health crisis stabilization centers and up to $6.0 million in each fiscal year for substance use stabilization centers. Each board must use its allocation to establish and administer a stabilization center in collaboration with the other ADAMHS boards that serve the same state psychiatric hospital region. Alternatively, with approval of the OhioMHAS Director, boards may establish and administer crisis stabilization centers to serve individuals with substance use or mental health needs. At least one center must be located in each of the six state psychiatric hospital regions.

ADAMHS boards must ensure that each mental health crisis stabilization center complies with the following:

- It must admit individuals before and after they receive treatment and care at hospital emergency departments or freestanding emergency departments;
- It must admit individuals before and after they are confined in state correctional institutions, local correctional facilities, or privately operated and managed correctional facilities;
- It must have a Medicaid provider agreement;
- It must admit individuals who have been identified as needing the stabilization services provided by the center;

- It must connect individuals when they are discharged from the center with community-based continuum of care services and supports.

Incompetency to stand trial

Outpatient competency restoration treatment

(R.C. 2945.37 and 2945.38)

Under current law, if a defendant has not been charged with a felony offense or a misdemeanor offense of violence, or if the defendant has been charged with a misdemeanor offense of violence and the prosecutor has recommended specified procedures, and if after taking into consideration all relevant reports, information and other evidence, the trial court finds that the defendant is incompetent to stand trial, the trial court must dismiss the charges against the defendant or order the defendant to undergo outpatient competency restoration treatment.

The bill adds that the outpatient competency restoration treatment may be completed at a "jail" (means a jail, workhouse, minimum security jail, or other residential facility used for the confinement of alleged or convicted offenders that is operated by a political subdivision or combination of political subdivisions of this state) that employs or contracts with (1), (2), (3), or (4) below to provide treatment or continuing evaluation and treatment at a jail. Under continuing law, the outpatient competency restoration treatment may be completed at a facility operated by OhioMHAS as being qualified to treat mental illness, a public or community health mental facility, or in the care of a psychiatrist or other mental health professional.

Commitment to institution, facility, jail, or person

Under current law, if the court finds that the defendant is incompetent to stand trial, and the court orders the defendant to undergo treatment or continuing evaluation, the order must specify that the defendant be committed to a specified location.

The bill adds that the defendant may be committed to a jail that employs or contracts with (1), (2), (3), or (4) below to provide treatment or continuing evaluation and treatment at a jail. Under continuing law, the defendant may be committed to one of the following: (1) the OhioMHAS for treatment or continuing evaluation and treatment at a hospital, facility, or agency as determined to be clinically appropriate, (2) a facility certified by the OhioMHAS as being qualified to treat mental illness, (3) a public or community mental health facility, or (4) a psychiatrist or another mental health professional for treatment or continuing evaluation and treatment.

References to program

The bill removes references to the "director of the program" and adds references to the "director of the institution, facility, or jail or the person to which the defendant is committed." The bill removes references to "program" and adds references to "location."

DEPARTMENT OF NATURAL RESOURCES

Oil and gas

Stratigraphic wells

- Establishes the Ohio Department of Natural Resource's (ODNR's) regulatory authority over stratigraphic wells, which are boreholes that are drilled on a tract solely to conduct research or testing of the subsurface geology, including porosity and permeability.
- Specifies that the regulatory authority over stratigraphic wells includes the following:
  - The permitting process;
  - Insurance and bonding requirements;
  - Plugging requirements;
  - Setback requirements; and
  - Notice and enforcement procedures.
- Generally requires a stratigraphic well to be plugged within one year after the well is spudded (i.e., when drilling commences) unless the well owner does one of the following:
  - Applies for a permit to convert the well to another use (extending the plugging requirement to two years after the well is spudded); or
  - Executes and files with the Division of Oil and Gas Resources Management financial assurance that is equal to or greater than the estimated cost to plug the well and reclaim the associated well site (extending the plugging requirement to five years after the well is spudded).
- Allows the Chief of the Division of Oil and Gas Resources Management to forfeit by order the total amount of financial assurance executed and filed if the Chief finds that the well owner is not in compliance with the laws governing stratigraphic wells.
- Allows the Chief to use the money to plug the well.
- Allows a stratigraphic well to be assigned or otherwise transferred, provided that notice of the assignment or transfer is given to the Division and signed by both the assignor and assignee or by both the transferor and transferee.
- Allows a stratigraphic well owner to designate certain information as confidential business information not subject to disclosure under any law for five years from the time that stratigraphic well was spudded.
- Allows the Chief to post the surface location of a stratigraphic well on the Division's website.

Enforcement of oil and gas law and notice

- Broadens the ability for the Chief of the Division of Oil and Gas Resources Management to enforce the laws governing oil and gas by allowing the Chief to issue violation orders

and take enforcement action against *any person* that violates the oil and gas laws and who is subject to those laws, instead of only well owners.

- Requires a person to have committed a material and substantial violation before the Chief may issue an order requiring that person (who is causing an imminently dangerous condition) to cease oil and gas operations and suspending or revoking an unused permit.
- Clarifies that the Chief may notify a drilling contractor, transporter, service company, or other similar entity of the compliance status of a person subject to the oil and gas laws, rather than only allowing the Chief to provide the notice regarding the status of a well owner as in current law.
- Requires the Chief to provide notice under the oil and gas laws in accordance with law, rather than as prescribed by rules adopted by the Chief, as in current law.
- Eliminates a corresponding requirement that the Chief's rules provide for notice by publication.

Hunting and fishing

Wildlife Council to approve annual wildlife rules

- Clarifies that ODNR's Division of Wildlife must obtain the Wildlife Council's approval prior to adopting rules, in their entirety, that annually establish, each calendar year, all of the following regarding hunting and fishing:
  - Season (e.g., dates for the taking of wild animals);
  - Bag limits;
  - Sizes;
  - Species;
  - Method of taking; and
  - Possession.

Licenses for college students

- Allows a full-time student who is enrolled in any accredited Ohio public or private college or university to obtain a resident hunting license, fishing license, deer permit, and wild turkey permit, regardless of residency.

Parks and watercraft

Fire extinguishers on watercraft

- Regarding the requirement to have fire extinguishers on board powercraft:
  - Eliminates the exemption for powercraft propelled by an electric motor; and
  - Adds that powercraft of open construction that are not carrying passengers for hire are exempt from fire extinguisher requirements only if the powercraft are not capable of entrapping explosive or flammable gases or vapors.

- With certain exceptions, generally requires 5-B and 20-B portable fire extinguishers on class A, 1, 2, or 3 powercraft, depending on the class, rather than B-1 or B-2 fire extinguishers, depending on the class, as in current law.
- With certain exceptions, generally requires class 4 powercraft to have the number and type of 20-B portable fire extinguishers specified by gross tonnage as prescribed by federal regulations.
- Requires all portable and semi-portable fire extinguishers for use on a vessel to comply with specified requirements, including being on board the vessel, being readily accessible, and being maintained in good and serviceable condition.

Personal flotation device labeling

- Eliminates a requirement that the label on an approved personal flotation device have a specified designation concerning flotation device type (e.g., type 1, 2, 3, 4, or 5 personal flotation device).

Obtaining a watercraft or outboard motor title

- Increases the period of time that a purchaser has to obtain a watercraft or outboard motor title from 30 days to 60 days.

Parks and Watercraft Federal Grants Fund

- Creates the Parks and Watercraft Federal Grants Fund consisting of federal funds received by ODNR for parks and watercraft projects approved by the Director and any other money credited to the fund.
- Requires the Chief of the Division of Parks and Watercraft to use money in the fund for parks and watercraft projects approved by the ODNR Director.

Rocky Fork Lake permits

- Requires ODNR's Chief of the Division of Parks and Watercraft to establish a program for the issuance of the following to property owners whose property is adjacent to Rocky Fork State Park in Highland County and abuts Rocky Fork Lake:
  - A permit to construct or acquire and maintain a dock on Rocky Fork State Park property, including permit add-ons (electricity, dock covering, and access path);
  - A permit to mow Rocky Fork State Park land;
  - A permit to remove fallen, hazardous, or dead trees from Rocky Fork State Park land; and
  - A permit to control undergrowth or remove invasive tree or plant species from Rocky Fork State Park property.
- Establishes fees for each type of permit and add-on specified above, except for a permit to remove trees and a permit for the removal of undergrowth and invasive trees and plants.

- Exempts a property owner who currently owns a dock from the requirements governing dock permits.
- Prohibits a property owner whose property is adjacent to Rocky Fork State Park land from purposely altering, modifying, or destroying land that abuts a Rocky Fork Lake, except in accordance with a permit issued under the program.

Other provisions

General Assembly approval of ODNR property purchase

- Requires the Controlling Board's approval for an ODNR real property purchase if the proposed purchase price exceeds 25% of its highest appraised value and is more than $1 million.
- Requires the Controlling Board, when approving the ODNR real property purchase, to do all of the following:
  - Only allow legislative members of the Board to participate in the vote;
  - Receive an approval vote from a majority vote of House members and a majority vote of Senate members; and
  - Take a roll call of each individual voting member's vote.

Performance Bond Refund Fund

- Creates the Performance Bond Refund Fund, which consists of money received by ODNR from other entities as performance security.
- Disposes of money in the fund as follows:
  - If work for which the performance bond was required is completed, the money is refunded to the pledging entity; or
  - If a performance bond is forfeited, the money must be transferred to the appropriate fund within the state treasury.

ODNR administration of capital projects

- Allows ODNR, for FY 2024 and FY 2025, to administer certain capital facility projects commenced within those fiscal years, regardless of estimated cost, without the assistance of the Ohio Facilities Construction Commission (OFCC).
- Requires ODNR to do both of the following:
  - Comply with the procedures and guidelines established in the law governing public improvement contracts; and
  - Track all project information in the Ohio Administrative Knowledge System (OAKS) capital improvements application pursuant to OFCC guidelines as though ODNR is administering the project pursuant to all generally applicable laws.

Oil and gas

Stratigraphic wells

(R.C. 1509.051, 1509.01, and 1509.03)

The bill establishes ODNR's regulatory authority over stratigraphic wells. Stratigraphic wells are boreholes that are drilled on a tract solely to conduct research or testing of the subsurface geology, including porosity and permeability. However, a stratigraphic well does not include geotechnical or soil borings or a borehole drilled for seismic shot, or mining of industrial minerals or coal. Under the bill, the Chief of the Division of Oil and Gas Resources Management may post the surface location of a stratigraphic well on the Division's website.

Requirements

Generally, under the bill, stratigraphic wells are subject to all the current laws that govern oil and gas wells, which include (1) the permitting process, (2) insurance and bonding requirements, (3) plugging requirements, (4) setback requirements, and (5) notice and enforcement procedures.

However, the bill does establish new requirements specific to stratigraphic wells and exempts stratigraphic wells from certain requirements that apply to oil and gas wells, as follows:

- Allows the Chief to prescribe a different application form for a permit to drill a stratigraphic well;
- Prohibits a person from submitting more than seven applications per year for a permit to drill a stratigraphic well unless otherwise approved by the Chief;
- Prohibits the surface location of a stratigraphic well from being within 150 feet from the property line of the tract on which the well is drilled; and
- Specifies that all of the following do not apply to stratigraphic wells:
  - The ability to receive temporary inactive well status;
  - Filing requirements for statements of production of oil, gas, and brine;
  - Minimum acreage requirements for a drilling unit;
  - Rules governing horizontal well site construction;
  - Rules governing saltwater operations and class II disposal wells;
  - Rules governing oil and gas waste facilities;
  - Rules governing enhanced recovery projects (injecting gas, water, or other fluids to change the pressure in a reservoir to recover oil or other hydrocarbons); and
  - Rules governing solution mining projects (involving a well or group of wells and associated facilities under one owner utilized for the solution mining of minerals).

Plugging requirements

The bill also specifies that stratigraphic wells generally must be plugged within one year after the well is spudded (i.e., when drilling commences) unless one of the following apply:

1. The well owner applies, within that one-year period, for a permit to convert the well to another use subject to regulation under the Oil and Gas Law or the Water Pollution Control Law. If the owner is issued a permit, the well must be converted within two years after the well was first spudded. If the owner fails to convert the well within that two-year period, the owner must immediately plug the well or obtain financial assurance (see below) within 30 days after the expiration of the two-year period. The well must be plugged within one year after the Chief or the OEPA Director issues a final nonappealable order denying, or affirming the denial of, an application for a permit to convert the well.

2. The well owner executes and files with the Division financial assurance in an amount approved by the Chief that is equal to or greater than the estimated cost to plug the well and reclaim the associated well site. This financial assurance is in addition to any surety bond or other financial assurance required under law. It may be in the form of cash or a surety bond that names the state as obligee and is executed by a surety company authorized to do business in Ohio. If the owner executes and files financial assurance, the well must be converted to another use (in accordance with the bill's provisions) or plugged within five years after the well was first spudded.

The bill allows the Chief to forfeit by order the total amount of financial assurance executed and filed if the Chief finds that the well owner is not in compliance with the laws governing stratigraphic wells. To do so, the Chief must set forth in the order findings of fact supporting the forfeiture and the violations giving rise to the order. The Chief may use the forfeited money to plug the stratigraphic well in the same manner as the Chief would do so for orphan wells. If a well owner filed financial assurance in the form of a surety bond, the Chief also must issue an order to the bank or surety bond company informing the bank or company of the option to plug the well in lieu of forfeiture.

Transfer or assignment

A stratigraphic well may be assigned or otherwise transferred. However, notice of the assignment or transfer must be provided to the Division on a form prescribed by the Division and signed by both the assignor and assignee or by both the transferor and transferee.

Confidential business information

A stratigraphic well owner may elect, at its sole discretion, to designate any of the following to be confidential business information not subject to disclosure under any law for five years from the time that the well was spudded:

1. Data from the research of the subsurface geology obtained from a stratigraphic well; or

2. Any reports, documents, or records, any of which that are otherwise required for submission under the Oil and Gas Law, any order of the Chief, or any term or condition of a permit issued by the Chief.

Regardless of whether a stratigraphic well owner designates data, reports, documents, or records as confidential business information, the well owner must disclose (1) data to the Chief as may be necessary to respond to or investigate harm or potential harm to public health or safety or the environment, including potential damage to subsurface formations, and (2) reports, documents, or records that are required for submission under law. However, any designated data, reports, documents, or records remain confidential business information and cannot be disclosed by the Chief during the five-year designation period. In addition, the data, reports, documents, or records are not public records subject to Ohio's laws governing public records during the five-year period.

Enforcement of oil and gas law and notice provisions

(R.C. 1509.03 and 1509.04)

The bill broadens the authority of the Chief of the Division of Oil and Gas Resources Management to enforce the laws governing oil and gas. It does so by allowing the Chief to issue violation orders and take enforcement action against *any person* who violates the oil and gas laws and who is subject to those laws. Current law allows the Chief to take these actions only against well owners.

Under current law, if there is a material or substantial violation of the oil and gas law, the Chief may issue an order to immediately suspend drilling, operating, or plugging activities that are related to the violation and revoke any unused permit if either of the following apply:

1. A well owner has failed to comply with a material and substantial violation order; or

2. A well owner is causing, engaging in, or maintaining a condition or activity that presents an imminent danger to the health or safety of the public or that results in or is likely to result in substantial damage to Ohio's natural resources.

The bill broadens (1) above so that it applies to any person (instead of just a well owner). It also alters (2) above so that it applies only to a person who has committed a material and substantial violation (instead of applying it to well owners).

The bill clarifies that the Chief may notify a drilling contractor, transporter, service company, or other similar entity of the compliance status of a person subject to the oil and gas laws. Under current law, the Chief can only provide that status notification about a well owner.

When the Chief must provide notice under the oil and gas laws, the bill requires the Chief to do so in accordance with law. Current law requires the Chief to provide notice as prescribed by rules adopted by the Chief. The bill also eliminates a corresponding requirement that the rules provide for notice by publication.

Hunting and fishing

Wildlife Council to approve annual wildlife rules

(R.C. 1531.03)

Current law stipulates that ODNR's Division of Wildlife must obtain the Wildlife Council's approval prior to adopting rules, that establish, all of the following regarding hunting and fishing:

1. Season (e.g., dates for the taking of wild animals);

2. Bag limits;

3. Sizes;

4. Species;

5. Method of taking; and

6. Possession.

The bill clarifies that the entirety of these rules are subject to approval by the Council and that the rules must be approved annually each calendar year.

Licenses for college students

(R.C. 1531.01)

The bill allows a full-time student who is enrolled in any accredited Ohio public or private college or university to obtain a resident hunting license, fishing license, deer permit, and wild turkey permit, regardless of residency. To obtain one of those resident licenses or permits, the student must apply to ODNR and attest to the individual's full-time student status in a manner determined by the Chief of the Division of Wildlife. Generally, the fee for a resident license or permit is cheaper than a nonresident license or permit.

Parks and watercraft

Fire extinguishers on watercraft

(R.C. 1547.27)

Current law generally requires powercraft to carry fire extinguishers. However, this requirement does not apply to powercraft propelled by an electric motor and powercraft that are less than 26 feet in length designed for use with an outboard motor, of open construction, and not carrying passengers for hire. A powercraft is any water vessel propelled by machinery, fuel, rockets, or similar device.

The bill modifies the above provisions by doing both of the following:

1. Eliminating the exemption for powercraft propelled by an electric motor; and

2 Adding that powercraft of open construction that are not carrying passengers for hire are only exempt from fire extinguisher requirements if the powercraft are not capable of entrapping explosive or flammable gases or vapors.

Due to changes in the U.S. Coast Guard's federal regulations according to ODNR, the bill changes the types of fire extinguishers that a powercraft must carry. The bill generally requires any water vessel not equipped with fixed fire extinguishing systems in machinery to carry the following:

Type of powercraft	Current law	The bill
Class A and class 1	One B-1 fire extinguisher	One 5-B portable extinguisher
Class 2 powercraft	At least two B-1 fire extinguishers or at least one B-2 fire extinguisher	At least two 5-B portable fire extinguishers or at least one 20-B portable fire extinguisher
Class 3 powercraft	At least three B-1 fire extinguishers or at least one B-2 fire extinguisher	At least three 5-B portable fire extinguishers or at least one 20-B portable fire extinguisher
Class 4 powercraft	No requirements	Have the number and type of 20-B portable fire extinguishers specified by gross tonnage as prescribed by federal regulations

According to ODNR, federal regulations allow different fire extinguishers for recreational vessels with a model year earlier than 2018, provided the extinguishers are maintained in good condition. If the older fire extinguishers need to be replaced, the new fire extinguishers must comply with the requirements established under the bill.

The bill requires all portable and semi-portable fire extinguishers for use on a vessel to:

1. Be on board the vessel and be readily accessible;

2. Be of an approved type;

3. Not be expired or appear to have been previously used;

4. Be maintained in good and serviceable working condition, which means all of the following: (a) if the fire extinguisher has a pressure gauge or indicator, the reading or indicator is in the operable range or position, (b) the fire extinguisher's lock pin is firmly in place, (c) the fire extinguisher's discharge nozzle is clean and free of obstruction, and (d) the fire extinguisher does not show visible signs of significant corrosion or damage.

Personal flotation device labeling

(R.C. 1547.25)

The bill eliminates a requirement that the label on an approved personal flotation device have one or more of the following designations:

1. Conditional approval;

2. Performance type;

3. Type 1, 2, 3, 4, or 5 personal flotation device;

4. Throwable personal flotation device; or

5. Wearable personal flotation device.

The bill retains the requirement that the appropriate use for each flotation device must be indicated on the device's label. A personal flotation device is a U.S. Coast Guard approved personal safety device designed to provide buoyancy to support a person in the water.[220]

Obtaining a watercraft or outboard motor title

(R.C. 1548.03)

The bill increases the period of time that a purchaser has to obtain a watercraft or outboard motor title from 30 days to 60 days. Under current law, a person is prohibited from selling or otherwise disposing of a watercraft or outboard motor without delivering to the purchaser a physical certificate of title. However, a purchaser may take possession of and operate a watercraft or outboard motor without a certificate of title for up to 30 days (60 days under the bill) if both of the following apply:

1. The purchaser has been issued a dealer's dated bill of sale or notarized bill of sale (in the case of a casual sale); and

2. The purchaser has the bill of sale in their possession.

Parks and Watercraft Federal Grants Fund

(R.C. 1546.24)

The bill creates the Parks and Watercraft Federal Grants Fund consisting of both of the following:

1. Federal funds received by ODNR for parks and watercraft projects approved by the ODNR Director. The Chief of the Division of Parks and Watercraft must use money in the fund for those projects.

2. Any other money credited to the fund.

The Chief must use money in the fund for parks and watercraft projects approved by the Director.

Rocky Fork Lake permits

(R.C. 1546.32)

The bill requires ODNR's Chief of the Division of Parks and Watercraft to establish a program for the issuance of permits to property owners whose property is adjacent to Rocky Fork State Park in Highland County and abuts Rocky Fork Lake and who seek to do any of the following:

1. Construct or acquire and maintain a dock on and abutting Rocky Fork Lake (dock permit);

[220] R.C. 1546.01, not in the bill.

2. Mow Rocky Fork State Park that is located between Rocky Fork Lake and the owner's property (mowing permit);

3. Remove trees from Rocky Fork State Park land that is located between Rocky Fork Lake and the owner's property (tree removal permit); or

4. Control the undergrowth or remove invasive species of plants or trees on Rocky Fork State Park property that is located between Rocky Fork Lake and the owner's property (undergrowth and invasive species removal permit).

Dock permit

Under the bill, if a property owner seeks to construct or acquire and maintain a dock on Rocky Fork Lake, the property owner must apply for an annual dock permit to the Chief. The Chief must issue a dock permit after application is so made on forms prescribed by the Chief unless the dock does not meet standards that the Chief establishes for docks under the program. Each annual dock permit comes with one dock slip, however, a permittee may pay a fee for additional dock slips added to the permit. Under the bill, the dock permit fees are as follows:

1. Dock permit application – $100

2. Annual dock permit (one dock slip included) – $120

3. Each additional annual dock slip charge added to a dock permit – $95

The bill requires the Chief to allow adjoining property owners to submit an application to construct one dock with multiple watercraft slips that serves all property owners (commonly referred to as a cluster dock). Each property owner must individually pay the annual dock and slip fees applicable to each property owner as prescribed by the bill.

A permittee must maintain the dock in accordance with any maintenance standards established by the Chief.

Dock permit add-ons

Under the Rocky Fork Lake dock permit program, the Chief must allow a dock permittee to install a dock cover, electricity, and access path as an add-on to their dock permit when application is properly made. Each add-on is subject to the following conditions:

Dock permit add-ons		
Add-on	**Conditions**	**Fee**
Annual dock covering	Installation and maintenance of the cover is the responsibility of the permittee. The permittee must ensure that the dock cover consists of a metal roof that is painted green or white and is maintained in good repair.	$25
Annual electricity	Installation and maintenance of the electricity is the responsibility of the permittee. A permittee who intends to install electricity must include with a request for electricity an aerial map from the county auditor's website that shows the path of the electric line to be	$100 for the request to install the

Dock permit add-ons		
Add-on	**Conditions**	**Fee**
	installed. The Chief must approve the path of the electric line. The permittee must ensure that: (1) electric service is installed by a licensed electrical contractor, (2) electric service to the dock is placed in conduit, (3) a disconnect box is installed at the dock, and (4) a disconnect box is installed at the property meter at the origin of service. Upon installation of the electric service, the dock permittee must return Rocky Fork State Park property to its original condition prior to the installation, ensuring that the trench is filled and level to the surrounding area and that the disturbed area is seeded and covered with a material to reduce possible erosion. Also prohibits more than one electric service from being installed per dock location.	electricity and $25 for the annual electricity usage
Access path construction by adjoining dock permittees	An access path must be constructed only with natural materials and maintained with natural materials that are not permanent in nature. Adjoining permittees that intend to construct an access path must include with the request an aerial photo from the county auditor's website that indicates where the proposed path will be located and a photo of any motor vehicle that the permittees intend to use to access the dock.	$0
Annual access path sticker for each motorized vehicle	A permittee must submit a photo of each motor vehicle that the permittee intends to use to access the dock via the path. The motor vehicle cannot weigh more than 2,500 pounds and cannot have a power source of more than 899cc. If a permittee uses a motor vehicle that is not approved by the Chief, the Chief must revoke any stickers issued to the permittee and may fine the permittee up to $500 hundred dollars.	$25

Dock permit grandfather clause

The bill's new permitting program for Rocky Fork Lake docks does not apply to any property owner who, before the bill's effect date, has lawfully constructed or acquired a dock.

Mowing permit

The bill allows a property owner whose property is adjacent to Rocky Fork State Park land that abuts Rocky Fork Lake who seeks to mow any portion of the Rocky Fork State Park land to apply to the Chief for a mowing permit. The Chief must issue a mowing permit after application is so made on forms prescribed by the Chief and the applicant pays an annual $25 fee. The property owner must include with the application an aerial map from the county auditor's website that indicates the area the property owner seeks to mow. The Chief may deny mowing access in areas that currently show signs of substantial soil erosion that impacts Rocky Fork Lake.

A mowing permit does not grant any authority to remove live trees on Rocky Fork State Park land. Each mowing permit is valid for one year.

Tree removal permit

The bill also allows a property owner whose property is adjacent to Rocky Fork State Park land that abuts Rocky Fork Lake who seeks to remove trees on Rocky Fork State Park land that have fallen and that are deemed hazardous, or that are dead and pose a hazard to other trees to apply to the Chief for a tree removal permit. The Chief must issue such a permit after application is so made on forms prescribed by the Chief. However, the Chief cannot charge a fee for this permit.

If a property owner makes an application to remove a standing tree, a park official must inspect and mark any tree that is to be removed prior to the Chief issuing a permit. The permittee must remove only those standing trees so marked by the park official and must pay all costs associated with the removal of the trees.

Undergrowth and invasive species removal permit

The bill allows a property owner whose property is adjacent to Rocky Fork State Park land that abuts Rocky Fork Lake who seeks to assist the state in the control of undergrowth on Rocky Fork State Park land or engage in the removal of invasive plant or tree species on that land to apply to the Chief for an undergrowth and invasive species removal permit. The Chief must issue such a permit after application is so made on forms prescribed by the Chief. However, the Chief cannot charge a fee for this permit.

If a property owner makes an application for an undergrowth and invasive species removal permit, a park official must, prior to the Chief issuing the permit, inspect the proposed area to determine which trees or plants are to be removed under the terms of the permit. The permittee must pay all costs associated with the removal and disposal of undergrowth or invasive trees or plants. However, this permit does not allow for the removal of any live tree. If a permittee removes a live tree, the Chief must fine the permittee up to $500 per tree and revoke the permit.

After the permittee exercises the rights granted under an undergrowth and invasive species removal permit, the permittee may apply for a mowing permit to maintain the area to prevent the undergrowth or the invasive tree or plant from growing back.

Fines

The bill prohibits a property owner from purposely altering, modifying, or destroying Rocky Fork State Park land that is not done in accordance with an issued permit. It allows the Chief to fine any property owner who does so in an amount equal to the amount of damage caused or all costs incurred in remediating the alteration, modification, or destruction in addition to a penal sum of up to $5,000. The amount of any fine beyond that needed to cover damage caused or costs incurred in remediation may equal, but cannot exceed, the amount charged for damage or remediation. In addition, any permit currently held or any applied for by the property owner must be revoked or denied for a period of two years for the first offense, three years for the second offense, and five years for the third and any subsequent offense.

Under the bill, any fees or fines collected by the Chief related to these permits must be deposited into the existing State Park Fund.

Other provisions

General Assembly approval of ODNR property purchase

(R.C. 1501.014)

The bill requires the Controlling Board's approval for an ODNR real property purchase if the proposed purchase price: (1) exceeds 25% of its highest appraised value (as appraised by a person regularly engaged in the business of conducting property appraisals), and (2) is more than $1 million.

For the Controlling Board to approve the ODNR real property purchase, the Controlling Board must do all of the following:

1. Only allow legislative members of the Board to participate in the vote;

2. Receive an approval vote from a majority vote of House members and a majority vote of Senate members; and

3. Take a roll call of each individual voting member's vote.

Performance Bond Refund Fund

(R.C. 1501.16)

The bill creates the Performance Bond Refund Fund, which consists of money received by ODNR from other entities as performance security. The bill disposes of money in the fund as follows:

1. If work for which the performance bond was required is completed, the money is refunded to the pledging entity; or

2. If a performance bond is forfeited, the money must be transferred to the appropriate fund within the state treasury.

ODNR administration of capital projects

(Section 343.60)

The bill allows ODNR, for FY 2024 and FY 2025, to administer certain capital facility projects commenced within those fiscal years, regardless of estimated cost, without the assistance of the Ohio Facilities Construction Commission (OFCC), which generally administers capital facility projects on behalf of state agencies. It specifies that those projects are the following:

1. Dam repairs administered by the ODNR's Division of Engineering;

2. Projects or improvements administered by the Division of Parks and Watercraft and funded via the Waterways Safety Fund;

3. Projects or improvements administered by the Division of Parks and Watercraft; and

4. Activities conducted by ODNR to maintain ODNR's roads.

However, the bill's provisions do not apply to the construction of a new facility, structure, or lodge.

The bill requires ODNR to do both of the following:

1. Comply with the procedures and guidelines established in the law governing public improvement contracts; and

2. Track all project information in the Ohio Administrative Knowledge System (OAKS) capital improvements application pursuant to OFCC guidelines as though ODNR is administering the project pursuant to all generally applicable laws.

Finally, it states that nothing in these provisions interferes with ODNR's general powers.

BOARD OF NURSING

- Authorizes certain APRNs to prescribe schedule II controlled substances at outpatient behavioral health practices where they would otherwise not be permitted to prescribe those drugs under current law, but only if the APRN is collaborating with a physician employed by the same practice.
- Extends by ten years (to December 31, 2033) the expiration date for the Nurse Education Grant Program.

APRN prescribing for outpatient behavioral health

(R.C. 4723.481)

The bill authorizes advanced practice registered nurses (APRNs) who are clinical nurse specialists, certified nurse-midwifes, or certified nurse practitioners to prescribe schedule II controlled substances if the prescriptions are issued at the site of a behavioral health practice that does not otherwise qualify under current law as a site where APRNs may prescribe those drugs. The following limitations apply: (1) the behavioral health practice must be organized to provide outpatient services for treating mental health conditions, substance use disorders, or both, and (2) the APRN must be collaborating with a physician who is employed by the same practice.

Under current law, APRNs cannot generally prescribe schedule II controlled substances, other than in limited amounts for terminally ill patients. A location-based exception exists that allows APRNs to prescribe schedule II controlled substances to nonterminal patients. This exception applies to locations such as hospitals, nursing homes, and federally qualified health centers. It also allows such prescribing by APRNs at medical practices, but only if (1) the practice is comprised of one or more physicians who also are owners of the practice, (2) the practice is organized to provide direct patient care, and (3) the APRN has a standard care arrangement and collaborates with at least one of the physician owners who practice at that site. The bill creates an additional medical practice location from which APRNs can prescribe schedule II controlled substances.

Nurse education grant program

(R.C. 4723.063; Sections 610.110 and 610.111)

The bill extends by ten years, to December 31, 2033, the expiration date for the Nurse Education Grant Program. The program, administered by the Board of Nursing, provides grants to nurse education programs that partner with the following entities: other education programs, hospitals and other health care facilities, community health agencies, and patient centered medical homes. It is scheduled to sunset on December 31, 2023.

OHIO OCCUPATIONAL THERAPY, PHYSICAL THERAPY, AND ATHLETIC TRAINERS BOARD

Physical therapy educational alternative

- Permits physical therapist and physical therapist assistant licenses to be issued to applicants who completed their education in a country that does not issue a license or registration to physical therapy practitioners.
- Requires the Physical Therapy Section of the Occupational Therapy, Physical Therapy, and Athletic Trainers (OTPTAT) Board to adopt rules pertaining to this new pathway to qualify for Ohio licensure.

Orthotics, Prosthetics, and Pedorthics Advisory Council

- Reduces the minimum number of annual meetings of the Council from four to three.
- Extends from 60 days to 90 days the maximum time an outgoing member must serve after the member's term expires pending a successor's appointment.

Physical therapy educational alternative

(R.C. 4755.411, 4755.45, and 4755.451)

Current law permits the Physical Therapy Section of the OTPTAT Board to issue physical therapist and physical therapist assistant licenses to applicants based on holding a current and valid license or registration in another state or country. The bill additionally allows an Ohio license to be issued to an applicant who completed a program for physical therapists or assistants in a country that does not issue a physical therapist or assistant license or registration. The Physical Therapy Section must adopt rules pertaining to this new pathway to qualify for Ohio licensure.

As provided currently for Ohio's endorsement of a license or registration received in another jurisdiction, an applicant seeking an Ohio license through the bill's new pathway must have education that is reasonably equivalent to the educational requirements in Ohio at the time the education was completed. Further, as with licensure by endorsement, the applicant must still have passed the national examination at some point, passed the jurisprudence examination, and paid application fees.

Orthotics, Prosthetics, and Pedorthics Advisory Council

(R.C. 4779.35)

The Orthotics, Prosthetics, and Pedorthics Advisory Council, which advises the OTPTAT Board, currently must meet a minimum of four times per year. The bill reduces this to a minimum of three meetings per year. It also extends the maximum time an outgoing member must serve after that member's term expires pending a successor's appointment from 60 days to 90 days.

OPPORTUNITIES FOR OHIOANS WITH DISABILITIES

- Expands Ohioans with Disabilities Agency's (OOD's) authorized uses for money deposited in the Services Rehabilitation Fund to allow the money to be expended for any of OOD's purposes or programs, rather than only purposes specified in law.

Services for Rehabilitation Fund

(R.C. 4511.191)

The bill authorizes OOD to use the money in the Services for Rehabilitation Fund for any of OOD's purposes or programs. Under current law, OOD must use the money to match federal funds, when appropriate, and for purposes and programs that rehabilitate persons with disabilities to become employed and independent. Thus, the bill expands OOD's authorized uses for the fund. Money in the fund comes from $75 out of each $475 reinstatement fee that a person must pay to reinstate a driver's license after a driver's license suspension for an OVI offense.

STATE BOARD OF PHARMACY

Administration of immunizations

- Authorizes certified pharmacy technicians and registered pharmacy technicians to administer immunizations in the same manner that pharmacy interns are authorized to do so under current law.
- Authorizes pharmacists, interns, and technicians to administer immunizations beginning when a child is five, as opposed to the current law age limit of seven.
- Eliminates, for children under age 13, a requirement that most immunizations be prescribed in order to be administered by a pharmacist or pharmacy intern.

Terminal distributor license exemptions

- Adds exemptions from terminal distributor licensure related to nitrous oxide, medical oxygen, sterile water, sterile saline, and dog training.

OBOT licensure eliminated

- Eliminates the Pharmacy Board's licensure of terminal distributors of dangerous drugs with an office-based opioid treatment (OBOT) classification, which is required under current law for facilities, clinics, and other locations providing OBOT to more than 30 patients.

Administration of immunizations

(R.C. 4729.41)

The bill makes several modifications to the authority of pharmacists and other persons under their supervision to administer immunizations. First, it extends the authority to certified pharmacy technicians and registered pharmacy technicians in the same manner as pharmacy interns under current law. This involves having to meet a number of conditions, including that the technician (1) work under the direct supervision of a pharmacist, (2) complete a course in the administration of immunizations that meets requirements established in rules, (3) receive and maintain certification to perform basic life-support procedures, and (4) practice in accordance with a protocol that meets various requirements established under existing law.

Second, the bill makes several changes regarding immunizations for children. The bill authorizes pharmacists, interns, and technicians to administer immunizations beginning when a child is five, as opposed to the current law age limit of seven. For children under 13, the bill eliminates a requirement that their immunizations generally be prescribed (other than immunizations for COVID-19 and the flu, which do not require a prescription under current law or the bill). The bill also requires, for each immunization administered to a child under 18, that the pharmacist, intern, or technician inform the child's parent or legal guardian of the importance of well child visits with a pediatrician or other primary care provider, and refer patients when appropriate.

Terminal distributor license exemptions

(R.C. 4729.541; conforming changes in R.C. 4729.51 and 4729.55)

The bill adds the following to the current law list of exemptions from licensure as a terminal distributor of dangerous drugs:

- A person who possesses nitrous oxide for use as a direct ingredient in food under federal regulations or for testing or maintaining a plumbing or HVAC system;
- A person who possesses medical oxygen, sterile water, or sterile saline for direct patient administration or for installing or maintaining home medical equipment;
- A person who possesses controlled substances and other dangerous drugs for dog training on behalf of, and under a written contract with, a law enforcement agency.

OBOT licensure eliminated

(Repealed R.C. 4729.553; Section 747.30; conforming changes in other sections)

The bill eliminates the required licensure through the Pharmacy Board for office-based opioid treatment (OBOT). As defined under the law being repealed, "office-based opioid treatment" is the treatment of opioid dependence or addiction using a controlled substance. Although there are numerous exemptions, current law generally requires a facility, clinic, or other location where a prescriber provides OBOT to more than 30 patients to hold a category III terminal distributor of dangerous drugs license with an OBOT classification. The bill makes a number of conforming changes related to the OBOT licensure repeal.

Additionally, the bill provides that, in rescinding rules related to the repeal, the Pharmacy Board is not subject to review by the Common Sense Initiative Office, and the Board does not have to transmit a business impact analysis to the Office.

OFFICE OF PUBLIC DEFENDER

Trumbull County: County Share Fund

(R.C. 120.04)

The bill eliminates language specifying that funds received by the State Public Defender as a result of a contract with Trumbull County be credited to the Trumbull County: County Share Fund. The money instead will go to the Multicounty: County Share Fund.

DEPARTMENT OF PUBLIC SAFETY

Driver's licenses and identification cards

Limited term licenses and identification cards

- Renames "nonrenewable/nontransferable" driver's licenses and state identification (ID) cards, which are issued to temporary residents, as the "limited term license" and "limited term" ID card. (Temporary residents generally are persons who are not U.S. citizens or permanent residents.)
- Excludes a limited term license as a form of photo identification for purposes of voting.
- Requires the words "limited term" to be on any driver's license or ID card issued to a temporary resident, along with other characteristics prescribed by the Registrar of Motor Vehicles.
- Clarifies the law regarding the expiration dates for a limited term driver's license or ID card issued to a temporary resident.
- Authorizes a temporary resident to renew a limited term license or limited term ID card, provided the temporary resident can verify his or her lawful status in the U.S.
- Requires the Registrar to adopt rules governing limited term licenses and ID cards issued to temporary residents.
- Specifies that all REAL ID-compliant driver's licenses and ID cards must be issued in accordance with the federal requirements.

Return of ID cards

- Removes the requirement that a person surrender or return an original ID card to the Bureau of Motor Vehicles (BMV) if the person:
  - Applies for a driver's license or commercial driver's license (CDL) in Ohio or another state;
  - Finds the original lost card, after obtaining a duplicate or reprint card; or
  - Changes his or her name and obtains a replacement ID card.

ID card reimbursements

- Authorizes the Registrar to establish a payment schedule that is more frequent than the monthly schedule established by current law for reimbursing deputy registrars for their services in issuing free ID cards.
- Authorizes the Department of Public Safety (DPS) Director to certify to the OBM Director, on a quarterly basis, both of the following:
  - The amounts paid by DPS to deputy registrars to reimburse them for their services in issuing and renewing free ID cards and temporary ID cards; and

- The amount of fees not collected by the Registrar for any free ID cards and temporary ID cards issued or renewed by the Registrar.

- Authorizes the OBM Director to transfer up to $4 million per fiscal year to BMV from the GRF to reimburse the BMV for the free ID cards and temporary ID cards.

Commercial driver's licenses

Online driver's license, ID card, and CDL renewal

- Authorizes the online renewal of CDLs in a similar manner as driver's licenses and ID cards under current law.

- Prohibits the renewal or issuance of any of the following via the online process:
  - A CDL temporary instruction permit;
  - An initial CDL; and
  - A nonrenewable CDL.

- Modifies a current eligibility requirement for the online renewal of a driver's license or ID card to require the applicant's current license or ID card to have been issued when the applicant was age 21 or older and the applicant to be under age 65, rather than requiring the applicant to be between age 21 and 65 as in current law.

- Extends that eligibility requirement to online renewal of CDLs.

- Authorizes U.S. permanent residents to renew driver's licenses, CDLs, and ID cards online.

- Requires an online CDL applicant to meet the following additional eligibility criteria that do not apply to a driver's license or ID card holder:
  - The applicant must be in compliance with all laws governing CDL issuance, including self-certification and medical certificate requirements; and
  - The applicant must not be under any CDL restriction by any federal regulation.

CDL temporary instruction permit

- Extends the maximum validity period for a commercial driver's license temporary instruction permit (CDLTIP) from six to 12 months.

- Clarifies that a CDLTIP is a prerequisite for the initial issuance of a CDL only when a skills test is required for the CDL.

- Repeals law that allows the Registrar to renew a CDLTIP only once in a two-year period.

CDL skills test third-party examiners

- Regarding third parties authorized to administer the CDL skills tests, does all of the following:

- Specifies that the third-party examiners must meet the qualification and training standards that apply to the class of vehicle and endorsements for which an applicant taking the skills test is applying;
- Decreases the number of individuals to whom a CDL skills test examiner must administer a skills test each calendar year from 32 to ten;
- Requires the third party to schedule all skills test appointments through a system or method provided by the DPS Director, or if the Director does not provide a system or method, to submit the schedule weekly; and
- Requires the third party to keep a copy of the third-party agreement entered into with the Director at its principal place of business.

CDL waiver for farm-related service industries

- Increases the validity period from 180 to 210 days per calendar year for the restricted CDL issued to a person operating commercial motor vehicles for a farm-related service industry.

Fraudulent acts related to CDL testing

- Prohibits knowingly providing false statements or engaging in any fraudulent act related to a CDL test.
- Specifies that a violation of the prohibition is a third degree misdemeanor.
- Allows the Registrar to cancel a CDL or an application for a CDL as a result of a violation of the prohibition.

CDL disqualifications: human trafficking

- Prohibits a CDL holder from using a commercial motor vehicle in the commission of a felony human trafficking offense, and specifies that a violation of the prohibition is a first degree misdemeanor.
- Establishes a lifetime disqualification from operating a commercial motor vehicle for a person who is convicted of violating the prohibition.

Strict liability declaration

- Clarifies that various prohibitions related to operating a commercial motor vehicle are strict liability offenses.

Motor vehicle OVI violation requiring surrender of CDL

- Clarifies that a CDL holder or CDLTIP holder must immediately surrender the holder's CDL or permit to an arresting peace officer if the holder was operating a motor vehicle in violation of the state OVI law's statutory limits for alcohol or a controlled substance.

Specialty license plates

- Renames the current "Ohio Oil and Gas Energy Education Program" license plate as the "Ohio Natural Energy Institute" license plate.

- Accordingly, requires the existing $20 contribution for the plate to go to the Ohio Natural Energy Institute.
- Requires representatives of the Ohio State Moose Association to select the logo and words for the Loyal Order of the Moose license plate design instead of the Ohio Chapter of the Loyal Order of the Moose as in current law.
- Requires the proceeds of the $20 contribution for the Loyal Order of the Moose license plate to be paid to the Ohio State Moose Association instead of the Ohio Chapter.
- Increases the contribution for a Recovery is Beautiful license plate from $20 to $21.

Other BMV services

Deputy registrars

- Allows county auditors and clerks of court to serve as a deputy registrar in any county, rather than only in counties below certain population thresholds.
- Relieves the Registrar from the responsibility to appoint a deputy registrar in a county under certain circumstances (e.g., when the county auditor or clerk of court is unwilling to serve and no other entities have applied).
- In the case of a county in which there is no deputy registrar, allows the Registrar to reestablish a deputy registrar office in certain circumstances (e.g., the willingness of the county auditor, a clerk of court, or deputy registrar in another county to serve).
- As a result of the changes specified above, eliminates the requirement that a deputy registrar live within a one-hour commute from the deputy registrar's office and the prohibition against a deputy registrar operating more than one deputy registrar office at any time.

Permanent removable windshield placard

- Creates a permanent removable windshield placard with no expiration date that authorizes use of accessible parking spaces for a person with a permanent disability that limits or impairs the ability to walk.
- Sets the cost for a permanent placard at $15 (as opposed to $5 for a standard or temporary placard), but exempts an armed forces veteran whose disability is service-connected.
- Consolidates and makes conforming changes within the language pertaining to the three types of placards: a standard placard (five-year renewal); a temporary placard (expires within six months); and the new permanent placard (no expiration).

Titling a motor vehicle from another state

- Regarding an application for a certificate of title for a motor vehicle last registered in another state, clarifies that the required physical inspection certificate must be issued specifically by the Registrar, rather than DPS as in current law.

- Requires the physical inspection to include a verification of the mileage of the motor vehicle, in addition to a verification of the make, body type, model, and vehicle identification number as in current law.

Reinstatement fees for noncompliance

- Lowers to $40 the reinstatement fee associated with a suspension for failing to have proof of financial responsibility (i.e., auto insurance), rather than the $100/$300/$600 (based on the number of prior offenses) as under current law.
- Accordingly, lowers the portion of that fee distributed to the Indigent Defense Support Fund to $10.

Traffic and vehicle equipment laws

Emergency vehicles using flashing lights

- Allows a vehicle being used on a road or highway for emergency preparedness, response, and recovery activities to use flashing amber or flashing red and white lights if the vehicle is being operated by a person from one of the following:
  - The Ohio Emergency Management Agency;
  - A countywide emergency management agency;
  - A regional authority for emergency management; or
  - A program for emergency management.

Peer-to-peer car sharing programs

- Removes requirements that a peer-to-peer (P2P) car sharing program collect certain information, retain certain records, and exclude certain vehicles from its platform and those that use the platform.
- Modifies the automobile and general insurance requirements related to P2P car sharing programs.

Motor vehicle sales, dealers, and manufacturers

Motor vehicle sales

- For purposes of the Motor Vehicle Sales Law, does all of the following:
  - Expands the meaning of "persons" to include a variety of business entities.
  - Expands the meaning of "business" to include activities conducted through the internet or other computer networks.
  - Expands the meaning of "retail sale" to include sales that occur through the internet or other computer networks.
  - Modifies the meaning of "motor vehicle leasing dealer" to include a financial institution acting as a lessor and to exclude a new motor vehicle dealer that is not the lessor.

- Defines "established place of business" to mean a permanent building or structure that meets certain conditions, potentially barring individuals whose business does not meet those conditions from licensure.

Manufacturer, dealer, and distributor vehicle registration

- Requires the Registrar to issue a license plate, rather than a placard, to vehicle manufacturers, dealers, distributors, and other similar professionals that require a temporary identification for vehicles in their possession.
- Requires the Registrar to issue corresponding and matching additional certificates of registration and license plates, rather than certified copies of the original certificate and placards, for any additional license plates requested.

Motor Vehicle Dealers Board

- Authorizes the Motor Vehicle Dealers Board to conduct meetings or hearings via teleconference or video conference.

Corrective changes

- Corrects references in law to an annual renewal for specified licenses that are currently biennial.

Scrap metal and bulk merchandise container dealers

- Authorizes DPS to investigate alleged violations of the law governing purchase, sorting, grading, and shipping of scrap metal, bulk merchandise containers, and special purpose articles ("Secondhand Dealer Law").
- Allows DPS employees and authorized representatives to conduct in-person investigations at the dealer's place of business so long as, in the case of unregistered dealers, the employee or representative first requests assistance from local law enforcement.
- Establishes a procedure by which the DPS Director may order an unregistered person to show cause as to why the person's activities are not subject to the Secondhand Dealer Law and, following the hearing, order the person to stop those activities.
- Authorizes the DPS Director to request that the Attorney General, county prosecutor, or city law director prosecute alleged violations of the Secondhand Dealer Law.
- Stipulates that a person claiming exemption from the Secondhand Dealer Law has the burden of proving that exemption in any associated proceeding or action.
- Specifies that a "scrap metal dealer" is the business engaged in scrap metal dealing, not the owner or operator of that business.

State Board of Emergency Medical, Fire, and Transportation Services

- Eliminates a requirement that each organization nominating persons to the State Board of Emergency Medical, Fire, and Transportation Services put forth three nominees and, instead, allows each organization to nominate any number of persons.
- Does both of the following regarding the Board member who is certified to teach emergency medical services training and who holds a certificate to practice as an EMT, AEMT, or paramedic:
  - Eliminates the requirement that the Governor appoint the member from among three persons nominated by the Ohio Emergency Medical Technician Instructors Association and the Ohio Instructor/Coordinators' Society; and
  - Instead, requires the member to be appointed from among EMTs, AEMTs, and paramedics nominated by the Ohio Association of Professional Firefighters and EMTs, AEMTs, and paramedics nominated by the Northern Ohio Fire Fighters.
- Specifies that if any nominating organization ceases to exist or fails to make a nomination within 60 days of a vacancy, the Governor may appoint any person who meets the designated professional qualifications for that member.
- Extends the potential time a member of the Board may continue in office if a successor does not take office from 60 days to three years.
- Eliminates a requirement that each organization nominating persons to the Trauma Committee of the State Board put forth three nominees and, instead, allows each organization to nominate any number of persons.
- Specifies that if any nominating organization ceases to exist or fails to make a nomination of a member within 60 days of a vacancy, the DPS Director may appoint any person who meets the designated professional qualifications for that member.
- Eliminates a restriction preventing the Director from appointing more than one member to the Committee who is employed by or practices in the same health system.
- Further modifies that restriction to allow the Director to appoint persons who practice at the same hospital or with the same emergency medical service (EMS) organization, provided they do not primarily practice at the same hospital or with the same EMS organization.

Emergency vehicle permits and ambulance inspections

- Eliminates the requirement that the Board of Emergency Medical, Fire, and Transportation Services issue or deny a permit application for an emergency medical vehicle or aircraft within 60 days of receiving the application.
- Specifies that the Board must deny an application in accordance with the Administrative Procedure Act.

- Adds the national standards for ambulance construction approved by the American National Standards Institute and the standards for ambulance construction approved by the Commission on Accreditation of Ambulance Services (CAAS) as standards by which the Board may determine the sufficiency of an ambulance's interior components.

Mobile training officers

Chief Mobile Training Officer and instructor qualifications

- Establishes a series of additional training and experience requirements for the role of Chief Mobile Training Officer.
- Subjects instructors who train mobile training team officers, the deputy director of the Safety and Crisis Division, and any other office holder with equivalent responsibilities to the same training and experience requirements as the Chief Mobile Training Officer.

Competency examination

- Requires the Chief Mobile Training Officer to develop a competency examination as a prerequisite for serving as a mobile training officer and procedures for taking and retaking the examination.

Catastrophic incident reports

- Requires the Chief Mobile Training Officer to develop a report after a catastrophic incident at any school in the state that details lessons learned and another report that suggests strategies and legislation to mitigate or prevent the incident's reoccurrence.

Ohio Narcotics Intelligence Center

- Codifies the Ohio Narcotics Intelligence Center in DPS, which was originally created by a Governor's Executive Order.
- Requires the Center to perform specified duties, including coordinating law enforcement response to illegal drug activities for state agencies and acting as a liaison between state agencies and local entities for the purposes of communicating counter-drug policy initiatives.
- Requires the DPS Director to appoint an executive director of the Center, who serves at the Director's discretion.
- Requires the executive director to advise the Governor and the Director on matters pertaining to illegal drug activities.

Security Grants Program

- Expands the eligible purposes of grants issued under the Security Grants Program managed by the Emergency Management Agency (EMA).
- Authorizes a nonprofit organization that serves a broad community or geographic area to apply for a security grant to provide antiterrorism services throughout its region, including armed security personnel.

- Authorizes multiple nonprofit organizations that are located at the same address to apply for separate security grants, provided the organizations can explain how they will each use the funding to address a different vulnerability.
- Requires the EMA to post information regarding the security grants and applicants on its website.

Specific investigatory work product

- Defines "specific investigatory work product" as used in the Public Records Law.

Trial preparation records and attorney work product records

- Exempts confidential attorney work product records from disclosure as a public record at any time.
- Clarifies that trial preparation records are exempt from the Public Records Law until after the conclusion of all direct appeals or, if no appeal is filed, at the expiration of the time during which an appeal may be filed.
- Defines "attorney work product record."

Task Force on Bail

- Eliminates the Task Force on Bail created in S.B. 202 of the 134th General Assembly and assigns the duties of the eliminated Task Force to the Director of Public Safety.
- Expands the bail data collection and evaluation so that it also applies to multicounty correctional centers, municipal-county correctional centers, and multicounty-municipal correctional centers.

Joint Law Enforcement Training Center Study Commission

- Creates the Joint Law Enforcement Training Center Study Commission to study the cost of establishing the Joint Law Enforcement Training Center for Ohio.

Driver's licenses and identification cards

Limited term licenses and identification cards

(R.C. 3501.01, 4507.01, 4507.061, 4507.09, 4507.13, 4507.50, 4507.501, and 4507.52)

The bill makes changes to Ohio law that governs driver's licenses and state identification (ID) cards issued to temporary residents. Temporary residents generally are persons who are not U.S. citizens or permanent residents under U.S. immigration laws.[221] The purpose of the changes is to ensure that those licenses and ID cards issued to temporary residents conform to the federal REAL ID Act. Under that act, driver's licenses and ID cards issued to temporary residents are described as "limited term," with required expiration date standards. A temporary resident may

[221] O.A.C. 4501:1-1-35 and 4501:1-1-35.

renew a limited term license upon verification of the applicant's continued legal status in the U.S. Regarding their expiration dates, federal law requires a REAL ID-compliant license or ID issued to a temporary resident to expire as follows:

- If the license or ID is issued to a temporary resident who has a definite expiration date for the resident's authorized stay in the U.S., the license or ID must expire on that date or four years from the date of issuance, whichever is earlier.
- If the license or ID is issued to a temporary resident who does not have a definite expiration date for the resident's authorized stay in the U.S., the license or ID must expire one year from the date of issuance.[222]

In order to conform Ohio's law to the federal REAL ID Act, the bill does all of the following:

1. Renames the "nonrenewable/nontransferable" driver's license and ID card a "limited term license," "limited term identification card," and "limited term temporary identification card." (As a conforming change, the bill excludes the use of a limited term license as a form of photo identification for purposes of voting.)

2. Requires the limited terms licenses and ID cards to have the words "limited term" printed on them, along with any other characteristics prescribed by the Registrar.

3. Authorizes the limited term licensee or cardholder to renew the license or ID card within 90 days of expiration, provided the licensee or cardholder can verify his or her continued lawful status/legal presence in the U.S.

4. Aligns the required expiration dates more clearly with the required expiration dates in the federal Real ID Act, and requires the Registrar to adopt rules regarding the issuance of the limited term licenses and ID cards and their expiration dates. (In doing so, the bill also adjusts the law concerning expiration dates for licenses and ID cards generally.)

5. Requires, in general, all driver's licenses and ID cards issued in accordance with the federal REAL ID Act to comply with the corresponding federal regulations.

Return of ID cards

(R.C. 4507.52)

The bill removes the requirement that an ID cardholder surrender or return his or her original ID card to the BMV if any of the following occur:

1. The cardholder applies for a driver's license or CDL in Ohio or in another state;

2. The cardholder lost the original ID card, but then finds it after obtaining a duplicate or a reprint ID card; or

3. The cardholder changes his or her name and obtains a replacement ID card to reflect the new name.

[222] "Real ID Act," 49 U.S.C. 30301, *et seq*., 6 C.F.R. Part 37.

As a conforming change, the bill also removes the requirement that the Registrar cancel any card surrendered to the BMV for any of the above reasons.

ID card reimbursements

(R.C. 4507.49; Section 373.30)

The bill allows the Registrar to establish a payment schedule that is more frequent than the monthly schedule established by current law for reimbursing deputy registrars for their services in issuing free ID cards. Under current law, unchanged by the bill, ID cards are free for anyone 17 and older on initial issuance, renewal, and replacement (for a name change). Prior to the ID cards being free, a deputy registrar received from an applicant $6.50 for each 4-year ID card issued or renewed, $13 for each 8-year ID card issued or renewed, and $5 for each replacement ID card. Rather than the applicant paying the deputy registrar, current law now requires the Registrar to reimburse a deputy registrar in those amounts for each applicant. In order to be reimbursed for the service of issuing free ID cards, each deputy registrar must submit a verification form specifying the number of free cards issued or renewed during the course of the past month. The bill allows the Registrar to retain the monthly reimbursement schedule or establish a more frequent schedule, as determined by the Registrar.

The bill authorizes the DPS Director to certify to the OBM Director, on a quarterly basis, both of the following:

1. The amounts paid by DPS to deputy registrars to reimburse them for their services in issuing and renewing free ID cards or temporary ID cards that past quarter; and

2. The amount of fees not otherwise collected by the Registrar for any free ID cards and temporary ID cards issued or renewed by the Registrar that past quarter.

Furthermore, the bill authorizes the OBM Director to transfer up to $4 million per fiscal year to the BMV's primary fund (Public Safety – Highway Purposes Fund) from the GRF. The money reimburses the BMV for its expenses related to the free ID cards. The General Assembly authorized any person 17 and over who applies for and receives an ID card from the BMV to receive and renew it for free. That authorization was established by H.B. 458 of the 134th General Assembly in association with requiring photo identification for voting.[223]

Commercial driver's licenses

Online driver's license, ID card, and CDL renewal

(R.C. 4507.061)

The bill provides for the online renewal of CDLs in a similar manner as driver's licenses and ID cards under current law. In so doing, the bill prohibits online renewal or issuance of any of the following:

[223] R.C. 4507.49, not in the bill. For additional information regarding free ID cards, see the LSC Final Analysis for H.B. 458 of the 134th General Assembly (PDF), which is available on the General Assembly's website: legislature.ohio.gov.

1. A CDL temporary instruction permit;

2. An initial CDL; and

3. A nonrenewable CDL.

Eligibility criteria

The bill modifies two existing eligibility requirements for online renewal. First, when a person is renewing a driver's license or ID card (or, under the bill, a CDL) online, the applicant's current license or ID card must have been issued when the applicant was age 21 or older. Further, the applicant must be under age 65 at the time of application. Under current law, the applicant must be between 21 and 65 years of age, and the age at which the applicant's current license was issued is not relevant. Second, the bill authorizes U.S. permanent residents who reside in Ohio to renew driver's licenses, CDLs, and ID cards online. Currently only U.S. citizens who reside in Ohio are eligible for online renewal.

The bill also establishes two new eligibility criteria that apply only to the online renewal of a CDL. Namely, a CDL holder must:

1. Be in compliance with all laws governing CDL issuance, including self-certification and medical certificate requirements; and

2. Not be under any CDL restriction specified by federal regulations.

CDL temporary instruction permit

(R.C. 4506.06)

The bill specifies that a commercial driver's license temporary instruction permit (CDLTIP) is a prerequisite to obtaining a CDL only when the CDL requires the passage of a skills test in order to receive it. Under current law, a CDLTIP is a prerequisite to obtaining any CDL. The bill also extends the maximum validity period for a CDLTIP from six months to 12 months. Finally, it repeals law that allows the Registrar to renew a CDLTIP only once in a two-year period. These changes align Ohio law with the Federal Motor Carrier Safety Administration rules.

CDL skills test third-party examiners

(R.C. 4506.09)

Under current law and as authorized by federal law, the DPS Director may contract with third parties to administer the skills test given to applicants for a CDL or a specific endorsement on the CDL. Recent updates to federal regulations pertaining to the CDL skills tests, examining locations, and the examiners necessitate corresponding changes to Ohio's laws.

Currently, third party examiners must meet the same qualification and training standards as the DPS examiners and pass a criminal background check. The bill clarifies that as part of meeting the DPS standards, third party examiners must meet the standards for the class of vehicle and the endorsements for which an applicant taking the skills test is applying. For example, an examiner giving the skills test to an applicant for the S-endorsement (school bus) must personally meet the standards for that S-endorsement. Finally, the bill reduces the number

of individuals to whom a CDL skills test examiner must administer a skills test from 32 to ten individuals per calendar year.

The bill also requires the contracted third party to schedule all skills test appointments through a system or method provided by the DPS Director. If the Director does not provide a system or method, the third party must submit a schedule of the skills test appointments to the Director weekly. The Director may request that any additions to the schedule, made after the weekly submission, be submitted at least two business days prior to the additional appointment. Under current law, the third parties must submit a schedule of skills test appointments to the Director at least two business days prior to each skills test.

Finally, the bill requires the third parties to keep a copy of their third-party agreement with the Director at their principal place of business. Current law requires third parties to maintain a variety of records at their business, including their CDL skills testing program certificate, their examiners' certificates of authorization to administer skills tests, completed skills test scoring sheets, a list of test routes, and a complete and accurate copy of their examiners' training records.

CDL waiver for farm-related service industries

(R.C. 4506.24)

The bill increases the validity period from 180 to 210 days per calendar year for a restricted CDL issued to a person operating commercial motor vehicles for a farm-related service industry. This change is in accordance with the federal authorization under 49 C.F.R. 383.3. This restricted CDL is a seasonal license available to authorized drivers working for farm retail outlets and suppliers, agri-chemical businesses, custom harvesters, and livestock feeders. Authorized drivers are able to obtain the restricted CDL without completing the typically required written or skills tests.

Fraudulent acts related to CDL testing

(R.C. 4506.04 and 4506.10)

The bill prohibits a person from knowingly providing false statements or engaging in any fraudulent acts related to CDL testing. A violation of the prohibition is a third degree misdemeanor. The Registrar also may cancel the offender's driver's license, CDL, CDLTIP, or any pending application for a license or permit. Current law includes a parallel provision that prohibits providing false information in any application for a CDL.

CDL disqualifications: human trafficking

(R.C. 4506.15, 4506.16)

The bill prohibits a CDL holder from using a commercial motor vehicle in the commission of a felony human trafficking offense. A violation is a first degree misdemeanor, which is in addition to any penalties imposed for the underlying conduct. Further, the bill establishes a lifetime disqualification from operating a commercial motor vehicle for a person who is convicted of violating the prohibition.

Strict liability declaration

The bill also clarifies that various offenses related to CDL holders are strict liability offenses, including the new offense specified above.

Motor vehicle OVI violation requiring surrender of CDL

(R.C. 4506.17)

The bill clarifies that a CDL holder or CDLTIP holder must immediately surrender the holder's CDL or permit to an arresting peace officer if the holder was operating a motor vehicle in violation of the state OVI law's (operating a vehicle while intoxicated) statutory limits for alcohol or a controlled substance. Current law requires the surrender when a holder exceeds the statutory limits for alcohol or a controlled substance under the CDL law, but it does not specifically require the surrender when the violation involves the general state OVI law.

Specialty license plates

Ohio Natural Energy Institute license plate

(R.C. 4501.21 and 4503.584)

The bill renames the existing "Ohio Oil and Gas Energy Education Program" license plate as the "Ohio Natural Energy Institute" license plate. Under current law, the $20 contribution for that plate must go to that program and be used to fund scholarships for students pursuing careers in the oil and natural gas industry. The bill requires the contribution to instead go to the Ohio Natural Energy Institute and retains the requirement that it be used for those scholarships.

Loyal Order of the Moose license plate

(R.C. 4501.21 and 4503.703)

The bill requires representatives of the Ohio State Moose Association to select the logo and words for the existing Loyal Order of the Moose license plate design instead of the Ohio Chapter of the Loyal Order of the Moose as in current law. Additionally, the bill requires the contribution of $20 to be paid to the Ohio State Moose Association instead of the Ohio Chapter.

Recovery is Beautiful license plate

(R.C. 4503.519)

The bill increases the contribution for a Recovery is Beautiful license plate from $20 to $21. The proceeds of the contributions must be distributed equally, as provided in current law, to the following organizations:

- NAMI Ohio (National Alliance on Mental Illness of Ohio);
- Ohio Peer Recovery Organizations; and
- OCAAR (Ohio Citizen Advocates for Addiction Recovery).

Other BMV services

Deputy registrars

(R.C. 4503.03)

Current law allows the Registrar to designate the following persons to act as a deputy registrar:

1. A county auditor if the county population is 40,000 or less;

2. A clerk of a court of common pleas if the county population is 40,000 or less (if the county population exceeds 40,000, but is less than 50,000, the clerk is eligible to act as a deputy registrar, but must participate in the competitive selection process);

3. An individual; or

4. A nonprofit corporation.

The bill eliminates the population restrictions that limit the counties in which a county auditor or clerk of court may serve. Thus, the Registrar may designate either the county auditor or clerk of court to serve as a deputy registrar in any county.

The bill then relieves the Registrar from the responsibility to appoint a deputy registrar in a county if the following apply:

1. No qualified individual or nonprofit corporation applies to be a deputy registrar via a competitive selection process or otherwise;

2. The clerk of court and county auditor do not agree to be designated as a deputy registrar; and

3. No deputy registrar in another county agrees to be designated for that county.

If the Registrar does not appoint a deputy registrar for a county, the Registrar may subsequently reestablish a deputy registrar for that county under the following circumstances:

1. The county auditor or clerk of court requests to be designated as a deputy registrar;

2. A deputy registrar operating an existing deputy registrar agency in another county requests to be designated as the deputy registrar for the county in question; or

3. A qualified individual or nonprofit corporation requests to be designated as a deputy registrar for that county. If more than one qualified individual or nonprofit corporation makes the request, the Registrar may make the designation via a competitive selection process.

As a result of these changes, the bill eliminates the requirement that a deputy registrar live within a one-hour commute from the deputy registrar's office. It also eliminates the prohibition against a deputy registrar operating more than one deputy registrar office at any time, thus allowing a person to operate multiple deputy registrar offices.

Permanent removable windshield placard

(R.C. 4503.038, 4503.44, 4511.69, 4731.481, and 4734.161)

The bill creates a permanent removable windshield placard with no expiration date that authorizes the use of accessible parking spaces for a person with a permanent disability that limits or impairs the ability to walk. The Registrar determines the form, size, material, and color of the permanent placard, but it must display the word "permanent" on it. Under current law, the BMV issues two types of removable windshield placards: a standard placard that expires five years after the date of issuance and a temporary placard that expires within six months. The temporary placard is issued to a person whose disability is expected to last for less than six months (e.g., a broken leg). Those with a permanent disability, under current law, must renew the standard placard every five years.

To obtain a permanent placard, an applicant must submit a completed application to the BMV that includes a prescription from an authorized health care provider stating that the applicant's disability is expected to be permanent. The cost of a permanent placard is $15, compared to $5 for the temporary or standard placard. Similar to the temporary and standard placard, that fee is waived for an armed forces veteran whose disability is service-connected.

If a person who was issued a permanent placard no longer requires it, the person must notify and surrender the placard to BMV within ten days of no longer requiring the placard. That person may still apply for a temporary or standard placard, if applicable.

The bill consolidates and makes conforming changes within the statutory language pertaining to the three different types of removable windshield placards. However, it makes no substantive changes concerning the issuance, cost, or display of the temporary placard or standard placard.

Titling a motor vehicle from another state

(R.C. 4505.061)

Under current law, when a person applies for a certificate of title for a motor vehicle that was last registered in another state, a physical inspection of the motor vehicle is required. The inspection may be conducted at various locations specified in the law. A physical inspection includes a verification of the make, body type, model, and vehicle identification number of the motor vehicle. The bill requires the inspection to also verify the mileage of the vehicle. The bill also clarifies that the required physical inspection certificate must be issued specifically by the Registrar, rather than DPS as in current law.

Reinstatement fees for noncompliance

(R.C. 4509.101)

The bill lowers to $40 the reinstatement fee associated with a suspension for failing to have proof of financial responsibility (i.e., auto insurance). After the term of the driver's license suspension, the offender must pay a reinstatement fee in order to reinstate his or her driver's license. The fee compensates the BMV for suspensions, cancellations, or disqualifications of a

person's driving privileges and the administration of programs intended to reduce and eliminate threats to public safety through education, treatment, and other activities.

Under current law, the reinstatement fees for noncompliance are $100 for a first offense, $300 for a second offense within five years, and $600 for a third or subsequent offense within five years. Under the bill, the lower $40 fee applies regardless of the number of prior offenses. Accordingly, the bill also lowers the portion of the fee that is distributed to the existing Indigent Defense Support Fund to $10, rather than the current law distribution of $25 for a first offense, $50 for a second offense within five years, and $100 for a third or subsequent offense within five years. The remaining $30 of the $40 fee is distributed to the existing Public Safety – Highway Purposes Fund.

The bill's lower reinstatement fee and its distribution is consistent with the current law reinstatement fee imposed for driver's license suspensions that are more than 90 days and that do not specify an alternative fee amount.[224]

Traffic and vehicle equipment laws

Emergency vehicles using flashing lights

(R.C. 4513.17)

The bill allows a vehicle being used on a road or highway for emergency preparedness, response, and recovery activities to use flashing amber or flashing red and white lights if the vehicle is being operated by a person from one of the following:

1. The Ohio Emergency Management Agency;

2. A countywide emergency management agency;

3. A regional authority for emergency management; or

4. A program for emergency management.

Generally, under current law, flashing lights are prohibited on motor vehicles, except as a means for indicating a right or a left turn, or in the presence of a vehicular traffic hazard requiring unusual care in approaching, or overtaking or passing. Current law provides for other exceptions to this prohibition, including certain flashing lights on all of the following: emergency vehicles, road service vehicles servicing or towing a disabled vehicle, stationary waste collection vehicles actively collecting garbage, rural mail delivery vehicles, highway maintenance vehicles, farm machinery and vehicles escorting farm machinery, and a funeral hearse or funeral escort vehicle.

Peer-to-peer car sharing programs

(R.C. 4516.01, 4516.02, 4516.05, 4516.06, 4516.08, 4516.09, and 4516.10)

The bill makes numerous changes related to a peer-to-peer (P2P) car sharing program's general responsibilities and insurance requirements. Under current law, a program must collect

[224] R.C. 4507.45, not in the bill.

specified information from the shared vehicle owners and shared vehicle drivers both before entering into a P2P car sharing program agreement and as ongoing information for shared vehicles that are part of the platform. The bill removes information collection requirements for the following:

- The name and address of any alternative drivers (but still requires an alternative driver to submit their driver's license information);
- Information regarding whether the shared vehicle owner or shared vehicle drivers have a motor vehicle liability policy or other proof of financial responsibility;
- Information about any outstanding safety recalls on the shared vehicle; and
- Verification that the shared vehicle is properly registered in either Ohio or another state.

Additionally, under current law, a P2P car sharing program is prohibited from allowing a P2P car sharing agreement through its platform if it knows that (1) the person driving the shared vehicle is not a party to the agreement or does not have a valid driver's license, or (2) that the shared vehicle is not properly registered. The bill removes these prohibitions. It also removes requirements that the program collect, verify, and maintain records pertaining to the dates, times, and duration of time that a shared vehicle driver possess a shared vehicle through the program.

Similarly, the bill removes requirements that the program establish commercially reasonable procedures to determine safety recalls that apply to the shared vehicles on its platform after initial registration with the platform. However, it retains the requirements that the program verify that there are no outstanding safety recalls on initial registration and that shared vehicle owners alert the program to safety recalls after registration. The bill specifies that P2P car sharing is subject to the laws governing consumer sales practices; however, it removes current law references and specifications regarding the roles of each party (the program, the shared vehicle owner, and the shared vehicle driver) within those laws.

Related to the P2P car sharing agreement between the parties, the bill clarifies that if the parties agree to an alternative location for return of the vehicle, that new location must in incorporated into the agreement in order to trigger the car sharing termination time.

Insurance requirements

The bill expands on current law's general statement that an insurer may limit, restrict, or exclude coverage of a shared vehicle within its insurance policies. Specifically, the bill specifies that an insurer may exclude or limit coverage for bodily injury and property damage, uninsured or underinsured motorist coverage, medical payments coverage, comprehensive physical damage coverage, collision physical damage coverage, and loss of earnings coverage. Insurance companies are free to either include, exclude, or otherwise limit coverage of a shared vehicle as they determine appropriate within the policies they establish with their customers.

Given that some insurance companies may not provide shared vehicle coverage to their customers, the bill requires a P2P car sharing program to have either a policy of insurance or a self-insurance mechanism to cover its liabilities and obligations, which include providing

coverage when the shared vehicle owner or shared vehicle driver cannot. Policies (and other forms of proof of financial responsibility) must still provide the minimum coverage required by Ohio law and recognize the motor vehicle as a shared vehicle. The bill adds that the policies must also not expressly exclude the use of the insured vehicle as a shared vehicle by a shared vehicle driver and that the program must cover the difference in minimum coverage if the shared vehicle is operated in a state that has higher minimum coverage requirements.

The bill retains current law that specifies that the shared vehicle owner, shared vehicle driver, or P2P car sharing program may provide the necessary insurance over the shared vehicle and the use of that vehicle through the program. However, it designates the person so providing the insurance as the "primary insurance." The primary insurance must assume primary liability for the claim if:

- There is a dispute over who was operating the shared vehicle at the time of the loss (and the program does not have any applicable records to note the operator at the time); or
- There is a dispute as to whether the shared vehicle was returned to the correct location.

Additionally, the bill removes the requirement that the P2P car sharing program examine the insurance policy of the shared vehicle owner or shared vehicle driver (to determine if car sharing coverage is excluded) if the owner or driver refuses coverage provided by the program. The removal does not relieve the program of the requirement to provide insurance if the shared vehicle owner or shared vehicle driver's insurance does not provide the required coverage and to ensure that the shared vehicle is insured during the car sharing period.

Motor vehicle sales, dealers, and manufacturers

Motor vehicle sales

(R.C. 4517.01)

The bill expands the meaning of "person" under the Motor Vehicle Sales Law to expressly include a variety of business entities, such as a sole proprietorship, a limited liability company, a limited liability partnership, and a business trust. Thus, the bill clarifies that these legally recognized business entities are subject to the requirements, prohibitions, and penalties of that law. The current law definition already includes a variety of business entities; however, those listed above were not expressly included in that list.

The bill also expands the meaning of "business" and "retail sale" within the Motor Vehicle Sales Law to encompass activities that are conducted and sales that occur through the internet or other computer networks. In recent years, numerous motor vehicle dealers, both established dealers and newer start-ups, have attempted to make the car buying process simpler by offering online buying options. The bill ensures that businesses selling motor vehicles online are still subject to BMV regulations pertaining to motor vehicle sales by expanding those definitions.

Likewise, the bill modifies the meaning of "motor vehicle leasing dealer," affecting which entities must meet the statutory requirements for leasing dealers. The modification consists of both of the following:

1. It includes a financial institution acting as the lessor for a lease or a sublease; and

2. It excludes a new motor vehicle dealer that is not acting as the lessor and is only assisting in arranging a lease on the lessor's behalf.

Additionally, the bill creates a definitive meaning of "established place of business," which current law regulates, but does not define. Specifically, an established place of business is a permanent, enclosed building or structure that meets the following conditions:

1. It is owned, leased, or rented by the motor vehicle dealer;

2. It meets local zoning or municipal requirements;

3. At least one person regularly occupies it;

4. It is easily accessible to the public;

5. The records and files necessary to conduct the business are generally kept and maintained at the location or are readily accessible and available for reasonable inspection from that location (e.g., electronic files); and

6. It is not a residence, tent, temporary stand, storage shed, lot, or any temporary quarters, unless otherwise authorized by the Registrar.

Under law unchanged by the bill, motor vehicle dealers (new, used, and leasing), motor vehicle auction owners, and distributors are required to have an established place of business to sell, display, offer for sale, deal in, or lease motor vehicles.[225] Thus, the specified conditions for an established place of business could potentially prevent those that do not meet those conditions from licensure under the Motor Vehicle Sales Law.

Manufacturer, dealer, and distributor vehicle registration

(R.C. 4503.27, 4503.271, 4503.28, 4503.30, 4503.301, 4503.31, 4503.311, 4503.312, 4503.32, 4503.33, and 4503.34)

The bill requires the Registrar to issue a license plate, rather than a placard as in current law, to vehicle manufacturers, dealers, distributors, and other similar professionals that require a temporary identification for the vehicles that are in their possession. Under law unchanged by the bill, the Registrar and BMV license and regulate motor vehicle manufacturers, dealers, and distributors. As part of that licensing, the Registrar assigns those entities a distinctive number. The Registrar, historically, issued the entity a placard displaying that distinctive number. The entity could then use the placard on its various vehicles when each of the vehicles was operated on the public streets and highways (e.g., during a test drive by a customer). According to the BMV, current practice is to issue a license plate, rather than a placard, for the entities to use on the vehicles.

In addition to the original license plate, a manufacturer, dealer, or distributor may request additional license plates with the same distinctive number. Having additional copies allows the entity to have multiple vehicles driven at the same time. The entity pays an annual $5 fee for each additional license plate. Historically, the Registrar issued certified copies of the original

[225] R.C. 4517.03, 4517.12, and 4517.13, not in the bill.

certificate of registration for each of the additional placards. Currently, the Registrar issues instead an additional registration certificate with the same numbering as the original. The bill updates the registration laws related to motor vehicle manufacturers, dealers, and distributors to reflect the current practices.

Along with motor vehicle manufacturers, dealers, and distributors, other similar professionals use the temporary identification placards/license plates. The bill applies the same changes to license plates and additional certificates of registration to those professionals. Those professionals include:

- Manufacturers, dealers, and distributors of commercial cars, commercial tractors, trailers, or semitrailers;
- Those engaged in testing motor vehicles or motorized bicycles;
- Those who collect motor vehicles as the collateral of a secured transaction;
- Those transporting or holding motor vehicles for an insurance company for salvage disposition;
- Those engaged in salvage operations or scrap metal processing;
- Those testing motor vehicles as part of an Ohio nonprofit corporation;
- Those engaged in rustproofing, reconditioning, or installing equipment or trim on motor vehicles;
- Those engaged in manufacturing articles for attachment to motor vehicles;
- Towers (for the motor vehicle being towed to a point of storage);
- Those using trailers who are engaged in the business of selling tangible personal property other than motor vehicles;
- Manufacturers and dealers in watercraft trailers;
- Manufacturers, distributors, and retail sellers of utility trailers or trailers used for motorcycles, snowmobiles, or all-purpose vehicles; and
- A drive-away operator or trailer transporter (a person that transports new or used motor vehicles).

Motor Vehicle Dealers Board

(R.C. 4517.32 and 4517.35)

The bill authorizes the Motor Vehicle Dealers Board to hold and attend meetings and to conduct and attend hearings by means of teleconference, video conference, or any other similar electronic technology. Under current Open Meetings Law, public bodies must take official action and conduct all deliberations in open meetings, unless specifically excepted by law, and a member of a public body must be present in person at a meeting open to the public to be

considered present.[226] The bill authorizes the Board to conduct virtual meetings and hearings, and applies all of the following:

1. Any decision, resolution, rule, or formal action of any kind has the same effect as if it occurred during an open meeting or hearing in which members are present in person.

2. Board Members who attend meetings or hearings by means of teleconference, video conference, or any other similar electronic technology, must be considered present as if in person at the meeting or hearing, must be permitted to vote, and must be counted for purposes of determining whether a quorum is present.

3. The Board must provide notification of meetings and hearings to the public, to the media that have requested notification of a meeting, and to the parties required to be notified of a hearing, at least 24 hours in advance of the meeting or hearing by reasonable methods by which any person may determine the time, location, and the manner by which the meeting or hearing will be conducted, except for an emergency requiring immediate official action. For an emergency, the Board must immediately notify the applicable persons of the time, place, and purpose of the meeting or hearing.

4. The Board must provide the public access to a meeting held under this provision, and to any hearing held under this provision that the public would otherwise be entitled to attend, commensurate with the method in which the meeting or hearing is being conducted, including examples such as livestreaming by means of the internet, local radio, television, cable, or public access channels, call in information for a teleconference, or by means of any other similar electronic technology. The Board must ensure that the public can observe, when applicable, and hear the discussions and deliberations of all Board members, whether the member is participating in person or electronically.

5. Individuals subject to Board business, including licensees, representatives, witnesses, or subject matter experts must attend the meeting in person.

The bill also specifies that when Board members conduct a hearing by means of teleconference, video conference, or any other similar electronic technology, the Board must establish a means, through the use of electronic equipment that is widely available to the general public, to converse with witnesses and to receive documentary testimony and physical evidence.

Also, the bill clarifies that meetings held under this provision do not exempt the Board from other requirements of Open Meetings Law that do not conflict with it.

Corrective changes

(R.C. 4517.05, 4517.06, 4517.07, and 4517.08)

The bill makes corrective changes to several references in current law to an "annual renewal" for the used motor vehicle license, the motor vehicle leasing dealer's license, the motor

[226] R.C. 121.22, not in the bill.

vehicle auction owner's license, and the distributor's license. In practice, and in a separate reference for all of the licenses, they renew biennially.[227]

Scrap metal and bulk merchandise container dealers

(R.C. 4737.04)

The bill authorizes DPS to investigate alleged violations of the law governing purchase, sorting, grading, and shipping scrap metal, bulk merchandise containers, and special purpose articles such as beer kegs, cable and electrical wire, grave markers, guard rails, street signs, light poles, historical markers, grocery carts, railroad materials, and metal trays ("Secondhand Dealer Law"). The Secondhand Dealer Law requires scrap metal dealers and bulk merchandise container dealers to register with DPS, keep detailed records of all transactions, and issue daily reports of those transactions to the DPS Director. Furthermore, the Law prohibits dealers from purchasing or receiving articles from persons identified on a list of known thieves or receivers of stolen property, maintained by local law enforcement and published by the DPS Director.

Appearance at dealer's place of business

During the course of an investigation, the bill authorizes DPS employees and designated representatives to appear at a registered dealer's place of business during normal business hours. While on the premises, the employee or representative may inspect articles, observe business transactions, and record license plate numbers of motor vehicles used to transport articles. If the investigation involves an unregistered person acting as a scrap metal dealer or bulk merchandise container dealer, the bill requires DPS employees and designated representatives to request the assistance of local law enforcement before appearing at the person's suspected place of business.

Cease and desist orders

The bill also establishes a procedure by which the DPS Director may seek to enjoin an unregistered person from acting as a scrap metal dealer or bulk merchandise container dealer. First, the Director may issue a show cause order directing the unregistered person to demonstrate why their business activities are not subject to registration under the Secondhand Dealer Law. The Director must issue notice of the order and hold a hearing in accordance with the Administrative Procedure Act (R.C. Chapter 119). Following the hearing, if the Director determines that the person's activities are subject to the registration requirement, the Director may issue an order directing the person to cease and desist the activities. The cease-and-desist order must identify the unregistered person and describe the prohibited business activities. The unregistered person may appeal the cease-and-desist order to the court of common pleas of Franklin County or the county where the person's business is located.

Prosecution

The bill authorizes the DPS Director to request that the Attorney General, county prosecutor, or city law director prosecute an alleged violation of the Secondhand Dealer Law,

[227] R.C. 4517.10.

including a violation of a cease-and-desist order issued by the DPS Director to an unregistered person. A court of competent jurisdiction may grant an injunction or any other relief warranted by the facts.

The bill specifies that, for any proceeding in which a person claims to be exempt from the Secondhand Dealer Law, the burden of proof is on the person claiming the benefit of the exemption.

Scrap metal dealers

The bill specifies that, for the purposes of the Secondhand Dealer Law, a "scrap metal dealer" is the business engaged in scrap metal dealing, not the owner or operator of that business.

State Board of Emergency Medical, Fire, and Transportation Services

(R.C. 4765.02 and 4765.04)

The bill eliminates a requirement that each organization required to nominate persons to the State Board of Emergency Medical, Fire, and Transportation Services put forth three nominees. Instead, it allows each organization to nominate any number of persons. As under current law, the Governor must then appoint a Board member from those nominees.

For example, one member of the Board must be a physician certified by the American Board of Emergency Medicine or the American Osteopathic Board of Emergency Medicine who is active in the practice of emergency medicine and is actively involved with an emergency medical service organization. The Ohio Chapter of the American College of Emergency Physicians and the Ohio Osteopathic Association must each nominate three persons for this position. Under the bill, each of these organizations may nominate any number of persons for the position. The Governor must then appoint the physician Board member from those nominees.

In addition, the bill does both of the following regarding the Board member who must be certified to teach emergency medical services training and who must hold a certificate to practice as an EMT, AEMT, or paramedic:

- Eliminates the requirement that the Governor appoint the member from among three persons nominated by the Ohio Emergency Medical Technician Instructors Association and the Ohio Instructor/Coordinators' Society; and
- Instead, requires the member to be appointed from among EMTs, AEMTs, and paramedics nominated by the Ohio Association of Professional Firefighters and EMTs, AEMTs, and paramedics nominated by the Northern Ohio Fire Fighters.

The bill specifies that if any organization required to make nominations to the Board ceases to exist or fails to make a nomination within 60 days of a vacancy, the Governor may appoint any person who meets the professional qualifications designated for that member.

Finally, the bill extends the potential time a member of the Board may continue in office if a successor does not take office from 60 days to three years. For reference, a Board member's term is three years.

The bill also eliminates a requirement that each organization required to nominate persons to the Board's Trauma Committee put forth three nominees. Instead, it allows each designated organization to nominate any number of persons. The DPS Director must then appoint members from those nominees. The bill specifies that if any nominating organization ceases to exist or fails to nominate a member within 60 days of a vacancy, the Director may appoint any person who meets the professional qualifications designated for that member.

The bill eliminates a restriction preventing the Director from appointing more than one member to the Trauma Committee who is employed by or practices in the same health system. It also allows the Director to appoint persons who practice at the same hospital or with the same emergency medical service (EMS) organization, provided they do not primarily practice at the same hospital or with the same EMS organization. Currently, the Director cannot appoint more than one member who is employed by or practices at the same hospital, health system, or EMS organization.

Emergency vehicle permits and ambulance inspections

(R.C. 4766.07)

The bill eliminates the current requirement that the State Board of Emergency Medical, Fire, and Transportation Services issue or deny a permit application for an emergency medical vehicle or aircraft within 60 days of receiving the application. It also specifies that the Board must deny an application in accordance with the Administrative Procedure Act (R.C. Chapter 119).

The bill allows the Board to determine the sufficiency of an ambulance's medical equipment, communication system, and interior by applying new sets of standards that are not allowed under current law. Under current law, the Board must evaluate all of these interior components by applying the federal requirements for ambulance construction in effect at the time the ambulance was manufactured. The bill allows the Board to also apply the following standards in effect at the time the ambulance was manufactured:

1. The national standard for ambulance construction approved by the American National Standards Institute (ANSI); and

2. The standard for ambulance construction approved by the Commission on Accreditation of Ambulance Services (CAAS).

Thus, the Board has the option of applying the federal standards, the ANSI standards, or the CAAS standards.

Mobile training officers

(R.C. 5502.701 and 5502.702)

Chief Mobile Training Officer and instructor qualifications

The bill requires the Chief Mobile Training Officer and instructors who train mobile training team officers to meet additional training and experience requirements, including all of the following:

1. At least five years of law enforcement experience or equivalent military experience;

2. At least five years of experience on a tactical law enforcement response team, including a SWAT, hostage rescue, or special response team, or equivalent military experience;

3. At least three years of experience as a leader or supervisor of a specialized law enforcement response team, or equivalent military experience, and, in that role, planned, coordinated, and conducted the special response team's operations;

4. Being qualified to serve as an instructor at the Ohio Peace Officer Training Academy facilities to conduct mobile training team training and authorized to use the Academy's facilities to conduct mobile training team training;

5. Experience conducting on-site physical security and threat assessments;

6. Computer software and communications skills necessary to effectively present information to, build relationships with, and coordinate with trainers, first responders, and school staff, including a working knowledge of the Ohio Law Enforcement Gateway or its successor; and

7. The necessary knowledge and experience to develop training that fulfills all the requirements under law and to revise the training as needed by incorporating feedback from mobile training team course critiques, after action reports, and first responders.

Under continuing law, the Chief Mobile Training Officer and instructors who train mobile training team officers must be either licensed peace officers or veterans and must meet all additional qualifications prescribed by rule.

The bill also requires the Deputy Director of the Safety and Crisis Division and other office holders with equivalent responsibilities to meet all of the same existing and additional training and experience requirements as the Chief Mobile Training Officer.

Competency examination

The bill requires the Chief Mobile Training Officer to develop a competency examination for mobile training officers. An individual must pass the competency examination to be eligible for appointment as a mobile training officer.

The bill permits an individual who fails the competency examination to retake it on the same day. If the individual fails the retake examination, then the individual must take a three-day training course and may retake the examination after completing the course.

Individuals who are mobile training officers on the amendment's effective date must take the competency examination. If the individual fails the examination after undergoing the training process and second retake of the examination, then the individual may no longer be a mobile training officer.

Catastrophic incident reports

The bill requires the Chief Mobile Training Officer to, following a catastrophic incident in any school in the state, develop one report that details the lessons learned from the incident and a second report that suggests strategies and legislation to mitigate or prevent the incident's recurrence.

Ohio Narcotics Intelligence Center

(R.C. 5502.69)

The bill codifies the Ohio Narcotics Intelligence Center in DPS. According to DPS, the Center was created by Governor DeWine in 2019 via Executive Order 2019-20D.

The Center must do all of the following:

1. Coordinate law enforcement response to illegal drug activities for state agencies and act as a liaison between state agencies and local entities for the purposes of communicating counter-drug policy initiatives;

2. Collect, analyze, maintain, and disseminate information to support law enforcement agencies, other government agencies, and private organizations in detecting, deterring, preventing, preparing for, prosecuting, and responding to illegal drug activities. The records received and created are confidential law enforcement investigatory records that are not considered a public record.

3. Develop and coordinate policies, protocols, and strategies that may be used by local, state, and private organizations to detect, deter, prevent, prepare for, prosecute, and respond to illegal drug activities; and

4. Develop, update, and coordinate the implementation of an Ohio drug control strategy to guide state and local governments and public agencies.

The DPS Director must appoint an executive director of the Center. The executive director must serve at the Director's discretion. The executive director must advise the Governor and the Director on matters pertaining to illegal drug activities. To carry out the duties assigned under the bill, the executive director, subject to the direction and control of the Director, may appoint and maintain necessary staff and may enter into any necessary agreements.

Security Grants Program

(Sections 373.10 and 373.20)

The bill expands the eligible purposes of grants issued under the Security Grants Program. The Emergency Management Agency (EMA) administers the program and it has existed in its current form since approximately 2019. Through the program, the EMA issues grants of up to $100,000 to nonprofit organizations, houses of worship, chartered nonpublic schools, and

licensed preschools. Under current law, the EMA issues grants for various security and counterterrorism purposes. The bill keeps to that general purpose but expands the specific uses of the grant money to include the following:

1. The lease, in addition to purchase, of qualified equipment (e.g., equipment for emergency and crisis communication, crisis management, or trauma and crisis response);

2. The placement of qualified equipment at a location that is not owned by the grantee, provided the appropriate authorizations are given by the political subdivision or law enforcement agency with jurisdiction over the location;

3. To fund coordinated training between law enforcement, counterterrorism agencies, and emergency responders; and

4. To continue coverage of costs that were covered by a prior grant issued to the grantee by the EMA.

The bill also authorizes a nonprofit organization that serves a broad community or geographic area to use the grant money to provide antiterrorism-related services for all of its served area, including armed security personnel. Prior to receiving the grant, however, the nonprofit organization must provide the EMA with any appropriate compliance documentation required by the EMA. Additionally, multiple nonprofit organizations that are located at the same address may apply for separate security grants, if the nonprofit organizations can explain how they will each use the funding to address a different vulnerability. The bill requires the EMA to include information about the Security Grants and the application process on its website.

Specific investigatory work product

(R.C. 149.43)

The bill specifies that "specific investigatory work product," as used in the definition of "confidential law enforcement investigatory record" and therefore exempted from public disclosure by the Public Records Law, means any record, thing, or item that documents the independent thought processes, factual findings, mental impressions, theories, strategies, opinions, or analyses of an investigating officer or an agent of an investigative agency and also includes any documents and evidence collected, written or recorded interviews or statements, interview notes, test results, lab results, preliminary lab results, and other internal memoranda, things, or items created during any point of an investigation. "Specific investigatory work product" does not include basic information regarding date, time, address, and type of incident.

Trial preparation records and attorney work product records

(R.C. 149.43)

Under the bill, confidential attorney work product records are exempt from disclosure as public records at any time. The bill defines "attorney work product record" as any record that documents the independent thought processes, mental impressions, legal theories, strategies, opinions, analysis, or reasoning of an attorney for the state, including, but not limited to, reports, memoranda, or other internal documents made by a prosecuting attorney, or the prosecuting attorney's agent, in connection with the investigation or prosecution of a case.

Additionally, under the bill, trial preparation records are exempt from the Public Records Law until after the conclusion of all direct appeals, or, if no appeal is filed, at the expiration of the time during which an appeal may be filed.

Task Force on Bail

(Sections 610.20 and 755.40)

The bill eliminates the Task Force on Bail created in S.B. 202 of the 134th General Assembly and assigns the duties of the eliminated task force to the Director of Public Safety.

Under the bill, the Director of Public Safety must collect and evaluate data regarding the current usage of bail in Ohio. The Director is required to develop a standardized questionnaire form and provide the form by September 30, 2023, to each county sheriff and to each officer or other person in charge of the operation of a multicounty correctional center, municipal-county correctional center, or multicounty-municipal correctional center. Each county sheriff or person in charge of the operation of a multicounty correctional center, municipal-county correctional center, or multicounty-municipal correctional center must fill out the form on a daily basis beginning on October 1, 2023, and ending with data collected November 30, 2023. The forms must be returned to the Director by January 1, 2024.

The forms, which match the forms to be used by the Task Force on Bail eliminated by the bill, must collect (1) The total number of people currently housed in the jail, multicounty correctional center, municipal-county correctional center, or multicounty-municipal correctional center, (2) the total number of inmates currently serving sentences and the total number being held pretrial, (3) The total number of people being held on felony charges pretrial, broken down by the level of felony charged and the length of time, and (4) The total number of people being held on misdemeanor charges pretrial, broken down by the level of misdemeanor charge and the length of time.

The Director must prepare and submit a report, no later than March 1, 2024, to the President of the Senate, the Speaker of the House of Representatives, the Chairperson of the House Criminal Justice Committee, and the Chairperson of the Senate Judiciary Committee. The report must include a copy of all of the forms submitted and a summary of that information.

Joint Law Enforcement Training Center Study Commission

(Section 701.120)

The bill creates the Joint Law Enforcement Training Center Study Commission to study the cost of establishing the Joint Law Enforcement Training Center for Ohio as the only place where law enforcement officers can receive the required training to be peace officers and troopers. The Commission will be made up of three members: the Director of Public Safety or a designee of the Director who has experience in law enforcement funding issues, one member of the House of Representatives appointed by the Speaker, and one member of the Senate appointed by the President of the Senate. Members of the commission will serve without compensation.

The Speaker and Senate President are required to make their initial appointments not later than 30 days after the bill's effective date. If a member of the Commission ceases to hold

the position that led to that member's appointment, the member is disqualified and a vacancy occurs. Vacancies of appointed members will be filled in the same manner as original appointments, should one occur.

The Commission must hold its first meeting not later than 90 days after the bill's effective date, regardless of whether all members have been appointed. At its first meeting, the Commission must select a chairperson. The Commission must adopt procedures to govern its proceedings and meet as necessary at the call of the chairperson. A majority of Commission members constitutes a quorum, and formal recommendations will be made by a vote of the majority of the quorum present. Commission meetings will be open to the public, and the Commission will keep minutes of its meetings as public records under the Public Records Law.

Upon completion of the study, the Commission must prepare a report of its findings and recommendations for establishing the Joint Law Enforcement Training Center for Ohio. Not later than July 1, 2024, the Commission will submit the report to the Governor, the General Assembly, and the Legislative Service Commission. Upon submitting the report, the Commission ceases to exist.

PUBLIC UTILITIES COMMISSION

Electric vehicle (EV) charging stations

- Defines certain types of vehicles as "electric vehicles" (EVs), if they are powered wholly by a system that can be recharged via an external source of electricity.
- Defines an "electric vehicle charging station" as any nonresidential electric vehicle charging system that is:
  - Capable of distributing electricity from a source outside an EV to the EV; and
  - A "direct current (DC) fast charging station" (capable of distributing electricity at least 50 kilowatts (kW) DC to an EV's rechargeable battery at a voltage of 200 volts or more) or a "Level Two charging station" (capable of distributing electricity at least 3 but no more than 20 kW of alternating current (AC) to an EV's rechargeable battery at a voltage of 200 volts or more).
- Excludes an electric distribution utility (EDU) and an affiliate or subsidiary of an EDU that owns or operates an EV charging station, from being classified as an "electric vehicle charging provider" (owner or operator of an electric vehicle charging station) for the purposes of the bill's EV charging provisions.

Prohibition against EDU owning or operating EV charging stations

- Prohibits an EDU from owning or operating publicly available EV charging stations except through a separate affiliate or subsidiary that is not subject to Public Utilities Commission (PUCO) jurisdiction.

Affiliate- and subsidiary-owned EV charging stations

- Prohibits an EDU from (1) charging a subsidized rate, fee, or charge for electric service distributed to its affiliate's or subsidiary's public EV charging stations and (2) directly or indirectly subsidizing investments in the ownership or operation of EV charging stations with revenues from providing electric distribution service.
- Requires an EDU affiliate or subsidiary that owns or operates an EV charging station to be subject to the same rates, terms, and conditions that apply to EV charging providers in the EDU's service territory.

Cost recovery for make-ready infrastructure

- Allows an EDU to recover the costs of make-ready infrastructure (electrical infrastructure, excluding an EV charging station, required to accommodate the EV charging station's electrical load) through the EDU's rates and charges so long as the subsidy is offered to EV charging providers on a nondiscriminatory basis.

EV charging stations on EDU premises

- Permits an EDU to use an EV charging station on its own premises for the sole purpose of serving its own EVs.

Electric infrastructure development

- Allows the All Ohio Future Fund to be used for, among other projects, electric infrastructure development projects conducted by EDUs and approved by PUCO.
- Defines the following:
  - "Infrastructure development" as the planning, development, and construction of EDU infrastructure including (1) substation facilities and extensions of transmission and distribution facilities that an EDU owns and operates and (2) the performance of electric load studies.
  - "Economic development project" as a land development containing a minimum of ten contiguous acres that has the potential for commercial or industrial development and that does not currently have adequate electric distribution service from an EDU.
  - "Infrastructure development costs" as costs incurred by an EDU (including, for example, an allowance for funds used during construction, depreciation, and return on equity) that are directly attributable to an economic development project.

Infrastructure development application

- After an EDU requests a reimbursement from the All Ohio Future Fund, permits the EDU to apply to PUCO for approval of (prior to its construction) infrastructure development for economic development projects, including any project approved, certified, or funded by JobsOhio.

Application requirements

- Sets requirements for what must be included in an infrastructure development application such as, for example, (1) descriptions of the economic development project and the infrastructure development necessary to support or enable that project, (2) a summary of the infrastructure development costs to be expended on the project, and (3) the development start and completion dates.

Approval of costs

- Permits PUCO to approve an infrastructure development application, if the infrastructure development is necessary to support or enable a state or local economic development project.
- Allows PUCO, for an infrastructure development application, to approve the collection of infrastructure development costs using funds from either (but not both) (1) disbursements from the All Ohio Future Fund or (2) a rider or rate mechanism under the public utility ratemaking or competitive retail electric service laws.

Approval process

- Establishes timeframes for PUCO to approve, suspend, hold a hearing for, or deny an application.

JobsOhio participation

- Permits JobsOhio to provide PUCO with a recommendation regarding the application's approval or denial.
- Specifies that if at any time there is no contract (allowed under current law) between JobsOhio and the Department of Development (DEV) in effect, DEV would perform the JobsOhio duties under the bill.

Natural gas companies

- Expands what is included as "natural gas" for purposes of determining entities that are natural gas companies under public utilities law.

Natural gas distribution service instrumentalities and facilities

- Expands the property, equipment, or facilities installed or constructed by a natural gas company that may be treated as instrumentalities and facilities for distribution service after PUCO approval.

Natural gas infrastructure development rider

Changes to infrastructure development

- Expands what is included as "infrastructure development" and what may be recovered from natural gas company customers as "infrastructure development costs" under an infrastructure development rider (IDR).

Changes to cost recovery for infrastructure development

- Increases the monthly amount that a natural gas company may recover from any single customer in this state under an IDR up to a maximum of $3.

Sites or projects receiving All Ohio Future Fund funding

- Prohibits a natural gas company from recovering certain infrastructure development costs for particular sites or projects under an IDR where the company is approved for and accepts All Ohio Future Fund funding for those sites or projects.
- Permits a natural gas company that is prohibited from recovering certain infrastructure development costs for particular sites or projects under an IDR to recover such costs in an IDR for other sites or projects if the recovery for those sites or projects is not also prohibited.

IDR applications

- Prohibits PUCO from approving an IDR application after October 1, 2029, that includes infrastructure development costs that are for investments to utility facilities designed to provide natural gas service to certain sites.

Regulatory deferrals

- Requires PUCO, when requested by the natural gas company, to approve a regulatory deferral, including carrying costs at the company's cost of long-term debt, for the IDR revenue requirement in any year in which the approved customer charge exceeds or is expected to exceed the monthly customer cost limitation.
- Allows PUCO to grant a regulatory deferral not to exceed five years after its approval, and to grant a regulatory deferral for less than five years.
- Permits a natural gas company that does not have a PUCO-approved cost of long-term debt to propose such a cost.
- Allows a natural gas company to propose a rate or methodology for calculating carrying costs that differs from the company's cost of long-term debt approved in its most recent rate case.
- Requires PUCO to permit the natural gas company to collect deferred and unrecovered infrastructure development costs in subsequent years, subject to PUCO authority to grant deferrals not to exceed five years, as long as the rate does not exceed the monthly customer cost limitations.
- Requires PUCO to permit carrying costs to accrue until either (1) the entirety of the regulatory deferral and all carrying costs have been recovered or (2) the termination of the deferral.

Economic development projects

- Permits PUCO to approve only economic development projects involving infrastructure development costs that are an investment for any deposit for line extension required by the natural gas company.
- Permits PUCO approval if the infrastructure development costs, excluding the company's return on such costs, are projected to generate a return on investment less than the authorized return on equity.

Annual report

- Requires PUCO to issue an annual report containing certain information regarding IDR applications, amounts approved for recovery through IDR, and economic development projects.

Electric vehicle (EV) charging stations

(R.C. 4934.01, 4934.03, 4934.05, 4934.08, and 4934.11)

The bill establishes certain requirements and prohibitions related to "electric vehicle (EV) charging providers" and "EV charging stations."

EV-related definitions

Under the bill, those and related terms are defined as follows:

EV-related term	Definition
Direct current (DC) fast charging station	An EV charging system capable of distributing electricity at 50 kilowatts (kW) DC or more to an EV's rechargeable battery at a voltage of 200 volts or more.
EV	A vehicle that is powered wholly by a system that can be recharged via an external source of electricity, including a vehicle for public or private use that is a passenger car, commercial car or truck, a vehicle used for public transit, a vehicle used in a vehicle fleet, a vehicle used in construction work, and a vehicle used in industrial or warehouse work.
EV charging provider	The owner or operator of an EV charging station, but excluding any electric distribution utility (EDU) or EDU affiliate or subsidiary that owns or operates an EV charging station.
EV charging station	Any nonresidential electric vehicle charging system that is (1) capable of distributing electricity from a source outside an EV to the EV and (2) a DC fast charging station or Level Two charging station.
Level Two charging station	Any EV charging system capable of distributing electricity at a minimum of 3 or a maximum of 20 kW of alternating current (AC) to an EV's rechargeable battery at a voltage of 200 volts or more.
Make-ready infrastructure	Electrical infrastructure required to accommodate the electric load of an EV charging station, but excluding an EV charging station.

Prohibition against EDU owning or operating EV charging stations

The bill prohibits an EDU from owning or operating publicly available EV charging stations except through a separate affiliate or subsidiary that is not subject to Public Utilities Commission (PUCO) jurisdiction.

Affiliate- and subsidiary- owned EV charging stations

The bill expressly prohibits an EDU from charging its affiliate or subsidiary a subsidized rate, fee, or charge for electric service distributed to the affiliate's or subsidiary's publicly available EV charging station. It also prohibits the EDU from directly or indirectly subsidizing investments in the ownership or operation of EV charging stations with revenues it receives from providing electric distribution service.

Under the bill, an EDU's affiliate or subsidiary that owns or operates an EV charging station must be subject to the same rates, term, and conditions that apply to EV charging providers located in the EDU's certified territory.

Cost recovery for make-ready infrastructure

Nothing in the bill's EV charging provisions described above prohibits an EDU from recovering the costs of make-ready infrastructure through rates or charges authorized under the EDU's distribution rate case under the utility ratemaking law so long as the subsidies for make-ready infrastructure are offered to EV charging providers on a nondiscriminatory basis.

EV charging stations on EDU premises

Nothing in the bill's EV charging provisions described above may be construed to prohibit an EDU from operating, leasing, installing, or otherwise procuring service from an EV charging station on its own premises for the sole purpose of serving its own EVs.

Electric infrastructure development

(R.C. 126.62 and 4928.85 to 4928.89)

The bill modifies the All Ohio Future Fund to promote economic development through loans, grants, or other incentives, including electric infrastructure development conducted by an EDU and approved by PUCO.

Infrastructure development application

The bill permits an EDU to file an application with PUCO for approval of infrastructure development necessary to support or enable a state or local economic development project, including any project approved, certified, or funded by JobsOhio. Under the bill, an application may be filed only after the EDU files a request for disbursement from the All Ohio Future Fund. The EDU, prior to beginning the infrastructure development, must file and receive PUCO approval for, the application.

Under the bill, "infrastructure development" is the planning, development, and construction of EDU infrastructure, including (1) performance of electric load studies and (2) substation facilities and extensions of transmission and distribution facilities that an EDU owns and operates. An "economic development project" is a land development containing a minimum of ten contiguous acres that has the potential for commercial or industrial development and that does not currently have adequate electric distribution service from an EDU.

Application requirements

An EDU's infrastructure development application must include each of the following:

- Descriptions of the economic development project and the infrastructure development necessary to support or enable that project, including the general location and type of facilities that the applicant proposes to replace, construct, or improve;
- A description of potential uses or new customers that may be served by the project;
- A summary of the infrastructure development costs to be expended on the project;
- The proposed start and completion dates for the infrastructure development;

- A statement of support of the project from any state or local entity involved with the project;
- Other information the applicant considers relevant for PUCO's consideration.

Approval of costs

Under the bill, PUCO may approve an infrastructure development application, if the infrastructure development is necessary to support or enable a state or local economic development project. For such applications, PUCO may approve the collection of infrastructure development costs. However, the bill specifies that funds used for collection of these costs must be from either (1) a disbursement from the All Ohio Future Fund or (2) a rider or rate mechanism under the public utility ratemaking law or an electric security plan under the competitive retail service law. And, the bill prohibits using funds from both of these sources for the cost collection.

"Infrastructure development costs" are any costs of infrastructure development incurred by an EDU that are directly attributable to the economic development project. Infrastructure development costs include (1) an allowance for funds used during construction, depreciation, return on equity, ongoing operation maintenance and operation, and tax expenses, (2) project planning costs, and (3) the costs associated with obtaining the right-of-way for the project.

As listed above in (1), the bill refers to "operation maintenance and operation" costs. It is not clear what is meant by "operation maintenance" costs and how those costs differ from "operation costs." If the phrase is intended to mean "operation and maintenance" costs, an amendment to the bill may be needed to clarify this intent.

PUCO approval process

PUCO must approve or deny an application within 45 days after the application's filing date. If PUCO does not approve or deny the application within that period, the bill requires the application to be deemed approved as filed. However, under an exception created by the bill, an application is not deemed approved, if PUCO suspends the application for good cause shown. In the case of a suspension, PUCO must approve, deny, or hold a hearing on the application not later than 45 days after the suspension begins. If PUCO holds a hearing after an application suspension, PUCO must take action on the application by issuing an order approving or denying it within 30 days of the final date of the hearing.

JobsOhio participation

The bill permits JobsOhio to recommend, to PUCO, an application's approval or denial. And, as described above, an infrastructure development project application, may be for development that supports or enables any project approved, certified, or funded by JobsOhio. The bill specifies that if at any time there is no contract between JobsOhio and the Department of Development (DEV) in effect, then DEV would perform the JobsOhio duties under the bill.

Under ongoing law, DEV may execute a contract with JobsOhio to assist the DEV Director with providing services to and carrying out DEV duties.[228]

Natural gas companies

(R.C. 4905.03)

The bill expands what is included as "natural gas" for purposes of determining entities that are natural gas companies under public utilities law. Continuing law defines a person, firm, copartnership, voluntary association, joint-stock association, company, or corporation, wherever organized or incorporated, as a "natural gas company" when engaged in the business of supplying natural gas for lighting, power, or heating purposes to consumers within Ohio. Under the bill, "natural gas" includes natural gas that has been processed to enable consumption or to meet gas quality standards or that have been blended with propane, hydrogen, biologically derived methane gas, or any other artificially produced or produced gas.

Natural gas distribution service instrumentalities and facilities

(R.C. 4929.18)

The bill expands the property, equipment, or facilities installed or constructed by a natural gas company that may be treated as instrumentalities and facilities for distribution service if PUCO determines that treatment is just and reasonable to include:

- Property, equipment, or facilities to enable the blending of biologically derived methane gas to consumers in Ohio.
- Property, equipment, or facilities to enable interconnection with or receipt from any property, equipment, or facilities used to generate, collect, gather, or transport hydrogen, or to enable the blending of hydrogen with natural gas for supply to consumers in Ohio.

Continuing law also allows any property, equipment, or facilities to enable interconnection with or receipt from any property, equipment, or facilities used to generate collect, gather, or transport biologically derived methane gas, or to enable the supply of biologically derived methane gas to consumers in Ohio to be treated as instrumentalities and facilities for distribution service following PUCO determination that such treatment is just and reasonable. Existing law, unchanged by the bill, also provides that the property, equipment, or facilities described above that are determined to be just and reasonable by PUCO must be considered used and useful in rendering public service for purposes of determining reasonable public utility rates.

[228] R.C. 187.04, not in the bill.

"Biologically derived methane gas" is defined in continuing law to mean gas from the anaerobic digestion of organic materials, including animal waste and agricultural crops and residues.[229]

Natural gas infrastructure development rider

(R.C. 4929.16 to 4929.163 and 4929.165)

The bill changes the law regulating a natural gas company's ability to impose only one infrastructure development rider (IDR) for recovery of prudently incurred infrastructure development costs of one or more economic development projects.

Changes to infrastructure development

Infrastructure development

The bill defines "infrastructure development" as constructing, upgrading, or extending any other investment in, or associated with, transmission or distribution facilities a natural gas company owns or operates, except as provided for costs associated with establishing any connections with any source of supply to serve an economic development project, including interstate or intrastate pipelines, regardless of ownership of the facilities. It is not clear how this exception works and how it fits into the term "infrastructure development" because such development focuses on facilities and not their costs.

Under current law, infrastructure development simply means constructing extensions of transmission and distribution facilities that a natural gas company owns.

Infrastructure development costs

Under the bill "infrastructure development costs" are the costs associated with an investment in infrastructure development to which either of the following apply:

- **Deposit investment** – the investment is for any deposit required by the natural gas company, as defined in the line-extension provision of the company's tariff, less any contribution in aid of construction received from the owner or developer of the project.
- **Utility facility investment** – the investment is for any utility facility designed to provide natural gas service to one of the following:
  - A site or project for which an application for certification has been filed or granted under the Brownfield Remediation Program or SiteOhio Certification Program;
  - A project in the JobsOhio Ohio site inventory program;
  - A site or economic development project that meets the criteria for site selection under the All Ohio Future Fund, regardless of whether the site or project has been approved to receive funding.

[229] R.C. 5713.30(H), not in the bill.

Under the bill, infrastructure development costs also include all of the following (**included infrastructure costs**):

- Planning, development, and construction costs, including costs incurred prior to the approval of an economic development project for an IDR;
- Costs associated with establishing any connections with any source of supply to serve an economic development project, including interstate or intrastate pipelines, regardless of ownership of the facilities;
- A return on all infrastructure development costs, with such return equal to the natural gas company's return on equity authorized in the natural gas company's most recently approved rate case (this provision may cause confusion since the return included in the costs would be the return on the return itself).

Under current law, "infrastructure development costs" means the investment to which both of the following apply:

- The investment is in infrastructure development.
- The investment is for any deposit required by the natural gas company, as defined in the line-extension provision of the company's tariff, less any contribution in aid of construction received from the owner or developer of the project.

Infrastructure development costs under existing law includes planning, development, and construction costs and, if applicable, any allowance for funds used during construction.

Changes to cost recovery for infrastructure development

The bill increases the amount that a natural gas company can collect from any single customer under an IDR. A company may recover infrastructure development costs under an IDR in each monthly billing period as follows, subject to a $3 monthly maximum for the IDR:

- For such costs that are **Deposit investment** (see discussion above), up $1.50 per month per customer in Ohio, except that if recovery would exceed that amount, the company may request and PUCO may approve an addition $1.50 per month charge, if PUCO determines it may encourage or facilitate infrastructure development or economic development activities in Ohio.
- For such costs that are **Utility facility investment** (see discussion above), except as discussed in "**Sites or projects receiving All Ohio Future Fund funding**" below, up to $1.50 per month per customer in Ohio.

The bill eliminates the current law requirement that the company recover the same amount from every customer.

Sites or projects receiving All Ohio Future Fund funding

The bill prohibits a natural gas company from recovering **Utility facility investment** infrastructure development costs (see above) for a particular site or project using an IDR if both (1) the site or project is approved for funding from the All Ohio Future Fund, and (2) the company

chooses to accept funding for the site or project from the All Ohio Future Fund. However, a natural gas company that is prohibited from recovering **Utility facility investment** costs for a particular site or project in an IDR may recover **Utility facility investment** costs for other sites or economic development projects under an IDR, so long as the IDR cost recovery for those other sites or projects is not also prohibited as described above.

IDR application approval time limit

The bill prohibits PUCO from approving an IDR application after October 1, 2029, involving **Utility facility investment** infrastructure development costs and **included infrastructure costs** (see above).

Regulatory deferrals

The bill permits the natural gas company with an IDR to request, and requires PUCO to approve, a regulatory deferral, including carrying costs, for the IDR revenue requirement in which the approved customer charge exceeds or is expected to exceed the monthly limits discussed above. PUCO is permitted to grant a regulatory deferral not to exceed five years after its approval, and may grant a deferral for less than five years. PUCO must permit the company to collect any deferred and unrecovered infrastructure development costs in the subsequent year and continuing thereafter, subject to PUCO's authority to grant regulatory deferrals not to exceed five years after its approval and to grant regulatory referrals for less than five years, as long as the IDR rate does not exceed the monthly limits described above. PUCO must also permit carrying costs to accrue until either (1) the entirety of the regulatory deferral and all carrying costs have been recovered, or (2) the termination of the deferral.

The bill specifies that the carrying costs are to be at the company's cost of long-term debt as approved in the company's most recent rate case, except:

- If the company does not have a PUCO-approved cost of long-term debt, the company must propose a rate for the carrying costs; and
- The company may propose a rate or methodology for calculating carrying costs that differs from the company's cost of long-term debt approved in its most recent rate case.

Economic development projects

The bill permits a natural gas company to file an application with PUCO for approval of an economic development project for which the company will incur infrastructure development costs. Current law allows a natural gas company to apply to PUCO for approval of an economic development project, including a project for which an application has been filed under the Department of Development's SiteOhio Certification Program.[230]

The bill makes changes to the law that permits PUCO to approve an economic development project if the infrastructure development costs are projected to generate a return

[230] R.C. 122.9511, not in the bill.

on the company's investment that is less than the most recently authorized rate of return. The bill modifies this requirement in the following ways:

- Applies the requirement only to projects involving infrastructure development costs that are a **Deposit investment** (see discussion above) instead of all economic development projects with such costs as required in current law.
- Provides that those **Deposit investment** infrastructure development costs exclude the return on all those costs (this may need clarification since approval of a project depends on the projection that the costs are projected to generate an inadequate return).
- Changes "rate of return" to "return on equity" regarding the projection that infrastructure development costs would not generate a return equal to the most recently authorized return on the company's investment.

Annual report

The bill requires PUCO to issue an annual report including all of the following:

- The number of IDR applications received and indicate whether the applications were made for (1) **deposit investment** infrastructure development costs and **included infrastructure costs** or (2) **utility facility investment** infrastructure development costs and **included infrastructure costs** (see discussion of the investments and costs above).
- The number of IDR applications approved and indicate whether the applications were approved for (1) **deposit investment** infrastructure development costs and **included infrastructure costs** or for (2) **utility facility investment** infrastructure development costs and **included infrastructure costs**.
- The monetary amount approved for recovery through each IDR and the total amount for all IDRs.
- The number of approved economic development projects on which all construction has been completed.
- A list containing the construction status of all approved economic projects, including if construction has not commenced or, if construction has commenced, but not completed, a description of any structures on which construction has been completed.

PUBLIC WORKS COMMISSION

- Requires the Ohio Public Works Commission (OPWC) to amend certain Clean Ohio Conservation Fund grant agreements (and related deeds) made with a municipal corporation or nonprofit (grantee) to acquire land or rights in land in Guernsey and Belmont counties.
- Stipulates that any amendment to a grant agreement must specify all of the following:
  - That any use restriction on the land concerning the grant agreement applies only to the surface of the land;
  - That the use restriction on the land does not apply to the mineral rights under the land surface;
  - That the grantee may sell, assign, transfer, lease, exchange, convey, or otherwise encumber the property's mineral rights; and
  - That the holder of those mineral rights may extract the resources subject to those mineral rights in accordance with applicable law.
- Allows the OPWC to pursue remedies specified in deed restrictions or to exercise the OPWC's legal right to pursue liquidated damages as authorized under Ohio law.

Clean Ohio Conservation Fund grant agreements

(Section 701.60)

Background

Under current law, the Ohio Public Works Commission (OPWC) issues grants from the Clean Ohio Conservation Fund to local political subdivisions and nonprofit organizations for open space acquisition and riparian corridor and watershed enhancement. Natural resources assistance councils, which have geographical jurisdiction over proposed project areas and are appointed by each district public works integrating committee, initially approve grant applications for subsequent submission to the OPWC. The types of eligible projects are as follows:[231]

[231] R.C. 164.22, not in the bill.

Clean Ohio Conservation Fund eligible projects	
Type of project	**Project emphasis**
Open space acquisition of land	The support of comprehensive open space planning and incorporation of aesthetically pleasing and ecologically informed design.
	The enhancement of economic improvement that relies on recreation and ecotourism in areas with relatively high unemployment and lower incomes.
	The protection of habitat for rare, threatened, and endangered species or the preservation of high quality, viable habitat for plant and animal species.
	The preservation of existing high quality wetlands or other scarce natural resources within the geographical jurisdiction of the council.
	The enhancement of educational opportunities and provision of physical links to schools and after-school centers.
	The preservation or restoration of water quality, natural stream channels, functioning floodplains, wetlands, streamside forests, and other natural features that contribute to the quality of life in Ohio and to Ohio's natural heritage.
	The reduction or elimination of nonnative, invasive species of plants or animals.
	The proper management of areas where safe fishing, hunting, and trapping may take place in a manner that will preserve a balanced natural ecosystem.
The protection and enhancement of riparian corridors or watersheds	The increase of habitat protection.
	Inclusion as part of a stream corridor-wide or watershed-wide plan.
	The provision of multiple recreational, economic, and aesthetic preservation benefits.
	The preservation or restoration of floodplain and streamside forest functions.
	The preservation of headwater streams.
	The restoration and preservation of aquatic biological communities.

Agreement and deed to allow the transfer of mineral rights

Under the bill, the OPWC must amend agreements (and related deeds) with a grantee under which it issued a grant to acquire land or rights in land in Guernsey and Belmont counties, if the grantee so agrees. The amendment to the agreement must specify all of the following:

1. That any use restriction on the land concerning the grant agreement applies only to the surface of the land;

2. That the use restriction on the land does not apply to the mineral rights under the land surface;

3. That the grantee may sell, assign, transfer, lease, exchange, convey, or otherwise encumber the property's mineral rights; and

4. That the holder of those mineral rights may extract the resources subject to those mineral rights in accordance with applicable law.

Remedies and liquidated damages

The bill allows the OPWC to pursue remedies specified in deed restrictions or to exercise the OPWC's legal right to pursue liquidated damages as authorized under Ohio law.[232] It also specifies that a grantee is liable for the payment of liquidated damages resulting from a violation of a deed restriction that occurred prior to the amendment of the deed restriction (i.e., if a grantee has already sold mineral rights in violation of the current deed restriction terms). The OPWC must deposit the liquidated damages in the Clean Ohio Conservation Fund and allocate it as follows:

- First, to the natural resources assistance council that approved the original grant in an amount equal to the total of the grant received by the grantee (if the liquidated damages cover the total amount).
- Then, any excess amount must remain in the Clean Ohio Conservation Fund to be used for new grants for eligible projects and allocated on an annual basis to natural resources assistance councils in accordance with current law.

[232] See R.C. 164.26, not in the bill.

DEPARTMENT OF REHABILITATION AND CORRECTION

Targeted Community Alternatives to Prison (T-CAP)

- Changes the name "Targeting Community Alternatives to Prison" program to "Targeted Community Alternatives to Prison" program.
- Requires the Department of Rehabilitation and Correction (DRC) to establish deadlines for a voluntary county to indicate its participation in T-CAP before each state fiscal biennium.
- Requires a memorandum of understanding to set forth the plans by which the county will use the grant money provided to the county in the state fiscal years within the specified state fiscal biennium under T-CAP.

Earned credit

- In the law that, effective April 4, 2024, increases the maximum credit a prisoner may earn for participating in a DRC-approved program from 8% to 15% of the prisoner's sentence, specifies that if a prisoner has met the 8% cap as of the bill's effective date, or reaches the 8% cap between that effective date and April 3, 2024, the cap is 15% of the prisoner's sentence.
- Stipulates that this change applies only with respect to the time the prisoner is confined between the bill's effective date and April 4, 2024, and the 15% cap that takes effect April 4, 2024, will apply only with respect to the time a prisoner is confined on or after that date.

Public records – correctional and youth services employee

- Modifies the public records exception for "restricted portions of a body-worn or dashboard camera recording" by adding a reference to correctional employees and youth services employees in each place there is a reference to peace officers and law enforcement.

Adult Parole Authority termination of post-release control

- Modifies provisions that pertain to Adult Parole Authority (APA) functions with respect to the classification, as "favorable" or "unfavorable," of the termination of an offender's post-release control.

Full board hearings

- Removes the ability for a board hearing officer, a board member, or the Office of Victims' Services to petition for a full parole board hearing.
- Provides that if a victim of certain offenses, the victim's representative, or specified other persons request a full board hearing, those persons must do so through the Office of Victims' Services.

- Permits certain family members of a victim to request, through the Office of Victims' Services, for the board to hold a full board hearing and, if such a request is made, the majority of those present at the board meeting must determine whether a full board hearing will be held.
- Requires the parole board to grant a full board hearing request submitted by a prosecuting attorney.
- Allows the State Public Defender, when designated by DRC, to appear at a full board hearing and to give testimony or to submit a written statement.

Ohio Penal Industries GED requirement

- Requires DRC to allow prisoners working toward completion of a high school diploma or equivalent to participate in Ohio Penal Industries.

Victim conference communications

- Provides that communications during a victim conference are confidential and are not public records.

Targeted Community Alternatives to Prison (T-CAP)

(R.C. 2929.34 and 5149.38)

The bill changes the name "Targeting Community Alternatives to Prison" program to "*Targeted* Community Alternatives to Prison" program. It clarifies that in any voluntary county, the board of county commissioners and the Administrative Judge of the General Division of the Court of Common Pleas of the county may agree to have the county participate in the Targeted Community Alternatives to Prison (T-CAP) program by submitting a memorandum of understanding (MOU), either as a single county or jointly with other counties, to the Department of Rehabilitation and Correction (DRC) for approval.

The bill requires DRC to establish deadlines for a voluntary county to indicate the voluntary county's participation in T-CAP before each state fiscal biennium. In reviewing a submitted MOU for approval, DRC must prioritize a voluntary county that has previously been a voluntary county. DRC may review a MOU for a new voluntary county if the General Assembly has appropriated sufficient funds for that purpose. Under current law, the MOU had to be submitted to DRC for approval by no later than September 1, 2022.

The bill requires the MOU to set forth the plans by which the county will use grant money provided to the county in the fiscal years within the state fiscal biennium. Under current law, the MOU must set forth the plans by which the county will use the grant money provided to the county in state FY 2023 and succeeding state fiscal years under T-CAP. Under continuing law, the MOU must specify the manner in which the county will address a per diem reimbursement of local correctional facilities for prisoners who serve a prison term under T-CAP. The per diem reimbursement rate must be determined and specified in the MOU.

Earned credit

(R.C. 2967.193 and 2967.194)

Under existing law, until April 4, 2024, the aggregate days of credit provisionally earned by a person for program or activity participation and program and activity completion and the aggregate days of credit finally credited to a person must not exceed 8% of the total number of days in the person's stated prison term.

The bill provides that if a person is confined in a state correctional institution or in the substance use disorder treatment program after the bill's effective date, and if the person as of that effective date has met the 8% limit specified above or the person meets that 8% limit between that effective date and April 3, 2024, both of the following apply with respect to the person:

- On or after the bill's effective date, the 8% limit specified above no longer applies to the person;
- On or after the bill's effective date, the aggregate days of credit provisionally earned by a person for program or activity participation and program and activity completion and the aggregate days of credit finally credited to a person must not exceed 15% of the total number of days in the person's stated prison term.

The bill clarifies that the above provisions will apply to the prisoner with respect to the time that the prisoner was confined on and after the bill's effective date and prior to April 4, 2024.

Under continuing law, on or after April 4, 2024, the aggregate days of credit provisionally earned by a person for program or activity participation and program and activity completion and the aggregate days of credit finally credited to a person must not exceed 15% of the total number of days in the person's stated prison term. The bill reaffirms that this provision will apply only with respect to the time that a prisoner is confined on or after April 4, 2024.

Public records – correctional and youth services employee

(R.C. 149.43)

Under continuing law, "public record" means records kept by any public office. "Restricted portions of a body-worn or dashboard camera recording" is an exception to the Public Records Law. The definition of "restricted portions of a body-worn or dashboard camera recording" contains references to peace officers and law enforcement. When the references are made, the definition sometimes refers to correctional employees and youth services employees. The bill modifies the definition of "restricted portions of a body-worn or dashboard camera recording" by adding a reference to correctional employees and youth services employees in each place there is a reference to peace officers and law enforcement. "Restricted portions of a body-worn or dashboard camera recording" means any visual or audio portion of a body-worn camera or dashboard recording that shows, communicates, or discloses any of the following:

- The image or identity of a child or information that could lead to the identification of a child who is a primary subject of the recording when DRC, Department of Youth Services

(DYS), or the law enforcement agency knows or has reason to know the person is a child based on its records or content of the recording (under continuing law);

- The death of a person or a deceased person's body, unless the death was caused by a correctional employee, youth services employee, or peace officer or the consent of the decedent's executor or administrator has been obtained (under continuing law);
- The death of a correctional employee, youth services employee, peace officer, firefighter, paramedic, or other first responder, occurring while the decedent was engaged in the performance of official duties, unless the consent of the decedent's executor or administrator has been obtained (under continuing law);
- Grievous bodily harm, unless the injury was effected by a correctional employee, youth services employee, or peace officer or the consent of the injured person or the injured person's guardian has been obtained (under continuing law);
- An act of severe violence against a person that results in serious physical harm to the person, unless the act and injury was effected by a correctional employee, youth services employee, or peace officer or the consent of the injured person or the injured person's guardian has been obtained (under continuing law);
- Grievous bodily harm to a correctional employee, youth services employee, peace officer, firefighter, paramedic, or other first responder, occurring while the injured person was engaged in the performance of official duties, unless the consent of the injured person or the injured person's guardian has been obtained (under continuing law);
- An act of severe violence resulting in serious physical harm against a correctional employee, youth services employee, peace officer, firefighter, paramedic, or other first responder, occurring while the injured person was engaged in the performance of official duties, unless the consent of the injured person or the injured person's guardian has been obtained (under continuing law);
- A person's nude body, unless the person's consent has been obtained (under continuing law);
- Protected health information, the identity of the person in a health care facility who is not the subject of a correctional, youth services, or law enforcement encounter, or any other information in a health care facility that could identify a person who is not the subject of a correctional, youth services, or law enforcement encounter (under the bill);
- Information that could identify the alleged victim of a sex offense, menacing by stalking, or domestic violence (under continuing law);
- Information that does not constitute a confidential law enforcement investigatory record, that could identity a person who provides sensitive confidential information to DRC, DYS, or a law enforcement agency when the disclosure of the person's identity or the information provided could reasonably be expected to threaten or endanger the safety or property of the person or another person (under continuing law);

- Personal information of a person who is not arrested, cited, charged, or issued a written warning by a peace officer (under continuing law);
- Proprietary correctional, youth services, or police contingency plans or tactics that are intended to prevent crime and maintain public order and safety (under the bill);
- A personal conversation unrelated to work between correctional employees, youth services employees, or peace officers or between a correctional employee, youth services employee, or peace officer and an employee of a law enforcement agency (under the bill);
- A conversation between a correctional employee, youth services employee, or peace officer and a member of the public that does not concern correctional, youth services, or law enforcement activities (under the bill);
- The interior of a residence, unless the interior of a residence is the location of an adversarial encounter with, or a use of force by, a correctional employee, youth services employee, or peace officer (under the bill);
- Any portion of the interior of a private business that is not open to the public, unless an adversarial encounter with, or a use of force by, a correctional employee, youth services employee, or peace officer occurs in that location (under the bill).

Adult Parole Authority termination of post-release control

(R.C. 2967.16)

The bill modifies law that currently pertains to functions of the Adult Parole Authority (APA) with respect to the termination of an offender's post-release control (PRC). PRC is imposed on specified categories of offenders convicted of a felony, upon their release from confinement in a state correctional institution. Under continuing law, when a prisoner released under a period of PRC has faithfully performed the conditions and obligations of the prisoner's PRC sanctions and has obeyed the APA's rules and regulations that apply to the prisoner or has the period of PRC terminated by a court, the APA may terminate the period of PRC and issue to the prisoner a certificate of termination. Specifically, the bill:

1. Replaces the law that currently requires the APA to classify the termination as "favorable" or "unfavorable," depending on the offender's conduct and compliance with the supervision conditions, with a provision that instead authorizes the APA to classify the termination as "unfavorable" if the offender's conduct and compliance with the supervision conditions is unsatisfactory (it does not retain the references to a "favorable" classification);

2. Specifies that if the APA does not classify the termination of PRC as "unfavorable," the offender's conduct and compliance with the supervision conditions may not be considered as an "unfavorable" termination by a court under the provision, when considering the factors described in a specified provision of the Felony Sentencing Law at a future sentencing hearing for a felony. (The specified Felony Sentencing Law provision requires the sentencing court to consider a list of factors as indicating that the felon is likely to commit future crimes – the listed factors include that, at the time of committing the offense, the felon had been "unfavorably"

terminated from post-release control for a prior offense, under the provision described above in (1) or under continuing law's R.C. 2929.141.)

3. In a provision that requires DRC, no later than January 6, 2003, to adopt a rule establishing the criteria for classification of a PRC termination as "favorable" or "unfavorable," eliminates the reference to "favorable."

Full board hearings

(R.C. 5149.101)

The bill removes the ability for a board hearing officer, a board member, or the Office of Victims' Services to petition for a full parole board hearing that relates to the proposed parole or re-parole of a prisoner. Under the bill, if a victim of certain offenses, the victim's representative, spouse, parent or parents, sibling, or child or children of a victim requests such a full board hearing, they must do so through the Office of Victims' Services.

A family member of a victim who is not listed above may also request for the board to hold such a full board hearing through the Office of Victims' Services. If such a request is made, the majority of those present at the board meeting must determine whether a full board hearing will be held.

Under the bill, if a prosecuting attorney requests such a full board hearing, the board is required to hold a full board hearing.

The bill allows the State Public Defender, when designated by the DRC, to appear at such a full board hearing and to give testimony or to submit a written statement, as permitted by the board.

Ohio Penal Industries GED requirement

(R.C. 5145.161)

The bill modifies the requirements of DRC's "program for employment of prisoners" by giving prisoners the opportunity to be assigned a job with the Ohio Penal Industries, or any other job level or grade of prisoner employment that the DRC Director may designate, if the prisoner is working toward the completion of, but has not yet obtained, a high school diploma or equivalent.

Victim conference communications

(R.C. 2930.16)

The Victim's Rights Law requires the APA to adopt rules providing for a victim conference upon request of the victim, a member of the victim's immediate family, or the victim's representative, prior to a parole hearing in the case of a prisoner who is incarcerated for the commission of aggravated murder, murder, or an offense of violence that is a felony of the first, second, or third degree or is under a sentence of life imprisonment. The rules must contain specified provisions. The bill requires the communications during a victim conference held pursuant to the Victim's Rights Law and the rules adopted by the APA to be confidential, and provides that they are not public records under the Public Records Law.

STATE RETIREMENT SYSTEMS

School Employees Retirement System contribution based benefit cap

- Requires the School Employees Retirement Board (SERS Board) to establish the "contribution based benefit cap" (CBBC), a limit on the retirement allowance a member may receive.
- Requires the SERS Board, beginning August 1, 2024, to calculate a member's CBBC based on the member's contributions converted to an annuity and multiplied by the CBBC factor designated by the Board and reduce the member's retirement allowance to an amount equal to the member's CBBC if the retirement allowance would exceed the CBBC.
- Applies the CBBC to retirement allowances and to survivor benefits that are based on retirement allowances.

PERS combined plan consolidation

- Allows the Public Employees Retirement System (PERS) to consolidate the PERS combined plan with the PERS defined benefit plan and establishes requirements for how members' accounts and funds are to be treated following the consolidation.
- Specifies the eligibility requirements for age and service retirement of a member participating in the PERS combined plan following consolidation with the PERS defined benefit plan.
- Establishes the formulas used to calculate the amount of the retirement allowance such a member is eligible to receive based on the funds in the member's individual account.
- Specifies that provisions of the law governing PERS regarding coordination of benefits, purchases or transfers of service credit, refunds of contributions, service as a PERS law enforcement or public safety officer, and long-term care insurance do not apply to a member's individual account if the member was a participant in the PERS combined plan at the time of consolidation.

Additional PERS service credit purchase

- Allows a PERS member appointed by the Speaker of the House or Senate President to serve full-time as a member of a board, commission, or other public body to purchase additional PERS service credit for the appointment period.

School Employees Retirement System contribution based benefit cap

(R.C. 3309.363)

The bill requires the School Employees Retirement (SERS) Board to establish the "contribution based benefit cap" (CBBC). The CBBC is a limit on the retirement allowance a

member may receive. It also is a limit on the survivor benefit based on a member's retirement allowance the member's beneficiary may receive. Under the bill, if the member's retirement allowance exceeds the member's CBBC, beginning August 1, 2024, the Board must reduce the allowance to an amount equal to the CBBC.

The SERS Board must designate a number as the "CBBC factor" and may revise the CBBC factor based on the advice of an actuary appointed by the Board. According to SERS, the CBBC factor reflects the size of the gap between a member's statutorily calculated benefit and the annuity payable based on the member's accumulated contributions.[233] The bill requires the SERS Board, beginning August 1, 2024, to determine a member's CBBC before paying a retirement allowance. To determine the CBBC, the Board must do both of the following:

1. Determine the amount that would result if the total of employee contributions made by the member was paid out as an annuity for the member's life;

2. Multiply the amount determined under (1) by the Board-designated CBBC factor.

If the SERS Board reduces the member's retirement allowance under the bill, the reduced retirement allowance is the member's single lifetime allowance.

For example, if the CBBC factor was six, the SERS Board would multiply the amount determined under (1) above, which is based on the member's contributions, by six. The result would be the member's CBBC. If the member's retirement allowance would exceed the CBBC, the retirement allowance is reduced to equal the CBBC.

The Board may adopt rules to implement the CBBC.

PERS combined plan consolidation

(R.C. 145.196 and 145.335, with conforming changes in multiple R.C. sections)

The bill allows the Public Employees Retirement System (PERS) to consolidate the PERS combined plan with the PERS defined benefit plan and establishes requirements for how members' accounts and funds are to be treated following the consolidation. Under continuing law, PERS may offer one or more defined contribution plans under which benefits are based on a member's accumulated contributions in an individual account. A defined contribution plan also may offer definitely determinable benefits similar to the benefits under the PERS defined benefit

[233] Benefit Inflation Control (PDF), which may be accessed by conducting a keyword "sustainability" search on the School Employees Retirement System website, ohsers.org, navigating to the "sustainability" page, and selecting the "Materials" PDF link next to "Exploring Benefit Inflation Control Measures."

plan.[234] Benefits under the defined contribution plans are governed by plan documents adopted by the PERS Board, rather than by the Revised Code.[235]

The PERS combined plan is a hybrid plan that includes a defined benefit plan component and a defined contribution plan component that includes definitely determinable benefits. PERS stopped offering the option for new members to enroll in the PERS combined plan beginning January 1, 2022.[236]

Treatment of consolidated funds and member accounts

The bill specifies that, if PERS consolidates the PERS combined plan with the PERS defined benefit plan, the combined plan ceases to be a separate legal entity and all members participating in the combined plan become members of the defined benefit plan. All former members of the combined plan are entitled to the rights and benefits the member was entitled to under the combined plan before the consolidation occurred, subject to future amendments to the defined benefit plan.

The bill also requires PERS to maintain each former combined plan member's individual account and deposit and credit the member's contributions under the defined benefit plan in the account. A member's individual account consists of the member's contributions under the PERS combined plan that are maintained in the Defined Contribution Fund and used to pay the member's benefits under a defined contribution plan. If PERS maintains a member's individual account in the Defined Contribution Fund for purposes of investing the account's funds, it must treat the account as deposited and credited to the defined benefit plan for accounting purposes. The bill also requires PERS to administer a member's account in accordance with rules adopted by the PERS Board and in a manner consistent with the PERS defined contribution plan.

PERS must deposit and credit the employer contributions made under the defined benefit plan for a former combined plan member in the Employers' Accumulation Fund to pay the member's benefits.

Benefit eligibility and amounts

A PERS combined plan member must meet the same eligibility requirements for age and service retirement, disability, survivor, or death benefits under the bill that a PERS defined benefit

[234] R.C. 145.81 and 145.82, not in the bill.

[235] See The Public Employees Retirement System of Ohio Combined Defined Benefit/Defined Contribution Plan (PDF), which may be accessed by conducting a keyword "Combined plan document" search and clicking on "OPERS Legal" on the PERS website: opers.org.

[236] Update to OPERS Plan Selection Options for New Hires (PDF), which may be accessed by conducting a keyword "Plan selection options" search on the PERS website: opers.org.

plan member must meet under continuing law.[237] The bill also establishes the benefit formulas used to calculate a combined plan member's retirement allowance.

Under continuing law, a member's retirement eligibility is designated as "Group A," "Group B," or "Group C," depending on when the member is eligible to retire as follows:

- **Group A** – members who, not later than January 7, 2018, met the eligibility requirements in effect before January 7, 2013;
- **Group B** – members who met the eligibility requirements in effect on January 7, 2013, not later than January 7, 2023, or have 20 or more years of service credit as of that date;
- **Group C** – members who are not in Group A or B and meet applicable eligibility requirements.

Under the bill, and the same as under the Combined Plan document,[238] a Group A or Group B member's retirement allowance is calculated by multiplying 1% of the member's final average salary (FAS) by the first 30 years of service, plus 1.25% of the member's FAS for each subsequent year of service. The calculation for a Group C member is 1% of FAS for the first 35 years of service plus 1.25% of FAS for each subsequent year of service. A Group A or Group B member's FAS is the average of the member's three highest years of earnable salary; for a Group C member it is the average of the highest five years. A combined plan member is eligible for a reduced benefit if the member retires before becoming eligible for an unreduced benefit, similar to a defined benefit plan member under continuing law.

The benefit amounts for disability, survivor, or death benefits under the bill are similar to the amounts under the PERS combined plan before the consolidation.[239]

Similar to benefits under the defined benefit plan, benefits paid to a former member of the combined plan cannot exceed the lesser of the following limits:

- If established, the contribution based benefit cap (prevents spiking in allowance amounts);
- 100% of the member's FAS; or
- Limits established under the Internal Revenue Code.

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[237] For eligibility requirements and benefit amounts for disability, survivor, and death benefits, see OPERS Member Handbook (PDF), which may be accessed by conducting a keyword "Member handbook" search on the PERS website: opers.org.

[238] See Section 9.03 of The Public Employees Retirement System of Ohio Combined Defined Benefit/Defined Contribution Plan (PDF).

[239] See The Public Employees Retirement System of Ohio Combined Defined Benefit/Defined Contribution Plan (PDF).

As under the Combined Plan document, benefits are paid in accordance with the same benefits plans to which defined benefit plan members are subject.[240]

Exceptions

The bill specifies that the following provisions of the law governing PERS do not apply to the individual account of a member participating in the PERS combined plan at the time of consolidation:

- The calculation of a member's retirement allowance who is participating in the PERS defined benefit plan or is a PERS public safety or law enforcement officer;
- Coordinating benefits for a member who also has service credit with the State Teachers Retirement System or School Employees Retirement System;
- Participation in long-term care insurance, if offered by PERS;
- Refunding a member's contributions who leaves the member's public employment;
- Treating a member's regular PERS service credit or PERS public safety officer service credit as PERS law enforcement officer service credit;
- The reemployment of retirants in certain positions covered by PERS;
- Continued employment of a PERS member who retires from one, but not all, positions in which the member works at the time of retirement;
- Restoring a member's service credit after the member withdrew the member's contributions from the system;
- A member's ability to make additional voluntary contributions to the member's account;
- The establishment of a retirement incentive plan by an employer for its employees;
- The calculation of the mitigating rate for alternative retirement programs;
- Crediting interest to certain members' accounts.

Under continuing law, these provisions do not apply to a PERS defined contribution plan unless the plan document governing the plan specifically incorporates the provision.[241]

Additional PERS service credit purchase

(R.C. 145.201)

Under the bill, a PERS member appointed by the Speaker of the House or Senate President to serve full time as a member of a board, commission, or other public body may, before retirement, purchase additional PERS service credit for the appointment period in an amount up

[240] See The Public Employees Retirement System of Ohio Combined Defined Benefit/Defined Contribution Plan (PDF).

[241] R.C. 145.82, not in the bill.

to 35% of the credit allowed for that period. Continuing law allows a PERS member who is an elective official or is appointed by the Governor with the advice and consent of the Senate to serve as a full-time member of a board, commission, or other public body to purchase the additional service credit for the period as an elective or appointed official.

Continuing law allows the PERS Board to determine by rule who is full time for the purpose of determining eligibility for a purchase of additional service credit. Under those rules, a member of a board, commission, or other public body must earn a salary of at least $1,000 per month to be considered full time.[242] Of the boards and commissions that have Speaker- or President-appointed members who are not legislators and participate in PERS, it appears that only the members of the Transportation Review Advisory Council appointed by the Speaker or President could earn enough salary in a month to be considered full time and eligible to purchase additional PERS service credit under this provision.[243]

[242] O.A.C. 145-2-07.

[243] R.C. 5512.08, not in the bill.

SECRETARY OF STATE

Safe at Home fines

- Allows courts to retain for administrative purposes up to 25% of fines collected by the court for the Address Confidentiality Program administered by the Secretary of State (SOS).
- Allows a court to assign to the prosecuting attorney as reimbursement up to 25% of fines collected by the court for the Address Confidentiality Program administered by the SOS.

Data Analysis Transparency Archive (DATA) Act

- Enacts the Data Analysis Transparency Archive (DATA) Act to create a new office within the Office of the SOS and to modify the ways in which the boards of elections must retain election data, enter it into the Statewide Voter Registration Database (SWVRD), and make it available to the public.
- Requires the SOS and the boards to implement these changes by January 1, 2025.

Office of Data Analytics and Archives

- Creates the Office of Data Analytics and Archives in the Office of the SOS, which must retain, analyze, and publish election data and business services data.

Statewide Voter Registration Database

- Codifies the data fields that must be included in the SWVRD for each registered elector and institutes uniform requirements for related recordkeeping.
- Provides uniform methods for determining an elector's voter registration date and voting history for inclusion in the SWVRD.
- Requires the SWVRD to include each elector's last activity date, as defined by the SOS by rule, along with any other information required by rule.
- Requires the boards to create daily archives of their voter registration databases and send them to the SOS during the period beginning on the 46th day before an election and ending on the 81st day after an election.

Public access to voter registration records

- Specifies that voter registration forms and the SWVRD are public records subject to disclosure under the Public Records Law in the same manner as records of other public offices, instead of requiring those records to be open to public inspection under a separate provision of law.
- Clarifies which pieces of information contained in a voter registration record are subject to disclosure and prohibits the disclosure of an elector's telephone number or email address.

- Adds to the information that must be available about each elector on the public website version of the SWVRD.
- Requires that website to show an elector's birth date, voter registration date, and last activity date, in addition to other information that is included under continuing law.
- Prohibits any of the information that is exempt from disclosure as a public record from being made available on the website.

Retention of ballots after an election

- Requires the boards of elections to preserve all used and unused ballots from a nonfederal election for at least 81 days after the day of the election, instead of 60 days as required under current law.

Canvass of election returns

- Allows the boards of elections to begin the canvass of the election returns as early as the fifth day after Election Day, as opposed to the 11th day under current law.

Campaign communications regarding county political parties

- Adds prohibitions to the Campaign Finance Law in order to prevent a political action committee or political contributing entity from impersonating or purporting to speak on behalf of a county political party without the party's permission.

Precinct election official training

- Requires the SOS to make grants to the boards of elections to pay the cost of precinct election official training programs, instead of reimbursing counties for those costs.

Electronic pollbook reimbursement

- Modifies procedures established under H.B. 45 of the 134th General Assembly for the SOS to reimburse the boards of elections for 85% of the cost of electronic pollbooks and ancillary equipment, up to each county's allocated share of a previously made appropriation.

Save our Farmland and Protect our National Security Act

- Requires the SOS to compile and publish a registry of individuals, businesses, organizations, and governments that constitute a threat to the agricultural production or military defense of Ohio or the United States.
- Requires the SOS, in compiling a registry, to consult certain federal government lists of foreign adversaries, terrorist organizations, and sanctioned persons.
- Prohibits all persons listed on the registry from acquiring agricultural land or other real property in this state located within 25 miles of a military base, camp, airport, or other similar installation under the jurisdiction of the United States armed forces.

- Allows an exception for property acquired by devise or descent or by operation of law in the collection of a debt, but requires the registered person to divest of such acquisitions within two years.
- Allows registered persons to retain land holdings acquired before the prohibition's effective date.
- Specifies that property acquired in violation of the bill escheats to the state and must be sold at public auction.
- Names the prohibition the Save our Farmland and Protect our National Security Act.

Safe at Home fines

(R.C. 2929.18 and 2929.28)

The bill allows a court that imposes a fine for the Address Confidentiality Program (also known as Safe at Home) to retain up to 25% of amount collected to cover administrative costs and to assign up to 25% of the amount collected to reimburse the prosecuting attorney for costs associated with prosecution of the offense. In addition to any other fine that is or may be imposed on an offender for domestic violence, menacing by stalking, rape, sexual battery, or trafficking in persons, the court under continuing law may impose a fine of between $75 and $500 to be transmitted to the State Treasurer to be credited to the Address Confidentiality Program Fund. The Address Confidentiality Program allows a victim of domestic violence, menacing by stalking, human trafficking, trafficking in persons, rape, or sexual battery who fears for safety as a victim to apply to the Secretary of State (SOS) for address confidentiality.

Data Analysis Transparency Archive (DATA) Act

(R.C. 111.11, 3503.13, 3503.15, 3503.151, 3503.152, 3503.153, and 3505.31; Sections 395.10, 395.20, 735.10, and 803.290)

These provisions of the bill, called the Data Analysis Transparency Archive (DATA) Act, create a new office within the Office of the SOS and make changes to the ways in which the boards of elections must retain election data, enter it into the Statewide Voter Registration Database (SWVRD), and make it available to the public. The SOS and the boards must implement these changes by January 1, 2025.

Office of Data Analytics and Archives

The bill creates the Office of Data Analytics and Archives in the Office of the SOS. Under the direction of the SOS, the new office must do both of the following:

- Retain voter registration and other election related data, including administering the SWVRD; analyze those data for purposes of maintaining accurate election data; and publish those data;
- Retain, analyze, and publish business services data.

The SOS's office already generally performs those functions, but the law does not specify which staff are responsible for doing so. The bill makes additional changes regarding the collection and retention of election data, as described below.

Statewide Voter Registration Database

Background on the SWVRD

The federal Help America Vote Act of 2002 (HAVA) requires each state to maintain a computerized statewide voter registration list that is administered at the state level.[244] Historically, each county in Ohio maintained its own voter registration records in a variety of paper or electronic formats. In order to comply with HAVA, the Revised Code was amended to create the SWVRD and to require each county to submit its voter registration records to the SOS on a daily basis for inclusion in the database. Under continuing law, the SOS must adopt rules under the Administrative Procedure Act concerning the format and method of data entry and various other procedures related to the SWVRD.

Uniform data entry

The bill codifies the data fields that must be included in the SWVRD for each registered elector and institutes uniform requirements for related recordkeeping. And, the bill requires the SOS to prescribe rules under the Administrative Procedure Act, specifying the manner in which any voter registration records the boards maintain in other data formats must be converted for inclusion in the SWVRD and establishing a method for transmitting information securely to the SOS. A board of elections and any vendor with which it contracts to provide voter registration software or related services must ensure that the board's voter registration system and practices comply with the bill and related rules.

Currently, the SWVRD generally includes all of the information listed below, but the manner of data entry is not standardized, which can result in discrepancies when comparing data across counties. For example, when an elector requests an absentee ballot but does not return it, or casts an absentee or provisional ballot that is not counted, some counties might record the elector as having voted in the election, but other counties might not. As a result, it might be difficult to collect statewide data about the number of ballots cast and counted in a given election.

Personal information

For each elector, the SWVRD must include all of the following personal information:

- The elector's name;
- The elector's birth date;
- The elector's current residence address;
- The elector's precinct number;

[244] 52 U.S.C. 21083.

- The elector's Ohio driver's license or state identification card number, if available;
- The last four digits of the elector's Social Security number, if available;
- The elector's telephone number and email address, if available. This information is not required to register or to vote, but the boards of elections do sometimes collect it from electors.[245]

Voter registration date

The SWVRD must include an elector's voter registration date, based on the elector's most recent application to register to vote in Ohio. For purposes of this field, a change of address or change of name is not considered a new voter registration, and a person who is already registered but submits a new voter registration form is not considered to have registered again. That is, once an elector is registered anywhere in Ohio, the elector remains registered under the same record if the elector moves within the state, changes the elector's name, or submits a duplicate registration form.

The voter registration date must be determined as follows:

- In the case of an application delivered in person to a board of elections, the SOS, or another government office, such as the Bureau of Motor Vehicles, the date is the date stamped on the application upon receipt by the government office.
- In the case of an application delivered by mail to a board of elections or the SOS, the date is the date the application is postmarked.
- In the case of an application submitted online, the date is the date of the online submission.
- In the case of an application submitted to a board of elections by fax or email, as is permitted for uniformed services and overseas absent voters, the date is the date of the receipt of the fax or email.
- In the case of a provisional voter whose ballot is not counted because the person is not registered to vote, but who has provided enough information on the provisional ballot affirmation for it to serve as a voter registration application for future elections, the date is the date the board of elections determines that the provisional ballot is invalid.

However, an elector's voter registration date must not be during the period beginning on the day after the close of voter registration before an election (generally, the 29th day before Election Day) and ending on the day of the election. If the date determined above would be during that period, the voter registration date instead must be the date on which the board processes the application after the election.

[245] R.C. 3503.14 and 3503.20, not in the bill.

Voting history

The SWVRD must include all of the following for each election in which an elector cast a ballot that was counted:

- The date of the election;
- If the election was a primary election, one of the following:
  - The political party whose ballot the elector cast;
  - An indication that the elector voted only on the questions and issues appearing on the ballot at a special election held on the day of the primary election. (An elector is considered unaffiliated if the elector casts an issues-only ballot at a primary.)
- The type of ballot the elector cast.

If an elector cast a ballot that was not counted, or applied for an absent voter's ballot but did not return it, the bill prevents that activity from being listed as part of the elector's voting history.

Last activity date

The SWVRD must include each elector's last activity date, as determined in accordance with rules adopted by the SOS under the Administrative Procedure Act. This information is relevant to continuing-law list maintenance procedures. For example, under continuing law, after an elector has been mailed a confirmation notice, the elector must respond to the notice, vote in an election, or update the elector's registration within a four-year period in order to avoid having the elector's registration canceled.[246]

Other information required by rule

Finally, the bill allows the SOS to require the boards to include other information in the SWVRD by rules adopted under the Administrative Procedure Act.

Daily archives

Under the bill, during the period beginning on the 46th day before an election and ending on the 81st day after the election, each board of elections must create a daily record of its voter registration database as of 4:00 p.m. (That time period represents the start of voting before an election through the date the official election results must be finalized.) The board must transmit the daily record to the SOS in a manner prescribed by the SOS. The SOS must archive the daily record and retain it for at least 22 months after the election (see "**Retention of ballots after an election**," below).

Relocated provisions

In reorganizing the statute governing the SWVRD, the bill relocates several provisions of law, largely unchanged. The following table shows those provisions and their new locations under the bill:

[246] R.C. 3503.21(A)(7), not in the bill.

Provision	Current location	Location under the bill
Requires the SOS to obtain information from other state agencies and to share information with other states or groups of states for the purpose of maintaining the SWVRD. (The bill requires the new Office of Data Analytics and Archives to perform these functions.)	R.C. 3503.15(A)(2) to (5) and (D)(6) to (7)	R.C. 3503.151
Requires the SOS to conduct an annual review of the SWVRD to identify persons who appear not to be U.S. citizens. (The bill makes no changes to this provision.)	R.C. 3503.15(H)	R.C. 3503.152
Requires the SOS to make the SWVRD available online. (The bill makes a few changes to these provisions, described below under "**Public website of the SWVRD**.")	R.C. 3503.15(G)	R.C. 3503.153

Public access to voter registration records

Public records requests

The bill changes the process for the boards of elections to make registration records available to the public and clarifies which pieces of information contained in a voter registration record are subject to disclosure.

Existing law requires a board of elections to make voter registration forms and the SWVRD open to public inspection at all times when the office of the board is open for business, under such regulations as the board adopts, provided that no person may inspect voter registration forms outside the presence of a board employee. The statute does not provide a process for the board to redact any of an elector's personal identifying information before allowing public access to its records, although other provisions of state and federal law prohibit the disclosure of certain information.

The bill specifies instead that voter registration forms and the SWVRD are public records subject to disclosure under the Public Records Law in the same manner as records of other public offices. The Public Records Law, unchanged by the bill, includes procedures for the public to request records and for public offices to redact nonpublic information from records before providing them to requestors. For an overview, see LSC's Members Brief, Ohio's Public Records Law (PDF), which is available on LSC's website, lsc.ohio.gov.

Additionally, the bill exempts all of the following from disclosure through voter registration records:

- An elector's full or partial Social Security number. Federal law already prohibits a government agency from disclosing a person's Social Security number, and the current

Public Records Law prohibits a public office from disclosing a Social Security number on the internet.[247]

- An elector's driver's license or state identification card number. The current Public Records Law prohibits a public office from disclosing a driver's license or state identification card number on the internet.[248]
- An elector's telephone number or email address. Current law generally does not prohibit the disclosure of this information.
- A confidential voter registration record of a participant in the Address Confidentiality Program, also known as Safe at Home. Continuing law prohibits the disclosure of any information from such a person's voter registration record.[249]
- The address of a designated public service worker, if the person has submitted a redaction request to the board of elections. Continuing law exempts from disclosure the address of a designated public service worker, such as a peace officer, prosecutor, correctional employee, or firefighter. A board of elections typically will not be aware that an elector qualifies for this exemption unless the elector submits a redaction request on a form prescribed by the Attorney General.[250]
- Any other information that is prohibited from being disclosed by state or federal law.

Public website of the SWVRD

Correspondingly, the bill adds to the information that must be available on the public website version of the SWVRD. Under the bill, all of the following information must be available regarding a registered elector:

- The elector's name;
- The elector's birth date (added by the bill);
- The elector's current residence address;
- The elector's precinct number;
- The elector's polling place, during the 30 days before Election Day;
- The elector's voter registration date, as described above under "**Uniform data entry**" (added by the bill);

[247] 42 U.S.C. 405(c)(2)(C)(viii) and R.C. 149.45(A)(1).

[248] R.C. 149.45(A)(1), not in the bill.

[249] R.C. 111.44, not in the bill and 149.43(A)(1)(ee).

[250] R.C. 149.45(D), not in the bill.

- The elector's voting history, as described above under "**Uniform data entry**" (current law requires the website to include the elector's voting history, but does not define that term);
- The elector's last activity date, as described above under "**Uniform data entry**."

The bill prohibits any of the information that is exempt from disclosure as a public record, as listed above, from being made available on the website, such as a Social Security number or information about an Address Confidentiality Program participant.

Retention of ballots after an election

The bill requires the boards of elections to preserve all used and unused ballots from a nonfederal election for at least 81 days after the day of the election, instead of 60 days as required under current law. The bill also specifies that the board must retain any electronic images of ballots in that manner. Continuing law requires that the canvass of election returns (the final count of the ballots) be deemed final as of 81 days after the election. By extending the retention period, the bill ensures that the boards do not destroy any ballots before the canvass is finalized.

Under continuing law, the boards must retain ballots from a federal election for at least 22 months after the election.[251]

Canvass of election returns

(R.C. 3505.32 and 3513.22)

The bill allows the boards of elections to begin the canvass of the election returns as early as the fifth day after Election Day, as opposed to the 11th day under current law. (The canvass of the election returns is the final, official count of the votes in an election.) Under continuing law, the boards must begin the canvass by the 15th day after Election Day and must complete it by the 21st day after Election Day.

Under recently enacted changes to the Election Law in H.B. 458 of the 134th General Assembly, absentee ballots that are postmarked by the day before Election Day and returned by mail to the board of elections must arrive by the fourth day after Election Day, instead of the tenth day, in order to be eligible to be counted. Deficient absentee and provisional ballots, such as ones for which the voter must provide identification or other information to the board, also must be cured by the fourth day after Election Day, instead of the seventh day.[252] These changes make it possible for the boards to begin the canvass as early as the fifth day after Election Day, instead of waiting until the 11th day. However, H.B. 458 did not change the statutory timelines for the canvass.

[251] R.C. 3505.32(A), not in the bill.

[252] R.C. 3505.183, 3509.05, 3509.06, and 3511.11, not in the bill.

The bill leaves in place a provision of current law that prohibits the boards of elections from counting certain uncured provisional ballots before the eighth day after Election Day. This requirement applies to provisional ballots for which the voter was required to provide additional information, such as identification, but did not.[253] As a result, not all ballots will be ready for inclusion in the canvass as of the fifth day after Election Day.

Campaign communications regarding county political parties

(R.C. 3517.10 and 3517.20)

The bill adds prohibitions to the Campaign Finance Law in order to prevent a political action committee (PAC) or political contributing entity (PCE) from impersonating or purporting to speak on behalf of a county political party without the party's permission. These prohibitions are in addition to existing provisions of law that prohibit false campaign statements.

First, the bill prohibits the SOS from accepting a designation of treasurer (an initial entity registration) from a new PAC or PCE if, in the opinion of the SOS, the name of the PAC or PCE would lead a reasonable person to believe that the PAC or PCE acts on behalf of or represents a county political party, unless the party consents. And, the bill prohibits an existing PAC or PCE from using a name or address in a political communication that would lead a reasonable person to believe that the communication is made by or on behalf of a county party, unless the party consents. In both cases, the consent of a county party must take the form of a written statement, signed by the chairperson of the county party's executive committee, granting the PAC or PCE permission to act on behalf of or represent the county party.

Existing law prohibits any person, during the course of a campaign, from falsely identifying the source of a statement, issuing statements under the name of another person without authorization, or falsely stating that another person endorses or opposes a candidate or ballot issue.[254] It appears that this law would already prohibit at least some of the behavior described above. However, Ohio's law against false campaign statements is not currently being enforced because a federal appeals court ruled that the process for enforcing the law through the Ohio Elections Commission violates the First Amendment.[255] The bill does not make any changes to that process, meaning that the new prohibitions would be enforced in the same manner. As a result, this portion of the bill also might be challenged under the First Amendment.

Precinct election official training

(R.C. 3501.27)

The bill requires the SOS to make grants to the boards of elections to pay the cost of precinct election official training programs, instead of reimbursing counties for those costs.

[253] R.C. 3505.183(G), not in the bill.

[254] R.C. 3517.21(B)(8) and 3517.22(B)(1), not in the bill.

[255] *Susan B. Anthony List v. Driehaus,* 814 F.3d 466 (6th Cir. 2016).

Under existing law, the SOS must reimburse counties for those costs upon receiving an itemized statement of expenses.

Electronic pollbook reimbursement

(Section 610.30, amending Section 285.12 of H.B. 45 of the 134th G.A.)

The bill modifies provisions of H.B. 45 of the 134th General Assembly that require the SOS to reimburse the boards of elections for 85% of the cost of purchasing electronic pollbooks and ancillary equipment, up to the county's allocated share of a $7.5 million appropriation. Each county's allocation is determined based on its number of registered electors as of July 1, 2022.

First, the bill adds a requirement that, when required under state purchasing requirements and at the request of the SOS, DAS's Office of Procurement Services must initiate a competitive solicitation for qualified vendors of electronic pollbooks that are approved for use under continuing law standards. Boards of elections must choose from the vendors identified through that process.

Further, the bill allows a board of elections to be reimbursed for the cost of leasing electronic pollbooks instead of purchasing them, if the county chooses to do so. The bill also specifies that a board of elections must notify the SOS of its selected electronic pollbooks and then acquire the equipment itself, instead of notifying the Office of Procurement Services of its choice and then having the Office acquire the equipment on behalf of the board.

The bill adds a caveat to a provision of H.B. 45 requiring the SOS to reimburse a board of elections for 85% of the cost of electronic pollbooks it had already acquired on or after January 1, 2020. Under the bill, a board is eligible for that reimbursement only if it is in compliance with all applicable directives and statutes. And, the bill requires the SOS to reimburse the board of elections instead of the county's general fund.

Save our Farmland and Protect our National Security Act

(R.C. 2105.15, and 5301.256; Section 753.10)

The bill prohibits persons determined by the SOS to constitute a threat to the agricultural production or military defense of Ohio or the United States from acquiring (1) agricultural land, or (2) real property located within 25 miles of a military base, camp, airport or similar installation in Ohio under the jurisdiction of the United States armed forces (collectively referred to in this analysis as "protected property"). The prohibition applies to persons listed on a registry compiled by the SOS, and to agents, trustees, and fiduciaries of such persons (collectively referred to in this analysis as "registered persons"). The bill does require any registered person to divest of protected property acquired before the effective date of the prohibition, but it does prohibit registered persons from acquiring additional protected property or transferring protected property holdings to another registered person, unless an exception applies.

Compilation of registry

The SOS must compile and publish a registry of "persons" – which the bill defines broadly to include individuals, businesses, organizations, legal or commercial entities, and governments other than the government of the United States, its states, subdivisions, territories, or

possessions – that pose a threat to the agricultural products and military defense of Ohio or the United States. In compiling this registry, the SOS must consult all of the following:

- The list of governments and other persons determined to be foreign adversaries by the U.S. Secretary of Commerce;
- The terrorist exclusion list compiled by the U.S. Secretary of State;
- The state sponsors of terrorism determined by the U.S. Secretary of State to have repeatedly provided support for the acts of international terrorism;
- The list of individuals and entities designated by, or in accordance with Executive Order 13224, issued by the President of the United States on September 23, 2001, or Executive Order 13268, issued on July 2, 2002.

The bill requires the Ohio SOS to compile the registry using the "best information available," to publish it on the SOS website, and periodically to update it.

Protected property

The bill's prohibitions apply to (1) land suitable for use in agriculture, including any water, air space, and natural products and deposits in, on, or over the land, and (2) real property located within 25 miles of any military base, camp, airport, or similar installation in Ohio and under the jurisdiction of the armed forces. Under continuing law, "armed forces" includes all of the following:

- The army, navy, air force, marine corps, coast guard, or any reserve components of those forces;
- The national guard of any state;
- The commissioned corps of the U.S. Public Health Service;
- The merchant marine service during wartime;
- The Ohio organized militia when engaged in full-time national guard duty for a period exceeding 30 days;
- Other services that may be designated by Congress.[256]

Exceptions

The bill provides for four exceptions to the general prohibition against registered persons acquiring protected property. First, as indicated above, registered persons are not required to divest of protected property interests acquired before the effective date of the prohibition. Second, the bill allows a registered person to acquire protected property through devise or descent. However, a registered person must divest itself of all right, title, and interest in the protected property within two years from the date of acquisition. Third, the bill allows a registered person to acquire protected property through process of law in the collection of debts,

[256] R.C. 5903.01, not in the bill.

by a deed in lieu of foreclosure, pursuant to a forfeiture of a contract for a deed, or by any procedure for the enforcement of a lien or claim on the land or real property. Like the second exception, the registered person must divest itself of all right, title, and interest in the protected property within two years of acquisition. Furthermore, in the case of agricultural land, the land must not be used for any purpose other than agriculture or leased to another registered person, even if that registered person intends to use the land for agriculture. Fourth, the bill allows a registered person to acquire agricultural land that: (1) is not located within 25 miles of a military base, camp, airport or similar installation in Ohio under the jurisdiction of the U.S. armed forces, (2) does not exceed 150 acres, and (3) is acquired for immediate or pending use other than agriculture.

Subsequent addition to registry

A person who acquires protected property in this state, other than by devise or descent, after the provision's effective date and is subsequently added to the SOS's registry is required to divest of all right, title, and interest in the protected property within two years of being added to the registry.

Enforcement

If the SOS finds that a registered person has acquired protected property in violation of the bill's prohibition, the SOS must report the violation to the Attorney General. Upon receiving a report, the Attorney General must initiate an action in the court of common pleas in the county where the protected property is located. If the protected property is located in more than one county, the Attorney General may either initiate a single action in the county in which the majority of the protected property is located or initiate separate actions in each such county.

After the action is initiated, the Attorney General must file a notice of pendency of the action with the country recorder. If the court finds that the protected property was acquired in violation of the bill, the protected property escheats to the state. The clerk of the court must notify the Governor that the title to the protected property is vested in the state by the court. The property must be sold at public auction in the same manner as real property foreclosed upon due to the owner's failure to pay a debt, except that the registered person has no right of redemption.

After the sale of the land, the proceeds are first used to pay for the court costs and other expenses related to the action initiated by the Attorney General. The remaining proceeds are paid to the registered person whose protected property escheated, but only up to the amount paid by the registered person for the protected property. If any proceeds remain, they are distributed to the general fund of each county in which the protected property is located in proportion to the percentage of the territory located in each such county.

Name and purpose

The bill's prohibitions are named the Save our Farmland and Protect our National Security Act. The bill stipulates that the purposes of the restrictions is to recognize that Ohio has a substantial and compelling interests in protecting both its agricultural production and military defense.

BOARD OF TAX APPEALS

- Requires the Governor, with the advice and consent of the Senate, to appoint two alternate members to the Board of Tax Appeals (BTA), to serve in the event a member is disqualified from a proceeding.
- Disqualifies members of the BTA who are certain former employees of the Office of the Attorney General in specific proceedings before the BTA.

Disqualification and alternate members

(R.C. 5703.03)

The bill requires members of the Board of Tax Appeals (BTA) to disqualify themselves from hearing certain proceedings and enlarges the membership of the BTA to include two alternate members to stand-in for any disqualified member. Under current law, BTA is comprised of three members appointed by the Governor, with the advice and consent of the Senate. No more than two of the three members may be affiliated with the same political party and at least two of the members must be attorneys with at least six years of experience in practicing Ohio tax law.

The bill requires the Governor, with the advice and consent of the Senate, to appoint two alternate members to BTA, to serve in the event a regular member is disqualified from a particular proceeding, as discussed below. Each alternate must be an attorney admitted to practice in Ohio and must have at least three years of experience in the practice of Ohio tax law. The alternates cannot be affiliated with the same political party. Alternates serve six years in the same manner as full BTA members and must give the same $5,000 performance bond as those members. Alternates are not prohibited from holding other positions or engaging in other business that could interfere with or be inconsistent with the alternate's official BTA duties but are prohibited from serving on any committee of a political party.

The function of the alternate members is to serve as a substitute in the event that a regular BTA member is required by the bill to be disqualified from hearing a BTA case. Under the bill, disqualification is required for regular members of BTA who are certain former employees of the Attorney General ("former employees"), including any member who previously served as Attorney General (AG), First Assistant Attorney General, or an attorney employee, in any of the three following types of proceedings:

- Proceedings where the Tax Commissioner and the Department of Taxation are parties, if the member previously provided legal representation to that party, and that proceeding was pending at the BTA during the member's employment by the AG.
- Proceedings related to the valuation of tangible personal property that were pending at BTA during the member's previous AG employment.
- Proceedings that the former employee was substantially involved in during an earlier proceeding while employed by the AG.

In the event a member is disqualified from a particular proceeding, the remaining members must appoint an alternate member to replace the disqualified member. Once appointed to a particular proceeding, an alternate member has the same powers as a member of the board as to that proceeding. An alternate member is compensated for performing the member's duties related to the particular proceeding to which the alternate has been appointed in the same manner as full members of the board.

DEPARTMENT OF TAXATION

Income tax

- Phases down income tax rates and reduces the number of income tax brackets over two years, beginning with the 2023 taxable year.
- Suspends the annual inflation indexing adjustment of income tax brackets and personal exemption amounts until taxpayers pay no tax on their first $26,050 of income.
- Requires that, beginning in September 2024, TAX reduce income tax withholding rates so that the estimated reduction in withholding collections during an annual period equals the amount of BSF interest credited to the GRF in the preceding fiscal year.
- Authorizes an income tax deduction for individuals who contribute to a homeownership savings account.
- Authorizes, for homeownership savings account holders, an income tax deduction for interest earned on savings in, and employer contributions to, an account.
- Allows donations to scholarship granting organizations made before the federal income tax return filing deadline to be the basis of an income tax credit claim for the preceding taxable year.
- Allows taxpayers with income of $100,000 or more to qualify for the nonrefundable income tax credit for tuition paid to a nonchartered, nonpublic school.
- Increases the value of that credit.
- Includes certain pass-through entity (PTE) taxes remitted on behalf of an investor in the calculation of the investor's Ohio income tax resident credit.
- Requires a PTE investor to add back certain PTE taxes imposed by another state that the investor deducts from federal adjusted gross income as a business expense.
- Applies the PTE provisions to taxable years ending on or after January 1, 2023, but allows taxpayers to apply, at their option, the provisions to taxable years ending on or after January 1, 2022, with an amended or original return.
- Removes the requirement for employers who withhold and remit employee income taxes on a partial weekly basis to file quarterly reconciliation returns, instead requiring such employers to file an annual return, starting in 2024.

Municipal income taxes

- Exempts stock option and nonqualified deferred compensation income from municipal income tax levied by any municipality.
- Corrects an erroneous cross-reference governing the deduction of net operating losses and requires municipal corporations to incorporate the change in 2023.

- Allows a business with remote employees to use a modified municipal income tax apportionment formula with respect to those employees.
- Limits the circumstances under which municipal income tax inquiries or notices may be sent by a municipal tax administrator or the Tax Commissioner to a taxpayer subject to a filing extension.
- Limits the penalty that may be imposed on a taxpayer for failing to timely file municipal income tax returns from a $25 monthly penalty, up to $150, to a one-time $25 penalty. Exempts a taxpayer's first failure to timely file from the penalty.
- Provides an additional, automatic one-month extension for municipal income tax returns where a business entity has received a six-month federal extension.
- Requires the Department of Taxation (TAX) to provide information to municipal corporations on any businesses that had municipal taxable income apportioned to such a municipal corporation in the preceding five or seven months as opposed to in any prior year.
- Requires a municipal corporation to notify TAX any time there is a decrease in the municipal corporation's income tax rate.

Sales and use tax

- Authorizes a sales tax holiday for most items priced under $500 to be held over at least 14 days in August of 2024.
- Requires the state to hold similar, possibly shorter, sales tax holidays in future years if the surplus revenue in the GRF reaches a certain threshold.
- Uses this mechanism to replace the income tax reduction fund, which is a mechanism that uses surplus revenues to temporarily reduce income tax rates.
- Suspends the existing sales tax holiday for clothes and school supplies in any year in which the bill's sales tax holiday applies.
- Exempts children's diapers, creams, and wipes and car seats, cribs, and strollers from sales and use tax, beginning October 1, 2023.

Lodging taxes

- Authorizes Hamilton County to levy an additional 1% lodging tax to fund convention, entertainment, or Major League Soccer sports facilities, and to repurpose a portion of the revenue from its existing 3% general and special lodging tax to fund or promote such a facility.
- Authorizes Cincinnati to repurpose a portion of the revenue from its 3% general lodging tax or 1% special convention center lodging tax to fund such facilities.
- Authorizes a county to use a portion of the revenue from its general lodging tax to fund public safety services in a municipality or township designated as a resort area.

- Authorizes a county with a population exceeding 800,000 or a municipality within such a county to wholly or partially exempt from county and municipal lodging taxes a designated hotel associated with a convention center ("headquarters hotel").
- Authorizes the county or municipality to require payments in lieu of taxes (PILOTs) from the headquarters hotel, to be used to finance facilities associated with the hotel or convention center.
- Authorizes the county or municipality, or a port authority, to enter into an agreement with the headquarters hotel operator for the operator to make binding payments to ensure funds for the completion of such associated facilities.
- Authorizes Delaware County or port authorities in that county, to issue bonds backed by proceeds from the county's existing or renewed special 3% lodging tax to finance permanent improvements at fairground sites.

Commercial activity tax (CAT)

- Excludes, for tax periods beginning in 2024, businesses with taxable gross receipts of $3 million or less and, for tax periods in 2025 and thereafter, businesses with taxable gross receipts of $6 million or less from the CAT.
- Indexes the $6 million exclusion threshold to increase with inflation in 2026 and thereafter.
- Eliminates the CAT minimum tax, only applying the CAT to a business's gross receipts in excess of the applicable exclusion threshold.
- Eliminates calendar year CAT filing, which was principally available to taxpayers with less than $1 million in gross receipts, who are excluded from the CAT under the bill.
- Excludes from gross receipts taxable under the CAT any federal, state, or local grants received or debt forgiven to provide or expand broadband service in Ohio.
- Modifies the method of allocating CAT revenue for the payment of tangible personal property tax replacement payments.

Financial institutions tax

- Clarifies which entities are included in a taxpayer group subject to the financial institutions tax (FIT).
- Repeals an expired FIT deduction allowed for investments in a qualifying real estate investment trust.

Sports gaming tax

- Increases the sports gaming receipts tax rate, from 10% to 20%, beginning July 1, 2023.
- Requires nearly all of the sports gaming tax revenue to be used for the general support of K-12 education.

Cigarette and tobacco and vapor product taxes

- Allows a wholesaler or distributor to obtain a refund of excise taxes on cigarettes, other tobacco products, and nicotine vapor products remitted on bad debts arising from the sale of those products and charged off on or after January 1, 2024.
- Authorizes an exemption from the vapor products tax for certain distributors.
- Requires, beginning July 1, 2024, persons selling nicotine vapor products and tobacco products other than cigarettes (OTP) at retail to Ohio consumers to obtain an annual license from TAX.
- Extends the deadline for renewing annual cigarette tax licenses to June 1 instead of the 4th Monday in May.
- Modifies the authority of Cuyahoga County to levy cigarette taxes and rescinds its authority to levy a new tax on nicotine vapor products.

Motor fuel taxes

- Imposes personal liability for the fuel use tax on individual owners, employees, officers, and trustees who are responsible for reporting and paying the tax for a taxpayer.

Public utility taxation

- Exempts heating companies from the state's public utilities excise tax, and instead subjects such companies to the CAT.

Municipal ridesharing tax

- Authorizes the largest municipality in a county with a population of between 800,000 and 1 million, i.e., Cincinnati, to levy a tax on ridesharing services provided to passengers who begin or end their ride in the municipality.

Tax incentives

Low-income housing tax credit

- Authorizes a nonrefundable credit against the insurance premiums, financial institution, or income tax for the development of low-income rental housing that is awarded in conjunction with the federal low-income housing tax credit (LIHTC).
- Allows the Governor's Office of Housing Transformation (GOHT) to reserve a state tax credit for any project in Ohio that receives a federal LIHTC allocation, as long as the project is located in Ohio and begins renting units after July 1, 2023.
- Prohibits GOHT from reserving any credits after June 30, 2027.
- Generally limits the amount of state credits that may be reserved in a fiscal year to $100 million, but allows unreserved credit allocations and recaptured or disallowed credits to be added to the credit cap for the next fiscal year.

- Limits the amount of credit reserved for any single project to an amount necessary, when combined with the federal credit, to ensure financial feasibility.
- Requires GOHT to reserve credits in a manner that ensures projects create additional housing units they would not otherwise create.

Single-family housing development credit

- Authorizes a nonrefundable tax credit against the insurance premiums, financial institutions, or income tax for investment in the development and construction of affordable single-family homes.
- Requires local governments and quasi-public development entities to submit applications for the credit, but allows them to allocate credits to project investors.
- Allows the Director of the Governor's Office of Housing Transformation to reserve a tax credit for any project in Ohio that may qualify for the credit, as long as the project meets affordability qualifications adopted by the Office.
- Prohibits the Director from reserving any credits after June 30, 2027.
- Generally limits the amount of credits that may be reserved in a fiscal year to $50 million, but allows unreserved credit allocations and recaptured or disallowed credits to be added to the credit cap for the next fiscal year.
- Limits the amount of credit reserved for any single project to the amount by which the fair market value of the project's homes exceed the project's development costs.

Film and theater credits

- Increases the total amount of film and theater tax credits that may be awarded each fiscal year, from $40 million to $50 million and requires $5 million of the total be reserved for Broadway theatrical productions.
- Authorizes, beginning in FY 2025, a refundable tax credit against the financial institutions tax, income tax, and commercial activity tax for production companies that complete certain capital improvement projects in Ohio.
- Sets the credit amount at 25% of the amount a production company spends to construct, acquire, repair, or expand facilities that will be used in a motion picture or theatrical production, up to $5 million per project.
- Caps the total amount of new credits that may be awarded each fiscal year at $25 million and caps the credits that may be awarded to projects in a single county at $5 million per fiscal year.

Historic building rehabilitation credit

- Expands an existing prohibition on LIHTC property receiving a historic rehabilitation tax credit to most other federally subsidized residential rental property.

- Expands an existing prohibition on LIHTC property receiving a historic rehabilitation tax credit to most other federally subsidized residential rental property.

Job creation and retention credits

- Authorizes the Tax Credit Authority to adjust the amount that a noncompliant taxpayer must repay from a job creation or job retention tax credit one time within 90 days after initially certifying a repayment.

Research and development credits

- Modifies the manner in which a taxpayer that consists of multiple individuals or entities may compute and claim a research and development (R&D) tax credit against the FIT or CAT.
- Requires a taxpayer claiming a R&D credit to retain records substantiating the claim for four years.
- Allows TAX to audit a representative sample of a taxpayer's R&D expenses to verify that the taxpayer correctly computed the R&D credit.

Exemption and exclusion for consumer-grade fireworks fee

- Exempts the 4% fee on the sale of consumer-grade fireworks from sales and use tax, so long as the fee is separately stated on the sales receipt.
- Authorizes a CAT exclusion for collections of the separately stated fireworks fees.

Deduction and exclusion for East Palestine derailment payments

- Authorizes a personal income tax deduction for government or railroad company payments received by a taxpayer as the result of the February 3, 2023, train derailment in East Palestine.
- Authorizes a CAT exclusion for compensation for business losses resulting from that derailment.

Property tax

- Revises the information considered in the sales ratio studies that TAX uses to review and update property values.
- Temporarily adjusts the current agricultural use value ("CAUV") of farmland for property tax purposes.
- Authorizes a park district to renew, increase, or decrease an existing voted property tax levy.
- Expands to include other types of federally subsidized rental housing an existing provision that explicitly authorizes a county auditor to value low-income housing tax credit property by employing the income approach, cost approach, or comparable sales approach.

- Authorizes the Auditor of State to audit the construction and rehabilitation costs of any project that has received certain federal subsidies or tax credits to construct or renovate rental housing.
- Requires the Governor's Office of Housing Transformation to prepare and annually update a list of all Ohio federally subsidized residential rental property and annually certify the list to the Auditor of State, the Board of Tax Appeals, and TAX, who in turn certifies it to all county auditors.
- Exempts from property tax the value of unimproved land subdivided for residential development in excess of the fair market value of the property from which that land was subdivided, apportioned according to the relative value of each subdivided parcel.
- Authorizes the development exemption for up to eight years, or until residential construction begins or the land is sold.
- Does not allow the exemption for development land included in a tax increment financing (TIF) project.
- Authorizes owners of real property which qualified for a brownfield tax abatement in 2020 but which was not subject to the abatement until 2022 to apply for the abatement to apply retroactively for two years and terminate two years earlier than scheduled.
- Allows a subdivision to remove a parcel from a TIF and include the parcel in a new TIF under certain circumstances.
- Authorizes an impacted city, i.e., a city that meets certain urbanization or disaster criteria, to, before July 1, 2024, reallocate TIF service payments to certain projects that do not directly benefit the assessed parcels.
- Extends the circumstances under which a county, municipality, or township may extend the maximum term of a parcel TIF by up to 30 years.
- Allows a municipality to extend the life of an existing TIF for up to 15 years if certain conditions are met.
- Authorizes the second and third publication of a notice of an impending property tax foreclosure action to be made online, provided the notice's first publication continues to be made in a newspaper of general circulation.
- Specifies that existing abbreviated newspaper publication procedures for government notices apply to the publication of a property tax foreclosure notice if the second and third publication of the notice continues to be made in a newspaper.
- Extends the sunset date of a property tax exemption for qualified energy projects from 2025 to 2029.

Special improvement districts

- Prohibits park district property from being included in a special improvement district unless the park district consents to its inclusion.

Tax administration

- Authorizes TAX to send any tax notice currently required to be sent by certified mail by ordinary mail or, with the taxpayer's consent, electronically.
- Removes required recordkeeping standards a delivery service must meet before it may be used by TAX to deliver tax notices.
- Requires county auditors to accept real property and manufactured home conveyance forms electronically.
- Eliminates a requirement that taxpayers file amended reports with respect to the defunct corporation franchise tax.
- Streamlines the authority of TAX to share confidential tax information with state agencies.
- Makes conforming changes to a recently enacted law that allows taxpayers to obtain a refund of tax-related penalties and fees.

Local Government and Public Library Funds

- Permanently increases the percentage of state tax revenue that the Local Government Fund (LGF) and Public Library Fund (PLF) each receive per month, from 1.66% to 1.7%.
- Increases the minimum amount that may be distributed from the LGF to each county to $850,000, beginning in FY 2024.
- Requires the county budget commission of a county that adopts an alternative distribution formula for the county undivided local government fund, using the standard procedure to adopt such a formula, to hold a hearing on the formula every five years.

Income tax

Rate reduction

(R.C. 5747.02)

The bill phases-down the income tax rates applicable to nonbusiness income over two years. For the 2023 taxable year, the bill reduces the number of brackets from four to three, by consolidating the two lowest tax brackets, and reduces the rates of the lowest and highest tax brackets. Beginning with the 2024 taxable year, the bill consolidates the remaining three brackets into two, and further reduces the highest tax rate. The tax table for the 2022 taxable year compared to the 2023 tax table, as modified by the bill, is as follows:

TY 2022		TY 2023, as modified by the bill	
Ohio taxable income	Marginal tax rate	Ohio taxable income	Marginal tax rate
$26,050-$46,100	2.765%	$26,050-$92,150	2.75%
$46,100-$92,150	3.226%	$92,150-$115,300	3.688%
$92,150-$115,300	3.688%	More than $115,300	3.75%
More than $115,300	3.99%		

The tax table for the 2024 taxable year, as modified by the bill, is as follows:

Ohio taxable income	TY 2024 marginal tax rate, as modified by the bill
$26,050-$92,150	2.75%
More than $92,150	3.5%

Inflation indexing adjustments and future tax reductions

(R.C. 5747.02 and 5747.025; Section 757.50)

Continuing law requires the Tax Commissioner to adjust the income tax brackets and personal exemption amounts for inflation on an annual basis.[257] The bill suspends these adjustments. The tax brackets and personal exemption amounts will be frozen at 2022 levels until income taxes are reduced as described below.

For the 2023 and 2024 taxable years, the bill simply suspends the inflation adjustments, with no other modifications required. Thereafter, the amounts will remain suspended until taxpayers pay no tax on their first $26,050 of income.

Under continuing law, taxpayers with less than $26,050 of income pay no tax, but taxpayers with income of $26,050 or more do pay tax on that first $26,050. That first tax amount currently equals $360.69. Under the bill, the Tax Commissioner must determine the amount by which that dollar amount can be reduced each year, based on the annual savings from the indexing suspension. The amount will be reduced each year until it equals $0, at which time the inflation adjustments will resume.

[257] R.C. 5747.02(A)(5); R.C. 5747.025, not in the bill.

Withholding rate adjustments

(R.C. 131.43 and 5747.06)

Every July, beginning in 2024, the bill requires the Director of OBM to certify to the Tax Commissioner the amount of BSF investment earnings that were credited to the GRF in the preceding fiscal year. (Recall that the bill redirects the next $650 million in BSF interest from the BSF to the GRF, see "**Budget Stabilization Fund**," above.) The bill then requires the Commissioner, beginning in the following September, to reduce income tax employee withholding rates so that the estimated reduction in employee withholding collections during the period of September 1 through August 31 equals the amount so certified.

In essence, this mechanism will, over a period of likely several years, gradually require TAX to reduce employee withholding rates such that collections are reduced by a total of $650 million. The mechanism only affects the amount of income taxes withheld from an employee's compensation, not the amount of taxes the employee will actually owe.

Deduction for contributions to homeownership savings accounts

(R.C. 5747.01(A)(42) and (43) and 5747.85; Section 803.220)

The bill authorizes an income tax deduction for individuals who contribute to homeownership savings accounts, which are accounts authorized in the bill that can be used towards the down payment and closing costs associated with the purchase of a home (see "**Home Improvement Linked Deposit Program**," below).

The deduction has two components:

- A deduction for contributions to an account. This deduction is limited to $10,000 per year, per account for joint filers and $5,000 per year, per account for all other filers, with a lifetime maximum per contributor, per account of $25,000. Only the account holder, or the account holder's parent, spouse, sibling, stepparent, or grandparent are eligible to take this deduction.
- A deduction for the interest earned on deposits in, and employer contributions to, an account. This deduction is only available to the account holder.

Under the bill, if an account holder withdraws money from a homeownership savings account, but does not use the money to pay the closing costs on a home that will be the account holder's primary residence, that individual is required to pay income tax on the amount withdrawn. The amount is added back to the account holder's taxable income, even if the amount was originally contributed by someone else.

The tax deduction is available for taxable year 2024 and thereafter. The bill allows the Tax Commissioner to adopt rules to administer the deductions.

Scholarship granting organization donation credit

(R.C. 5747.73; Section 803.360)

The bill allows donations to scholarship granting organizations (SGOs) made before the federal income tax return filing deadline (generally April 15) to be the basis of a tax credit claim

against the income tax for the preceding taxable year. Under current law, such donations may be the basis for an income tax credit claim, but only for the taxable year in which the donations are made. The bill does not change other aspects of the credit, such as a $1,500 cap for spouses filing jointly, and a $750 cap for single filers.

An SGO is a charitable organization certified by the Attorney General that primarily awards academic scholarships to primary and secondary school students.

Income tax credit for nonchartered, nonpublic school tuition

(R.C. 5747.75; Section 803.320)

Continuing law authorizes taxpayers to claim a nonrefundable income tax credit for tuition paid to a nonchartered, nonpublic school. The credit equals the amount of tuition paid by the taxpayer, up to certain annual maximums. Under current law, the credit may only be claimed if the taxpayer's and the taxpayer's spouse's total federal adjusted gross income (FAGI) for the year is less than $100,000.

The bill authorizes the credit to be claimed by a taxpayer whose FAGI exceeds this threshold. It also increases the annual maximum credit from $500 to $1,000 for taxpayers with a total income below $50,000 and from $1,000 to $1,500 for taxpayers with a total income at or above $50,000.

Pass-through entity taxes

(R.C. 5747.01(A)(36), (41), and (S), 5747.05, 5747.11, and 5747.13; Section 803.310)

Under federal law, an itemized income tax deduction is allowed for state and local taxes. That deduction was capped at $10,000 in 2017. As a result, many states, including Ohio, enacted laws allowing owners of pass-through entities (PTEs), i.e., entities that are disregarded for federal income tax purposes, such that their tax liability passes through to their owners, to pay a tax on the PTE's income at the entity level, with the cost of the tax passing through to its owners. According to IRS guidance issued after the $10,000 cap was enacted, these entity-level taxes are subject to deduction as business expenses and are not subject to the $10,000 cap. As a result, owners could claim their full share of the entity-level taxes as a federal income tax deduction.[258]

Ohio's PTE tax allows PTEs to elect to pay an entity-level tax, the cost of which is then passed through to each PTE owner as part of their distributive share of gains and losses. Each PTE owner is allowed an Ohio income tax credit equal to the cost of their distributive share of the tax liability, but the amount of that tax liability is deductible against the federal income tax, reducing the taxpayer's federal adjusted gross income (FAGI) and the tax liability calculated against it. In other words, the state PTE tax is cost-neutral to the taxpayer, but it reduces federal income tax liability.

FAGI is the basis for the Ohio income tax, and Ohio adjusted gross income (OAGI) is FAGI adjusted with various deductions and additions. When the Ohio PTE tax was enacted, a related provision requiring the addition of a taxpayer's proportionate share of the elective PTE entity tax

[258] R.C. 5747.38, not in the bill, and Internal Revenue Service Notice 2020-75.

discussed above that was deducted from federal taxes was also enacted. This avoids a scenario in which a taxpayer pays the state PTE tax designed to reduce federal-income tax liability, but receives the same amount of money back in a credit and then also reduces OAGI based on the Ohio tax that is completely credited to the taxpayer.

The bill makes several changes related to how Ohio's PTE tax and similar taxes levied in other states interact with other aspects of Ohio's income tax. First, the bill requires the addition to FAGI, when calculating OAGI (and Ohio taxable income in the context of estates and trusts), of any income taxes deducted from FAGI on the basis of a PTE entity tax designed to reduce FAGI pursuant to the IRS guidance discussed above and levied by another state or the District of Columbia. As mentioned above, Ohio was among a group of states that enacted these types of PTE taxes, so FAGI could be reduced by any one of them.

Second, the bill specifies that the addition, to the extent it is related to an individual's "business income," is to be treated as such. Business income is relevant in various contexts of the income tax law, one of which is for a deduction allowed for $125,000 of business income for each spouse filing a separate return or $250,000 for other filers and another of which is a special 3% rate that applies to business income above that threshold. Thus, this provision clarifies how amounts added back are to be classified.

Third, continuing law allows an income tax credit for taxes due for the taxes residents pay to other states and the District of Columbia. The credit is applied against the amount of a taxpayer's OAGI, before applying any tax credits. The bill provides that, for purposes of the credit, a resident taxpayer's OAGI that is subject to an income tax levied in another state includes income that is subject in the other state, or the District of Columbia, to either (1) an entity-level tax imposed on a PTE and paid by the PTE through a composite return covering all PTE owners, with the cost of the tax passed on to the resident taxpayer as part of the taxpayer's distributive share of PTE gain and loss, or (2) a PTE tax, similar to Ohio's, adopted in response to the $10,000 cap on the federal deduction for state and local taxes. It also requires OAGI, for purposes of the credit, to be calculated by first deducting the business income deduction described above.

In other words, for purposes of the resident income tax credit for taxes paid to other states, the bill includes taxes paid to those states on account of the resident taxpayer's ownership of a PTE that paid taxes to the other jurisdiction on behalf of the taxpayer, either as part of a composite return or as part of a tax designed to avoid the $10,000 state and local tax deduction cap. But, the tax liability against which that credit is applied is first reduced because it is calculated with an OAGI that has been reduced by the business income deduction.

The bill applies these changes to taxable years ending on or after January 1, 2023. Taxpayers may, however, apply them to taxable years ending on or after January 1, 2022, by filing an amended or original return for that year.

Eliminate quarterly employer reconciliation return

(R.C. 5747.07 and 5747.072; Section 803.60)

The bill removes the requirement in current law that employers who withhold and remit employee income taxes on a partial weekly basis, i.e., two times in a single week, file quarterly

withholding reconciliation returns. Instead, these employers will only be required to file the annual reconciliation returns required for other employers under continuing law starting on January 1, 2024. Reconciliation returns allow an employer to calculate and pay any required employee withholding that was not remitted in the preceding period.

Under continuing law, employers are required to remit employee withholding on a partial weekly basis if they withhold and accumulate a significant amount of it. Employers with smaller accumulated withholding may remit it monthly or quarterly.

Municipal income taxes

Exemptions for stock options and deferred compensation

(R.C. 718.01(R), 718.02(G), and 718.82(F); Section 803.10)

The bill exempts stock option and nonqualified deferred compensation income from any municipality's income tax. Under current law, those types of income are exempt only if a municipality exempted such income in an ordinance adopted before 2016. The bill's changes apply to taxable years beginning on or after January 1, 2024.

Net operating loss deduction cross-reference

(R.C. 718.01; Section 803.10)

The bill corrects an erroneous cross-reference in the municipal income tax law governing the deduction of net operating loss (NOL). From 2018-2022, a business was allowed to deduct 50% of its NOL from its taxable net profits. Beginning in 2023, the 50% limitation is discontinued and a business may deduct the full amount of its NOL. The bill's correction clarifies that the 50% limitation ceases to apply in 2023. The bill requires municipalities that levy an income tax to incorporate this cross-reference change into their municipal tax ordinances and apply it to taxable years beginning in 2023.

Net profits apportionment for remote employees

(R.C. 718.02, 718.021, 718.82, and 718.821; R.C. 718.021 (718.17); Section 803.240)

Under continuing law, municipal corporations may impose an income tax on the net profit of businesses operating within their jurisdictions. When determining the portion of a business' total net profit that is taxable by a particular municipality, the business uses a three-factor formula based on the business' payroll, sales, and property.

The bill allows businesses with employees who work remotely to use a modified version of this apportionment formula. Instead of apportioning the payroll earned, sales made, or property used by a remote employee to that employee's remote work location, the employer may instead apportion those amounts to a designated "reporting location." This alternative is available both to businesses that file returns with municipal tax administrators and businesses that elect to file a single return covering all municipal corporations with the Tax Commissioner.

Under continuing law, an employee's payroll is generally only included in the existing apportionment formula if the employee performs services at a location "owned, controlled, or

used by, rented to, or under the possession of" the employer, or a vendor or customer of the employer.

Designating a reporting location

To use the bill's modified apportionment formula, the business must assign a remote employee to a designated reporting location, which is any location owned or controlled by the employer or, in some circumstances, by a customer of the employer.[259] An employee's designated reporting location will be (a) the location at which the employee works on a regular or periodic basis, (b) if no such location exists, the location at which the employee's supervisor works on a regular or periodic basis, or (c) if neither such locations exist, any reporting location designated by the employer, provided that the designation is made in good faith and is reflected in the employer's business records.

A business can change a remote employee's designated reporting location at any time. If the business is a pass-through entity, e.g., a partnership or LLC, it can also designate a reporting location for any of its equity owners who work remotely.

Election

A business that wishes to use the bill's modified apportionment formula must make an election to do so with each municipality in which it is required to file a net profits tax return or, if the business has elected to file a single return with the Tax Commissioner, with the Commissioner. The election can be made on the business' net profit return, timely filed amended return, or a timely filed appeal of an assessment. Once the election is made, it applies to each municipality in which the business operates and to all future taxable years, until it is revoked.

Application of existing law and effective date

Aside from the apportionment of payroll, sales, and property attributable to remote employees, all other aspects of continuing law's apportionment formula will continue to apply to a business that makes the election allowed under the bill. The business can still request to use an alternative apportionment method, as under existing law, although the bill specifies that the business cannot be compelled to use an alternative method that would require it to file a return with a municipality solely because an employee is working remotely in that municipality.

The bill applies to taxable years ending on or after December 31, 2023.

Prohibited inquiries and notices

(R.C. 718.05 and 718.85; Section 803.100)

The bill limits when a municipal tax administrator or the Tax Commissioner may make inquiries or send notices to taxpayers whose income tax filing deadline has been extended. Under continuing law, taxpayers generally report and remit municipal income tax to municipal tax administrators, but a business that owes taxes on its net profits may elect to report and remit

[259] A customer location qualifies only if it is located in a municipality to which the employer is required to withhold income taxes on employee wages, due to one or more employees providing services at that location. R.C. 718.021(A)(3)(b).

municipal net profits taxes to TAX, which then disperses payments to each municipality to which such tax is owed.

Under current law, the due date of a taxpayer's municipal income tax return, whether filed with a municipality or the Tax Commissioner, may be extended under various circumstances, including any of the following:

- The taxpayer has requested an extension of the deadline to file the taxpayer's federal income tax return.
- The taxpayer has requested an extension of the deadline to file the taxpayer's municipal income tax return from the municipal tax administrator or Commissioner.
- The Commissioner extends the state income tax filing deadline for all taxpayers.

When a taxpayer receives an extension, the bill prohibits a municipal tax administrator or the Commissioner from sending any inquiry or notice regarding the municipal return until after either the taxpayer files the return or the extended due date passes. If a tax administrator sends a prohibited inquiry or notice, the municipality must reimburse the taxpayer for any reasonable costs incurred in responding to it, up to $150.

The bill's new limitations apply to taxable years ending on or after January 1, 2023. The limitations do not apply, and a municipal tax administrator or the Commissioner may send an otherwise prohibited inquiry or notice, if either has actual knowledge that the taxpayer did not actually file for a federal or municipal income tax extension.

Penalty limitations

(R.C. 718.27 and 718.89; Section 803.100)

The bill limits the penalty a municipal corporation or the Tax Commissioner may impose for the failure to timely file a municipal income tax return. Currently, a municipal corporation may impose a penalty of $25 for each month a taxpayer fails to file a required income tax or withholding return, up to $150 for each return. The Commissioner may impose the same monthly penalty on those unfiled returns as well as on unfiled estimated tax declarations. The bill reduces these penalties to a one-time $25 penalty. The bill also exempts a taxpayer's first failure to timely file from the penalty, requiring the municipal corporation or Commissioner to either refund or abate the penalty after the taxpayer files the late return. These changes also apply to taxable years ending on or after January 1, 2023.

Extension for businesses

(R.C. 718.05(G)(2) and 718.85(D)(1); Section 803.100)

The bill provides an additional, automatic one-month filing extension for municipal income tax returns where a business entity has received a six-month federal extension, bringing the full duration of the extension to seven months beginning in taxable years ending on or after January 1, 2023. The current extended deadline for individuals and business entities is the same as the extended federal deadline.

Net profits tax reports and notifications

(R.C. 718.80 and 718.84; Section 803.80)

Under continuing law, a business that operates in multiple municipalities, and is therefore subject to multiple municipal income taxes, may elect to have TAX serve as the sole administrator for those taxes. For electing taxpayers, a single municipal net profit tax return is filed through the Ohio Business Gateway for processing by TAX, which handles all administrative functions for those returns, including distributing payments to the municipalities, billing, assessment, collections, audits, and appeals. The bill modifies, as described below, the reporting and notification requirements associated with this state-administered municipal net profits tax.

TAX's municipal income tax report

The bill requires that twice a year, in May and December, TAX provide information to municipalities on any businesses that had net profits apportioned to the municipality, as reported to TAX, in the preceding five or seven months only, as applicable. (Net profits apportionable to the municipality, e.g., earned in the municipality, are generally subject to the municipality's income tax.) Under current law, this twice-per-year notification, done in May and November, is required to list information for businesses that had net profits apportioned to the municipality in any prior year. This change applies to reports required to be filed after the bill's 90-day effective date.

Rate decrease notification

Under continuing law, by January 31 of each year, a municipal corporation levying an income tax must certify the rate of the tax to TAX. If the municipality increases the rate after that date, the municipality must notify TAX of the increase at least 60 days before it goes into effect. The bill requires a municipality to notify TAX, within the same 60-day notice period, when there is any change in its municipal income tax rate, including a decrease.

Sales and use tax

Sales tax holidays

(R.C. 131.44, 5739.01, 5739.02, and 5739.41; Section 510.10)

The bill authorizes a sales tax holiday for most items priced under $500 to be held over at least 14 days in August of 2024. The bill also requires the state to hold similar, possibly shorter, tax holidays in future years if the surplus revenue in the GRF reaches a certain threshold.

Continuing law authorizes a "back-to-school" sales tax holiday during the first Friday and following weekend in August of each year for school supplies that cost $20 or less and clothing that costs $75 or less. The bill's expanded sales tax holidays would occur during this same period, but would apply to a broader array of items and involve a higher price threshold.

August 2024 sales tax holiday

The bill authorizes a sales tax holiday beginning August 1, 2024. The holiday will last at least 14 days, and may be longer if TAX, in consultation with OBM and the County Commissioners' Association of Ohio (CCAO), determines that the $1 billion earmarked for the holiday is sufficient

to reimburse the state and local governments for a longer holiday. In making this determination, the state must consider changes in consumer behavior as a result of the holiday.

During the sales tax holiday, most items priced under $500 will be exempt from state and local sales taxes. The holiday does not apply to motor vehicles, watercraft, alcohol, marijuana, and tobacco and nicotine vapor products.

Once the holiday is completed, TAX and OBM will estimate the amount of state and local revenue foregone as a result of the holiday and will reimburse the GRF, Local Government Fund, Public Library Fund, and counties and transit authorities that levy sales taxes for their proportionate revenue loss. For the August 2024 holiday, the reimbursements cannot exceed $1 billion.

Future sales tax holidays

In each year thereafter, beginning in August of 2025, the state will hold a similar tax holiday if there is at least $60 million of surplus GRF revenue at the end of the preceding fiscal year. The holiday must be three days or more, depending on the surplus revenue available, as determined by TAX, in consultation with OBM and CCAO. Similar to the 2024 holiday, the parties must consider changes in consumer behavior around the time of the holiday when calculating the number of days the surplus revenue will support.

Under current law, any surplus revenue remaining at the end of a fiscal year, after any required transfer to the Budget Stabilization Fund, must be used to temporarily reduce income tax rates through a mechanism called the Income Tax Reduction Fund, or ITRF. The bill discontinues and liquidates the ITRF, and instead directs any surplus revenue to be used for future sales tax holidays. Any money remaining in the ITRF is transferred to fund these holidays, starting with the 2024 holiday described above.

Each future tax holiday will apply to the same items as the August 2024 holiday, and will include the same $500 per-item limit and the same reimbursement mechanism for the state and local governments. If there is insufficient surplus revenue to hold an expanded tax holiday in any year, existing law's "back-to-school" sales tax holiday will still be held in that year. If an expanded holiday is held, TAX must notify vendors of the holiday's dates by the first day of June preceding the holiday.

Streamlined Sales and Use Tax Agreement

Ohio is currently a full member of the Streamlined Sales and Use Tax Agreement (SSUTA), which is a multistate agreement that imposes uniform sales tax collection and administration protocol on member states. Under the SSUTA, member states may only offer sales tax holidays for specific, defined items. For example, the SSUTA specifically allows sales tax holidays for school supplies, clothing, and Energy Star appliances.

The bill's sales tax holidays would exempt items that are not defined in the SSUTA, in possible conflict with the SSUTA. The bill requires TAX to coordinate with the SSUTA's governing board to pursue means by which the state can comply with the SSUTA.

Baby product exemption

(R.C. 5739.01 and 5739.02; Section 803.50)

The bill exempts, beginning October 1, 2023, children's diapers, creams, and wipes and car seats, cribs, and strollers from sales and use tax. Under continuing law, sales of both children and adult diapers are exempt during the first weekend of August each year as part of Ohio's "sales tax holiday" for school supplies and clothing. In addition, adult diapers are exempt under continuing law if sold to a Medicaid recipient pursuant to a prescription.

Lodging taxes

Convention, entertainment, and sports facilities

(R.C. 5739.08 and 5739.09(X))

Under continuing law, counties, municipal corporations, and townships are authorized to levy an up to 3% excise tax on transactions by which hotels provide lodging to transient guests (referred to in this analysis as the "3% general lodging tax"). For counties, the use of such a tax's revenue is generally limited to making contributions to a convention and visitors' bureau under current law.

The bill authorizes a county with a population between 800,000 and 1 million, i.e., Hamilton County, to repurpose a portion of the revenue from its existing lodging taxes (its 3% general lodging tax and a special 3.5% convention center tax that county is authorized to levy) and to levy an additional 1% lodging to fund the acquisition, construction, renovation, expansion, maintenance, operation, or promotion by a convention facilities authority, convention and visitors' bureau, or port authority of a convention or entertainment facility or a sports facility intended to house a Major League Soccer team.

The bill also authorizes Cincinnati to repurpose a portion of the revenue from its existing 3% general lodging tax and its existing 1% special convention center lodging tax for those same purposes.

Public safety services in a resort area

(R.C. 5739.09(A))

The bill authorizes a county to use a portion of the revenue from its 3% general lodging tax to fund public safety services in a municipality or township designated as a resort area, which is an area where at least 62% of the housing units are for seasonal, recreational, or occasional use, and where there are seasonal peaks of employment and demand for government services, among other similar requirements. Certain Lake Erie islands are the only currently designated resort areas in Ohio.

Headquarters hotel exemption and financing

(R.C. 5739.093)

The bill authorizes a county with a population exceeding 800,000, i.e., Cuyahoga, Franklin, or Hamilton County, or a municipal corporation located in such a county ("eligible subdivision") to wholly or partially exempt a hotel associated with a convention center and located in that

subdivision from lodging taxes levied by the designating county or municipality. Only one such hotel, referred to in the bill as a "headquarters hotel," may be designated for any convention center.

Alongside the exemption, the eligible subdivision may impose payments in lieu of taxes (PILOTs) on the hotel operator, up to the amount of the exempted taxes, to be paid to the subdivision or directly to a convention facility authority, port authority, or an agent of either. The eligible subdivision or agency may then use these PILOTs, which are collected in the same manner as the exempted lodging taxes, to pay the costs of acquiring, constructing, renovating, or maintaining the headquarters hotel, the associated convention center, or any related infrastructure improvements. In essence, the bill creates a mechanism by which lodging tax revenue may be redirected to those specific facility projects, similar to a tax increment financing (TIF) arrangement in the context of property taxes.

To initiate this process, the eligible subdivision must notify any other eligible subdivision, the county's convention and visitors' bureau (CVB), and any township that levies a lodging tax on the proposed headquarters hotel. Then the eligible subdivision may adopt a resolution designating the headquarters hotel and listing the percentage of county and municipal lodging taxes that will be exempt and the duration of the exemption, which may not exceed 30 years. The resolution must list whether PILOTs will be imposed and to whom they are to be pledged.

The PILOTs must be pledged by the eligible subdivision to an "issuing authority," i.e., an eligible subdivision, convention facilities authority, or port authority, to pay the costs of the project for which the PILOTs are imposed, including the costs of any debt issued for that project. The issuing authority may also authorize the eligible subdivision to use PILOTs for the same purposes as any exempted lodging taxes could be used for, e.g., funding CVBs or general municipal purposes. Any PILOTs unspent at end of the project may be used by the eligible subdivision for the same purposes as its lodging taxes. The hotel operator may charge hotel guests for the cost of the PILOTs, in the same manner as lodging taxes are collected from guests.

An eligible subdivision may enter into an agreement with the headquarters hotel's operator by which the operator, and any succeeding operator, pledges to make binding payments to the subdivision or a port authority to ensure sufficient funds are available to finance the PILOT-funded facilities project.

The bill also prohibits the designation of a headquarters hotel that has not furnished lodging to guests before its designation from being considered to result in a diminution of the rate or revenue of the lodging tax. Under continuing law, in some instances, laws are prohibited from making such a diminution if lodging tax-backed bonds and notes are outstanding.

Delaware county fairgrounds tax

(R.C. 5739.09(T) and 133.07)

The bill authorizes counties in which an agricultural society owns a facility used to conduct an annual harness horse race with at least 40,000 in attendance, i.e., Delaware County, or port authorities in such counties, to issue bonds backed by proceeds from an existing or renewed

special 3% lodging tax authorized for such a county to finance permanent improvements at fairground sites.

Commercial activity tax (CAT)

Increased exclusion

(R.C. 5751.01(E)(1), (N), (O), and (R), 5751.02(A), 5751.03, 5751.04, 5751.05, 5751.051, 5751.06, 5751.08, and 5751.091; Section 803.340)

Under current law, businesses with less than $150,000 in total taxable gross receipts for a calendar year are excluded from the CAT. Businesses also pay a minimum tax on the first $1 million in gross receipts, the amount of which scales up with the taxpayer's total taxable gross receipts for the year, up to $2,600 for those that make over $4 million (i.e., the standard rate of 0.26%).

The bill increases the exclusion threshold over the next two years. For tax periods beginning in 2024, businesses with taxable gross receipts of $3 million or less and, for tax periods in 2025 and thereafter, businesses with taxable gross receipts of $6 million or less, are excluded from the CAT. After 2025, the $6 million threshold is indexed for inflation so that it increases according to increases in the prices of all goods and services composing the national gross domestic product (GDP). The Tax Commissioner must compute the adjustments in August of each year to be applied the following calendar year.

The bill also repeals the minimum tax so that businesses are only taxed on their taxable gross receipts in excess of those applicable exclusion amount at the existing CAT rate of 0.26%. For example, under current law, a business with $4 million of gross receipts would pay 0.26% of $4 million. Under the bill, for 2024, the business would only pay 0.26% of $1 million.

The bill also eliminates calendar year filing, which was principally available to taxpayers with less than $1 million in taxable gross receipts, requiring all taxpayers to file quarterly.

Broadband funding exclusion

(R.C. 5751.01(F)(2)(rr); Section 803.190)

The bill excludes from gross receipts taxable under the CAT any federal, state, or local funding received or debt forgiven to provide or expand Internet broadband service in Ohio, including video service, voice over internet protocol service, and internet protocol-enabled services. The exclusion applies to CAT tax periods ending on or after the bill's 90-day effective date.

Revenue distribution

(R.C. 5751.02(C) and (D); Section 812.20)

The bill repeals a provision that earmarks a set percentage of CAT receipts for the payment of tangible property tax replacement payments. Under current law, the School District Tangible Property Tax Replacement Fund (Fund 7047) receives 13% of CAT receipts, while the Local Government Tangible Property Tax Replacement Fund receives 2%. The remaining 85% is credited to the GRF.

The bill removes these percentage allocations to the two replacement funds and, instead, requires the Tax Commissioner to transfer CAT receipts to those funds as necessary. Under continuing law, money in those funds is used to reimburse local governments for their revenue loss from the state's repeal of the tax on business tangible personal property.

Financial institutions tax

Financial institution taxpayer group

(R.C. 5726.01; Section 803.70)

Continuing law imposes the financial institutions tax (FIT) on financial institutions, including all entities that are reported on the institution's federal regulatory FR Y-9 or call report. The bill clarifies that a "financial institution" includes all of the entities consolidated, rather than "included," in the institution's report. The bill further clarifies that, in the case of a small bank holding company that is not required to file a FR Y-9 under federal law, the financial institution includes all of the entities that would be included in statement FR Y-9 if the company were required to file one.

Repeal deduction for REIT investments

(R.C. 5726.04; repealed R.C. 5726.041)

The bill repeals an expired FIT deduction that was allowed for an institution's investment in a qualifying real estate investment trust. The deduction was available between 2014, the first year the FIT was levied, and 2017. It essentially allowed an institution that owned shares of a publicly traded REIT to phase in the value of that investment into the institution's tax base over those four years.

Sports gaming tax

Rate increase

(R.C. 5753.021; Sections 803.40 and 812.20)

The bill increases the rate of the state's sports gaming tax, from 10% to 20%. Under the continuing law, the tax is levied on the "sports gaming receipts" of online and in-person sports gaming businesses, other than those that offer gaming through lottery terminals. A business' sports gaming receipts include the total amount the business receives as wagers, less winnings paid, voided wagers, and, beginning in 2027, a portion of the promotional gaming credits wagered by patrons.

The rate increase applies to sports gaming receipts received on and after July 1, 2023.

Allocation of sports gaming revenue

(R.C. 5753.021 and R.C. 5753.031; Sections 803.40 and 812.20)

Current law allocates nearly all (98%) of sports gaming tax revenue to K-12 education and athletics. Specifically, 50% of such revenue must be used to generally support K-12 education and 50% must be used for K-12 athletics and extracurricular activities. The bill requires that all of this

revenue be used for the general support of K-12 education, effectively eliminating the 50% reserved for K-12 athletics.

This reallocation begins to apply on and after July 1, 2023.

Cigarette and tobacco and vapor product taxes

Refund on bad debts

(R.C. 5743.06 and 5743.53; Section 803.150)

The state levies excise taxes on the sale of cigarettes, other tobacco products (OTP), and vapor products containing nicotine. Cigarette taxes are generally paid by wholesalers, whereas, OTP and vapor products taxes are paid by distributors. The bill allows a wholesaler or distributor to obtain a refund of excise taxes remitted on certain bad debts arising from the sale of those products, less any discounts allowed, under continuing law, for affixing the tax stamp or prompt payment (referred to in this analysis as "qualifying bad debts"). The deduction applies only to the specific tax levied on the product that is the basis of the qualifying bad debt, and applies to both the state and, if applicable, local excise taxes.

The bill allows a wholesaler or distributor to apply to the Tax Commissioner for a refund of the cigarette, OTP, or vapor products taxes paid on qualifying bad debts. The application must include a copy of the original invoice and evidence of delivery of the product to the purchaser, that the purchaser did not pay, and that the wholesaler or distributor used reasonable collection practices to try to collect the debt. An application must also include evidence of the wholesale price or vapor volume, as applicable, at the time the product was subject to taxation and any other information the Commissioner requires.

A qualifying bad debt is any debt arising from the sale of cigarettes, OTP, or vapor products that satisfy each of the following criteria:

- The cigarette, OTP, or vapor products tax has been paid.
- The debt has become worthless or uncollectible.
- The debt has been uncollected for at least six months, but not more than three years from either the time the debt became uncollectible (in the case of cigarette taxes) or the time the tax was remitted (OTP and vapor products taxes).
- The wholesaler or distributor charges off the debt as uncollectable on its books on or after January 1, 2024.
- The wholesaler or distributor deducts, or would be allowed to deduct, the bad debt in calculating federal income tax liability.

A qualifying bad debt does not include interest or financing charges, collections costs, accounts receivable that have been sold or assigned to a third party, or repossessed property. No person other than a wholesaler or distributor that remitted the applicable tax and generated the bad debt may receive a bad debt refund. If any portion of a bad debt for which a wholesaler or distributor receives a refund is later paid, the wholesaler or distributor must pay the applicable tax on the amount of the debt recovered.

The Commissioner may adopt any rules necessary to administer these refunds.

Continuing law authorizes a very similar deduction and refund for sales taxes paid on bad debt.[260] However, sales taxes are assessed against a consumer and remitted to the vendor, for payment to the state. In contrast, the wholesaler or distributor is generally liable for the cigarette, OTP, and vapor products tax even though each tax is generally passed down to retailers and consumers as a matter of practice.

Taxation of vapor product dealers

(R.C. 5743.01, 5743.51, 5743.63, and 5743.64)

The bill authorizes an exemption from the state's vapor products tax for certain distributors.

In general, the vapor products tax applies at the first point in which a distributor receives untaxed products in the state. Under the bill, a distributor that receives untaxed vapor products is not required to pay the tax if the distributor (1) is a manufacturer or importer of vapor products registered with the state and the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives and (2) only sells vapor products to other state-licensed distributors or to purchasers outside of the state. However, the bill allows such a distributor to pay the tax voluntarily on products it sells to another distributor in the state, if that other distributor agrees to the arrangement in a signed statement filed with the Tax Commissioner.

The vapor products tax also applies to the "storage, use, or consumption" of vapor products, if the tax has not already been paid on the products by a distributor or an out-of-state seller. The bill exempts a manufacturer or importer described above from paying this tax on its storage, use, or consumption of vapor products that will be sold outside of Ohio.

Additionally, under continuing law, any person that intends to transport vapor products with a volume greater than 500 milliliters (for liquid products) or 500 grams (nonliquids) must first obtain consent from the Tax Commissioner. The consent is not required if the tax has already been paid on the transported product. The bill adds that consent is also not required if that volume of product is transported by a manufacturer or importer described above, even if the tax has not been paid.

Tobacco and vapor product retail license

(R.C. 5743.61; Section 803.350)

Beginning July 1, 2024, the bill requires all persons that sell nicotine vapor products or tobacco products other than cigarettes (OTP) at retail to consumers to obtain an annual license to operate in Ohio. The licensing process for vapor and OTP retailers is very similar to the process for vapor and OTP distributors under continuing law. Generally speaking, licensed distributors sell vapor products and OTP to retail dealers and other licensed distributors. Sometimes, a retailer that sells products directly to consumers must obtain a distributor license, if the retailer sells vapor products or OTP upon which taxes have not yet been paid. State taxes on vapor

[260] R.C. 5739.121, not in the bill.

products and OTP are collected from licensed distributors so, unlike other vapor and OTP licenses administered by TAX, licensed vapor and OTP retailers are not required to collect or remit those taxes. However, like all other vendors with a nexus to Ohio, licensed retailers must collect and remit state and local sales taxes.

A person seeking a retail license to sell vapor products, OTP, or both, must apply to TAX, on a form prescribed by TAX. The application must include the name of the applicant, each of the applicant's places of business, and any other information TAX considers necessary. The license is valid for one year beginning on the first day of February. The annual application fee is $125 per business location. If a license is issued after February 1, the application fee is reduced proportionally for the remainder of the year. However, the minimum license fee is $25. If the original license is lost, destroyed, or defaced, the retailer may request a duplicate license for $25. Revenue from the license fee is deposited to the Cigarette Tax Enforcement Fund, which is used to offset the Department of Taxation's expenses in enforcing the cigarette, OTP, and vapor products tax law.

The bill provides guidelines as to what constitutes a "place of business" for the purpose of determining the applicant's license fee. Multiple points of sale may be considered the same place of business for licensure purposes if they are located in contiguous, adjacent, or adjoining buildings, or in a single building under one roof, and connected by doors, halls, stairways, or elevators. The spaces composing a place of business must be leased, licensed, controlled by, or supervised by the same applicant.

The bill allows but does not require TAX to adopt rules requiring that applicants for a vapor or OTP retailer license demonstrate compliance with state taxes, charges, and fees. TAX may impose a penalty of up to $1,000 on any person found to be selling vapor products or OTP at retail without a license.

Cigarette tax license renewal deadline

(R.C. 5743.15; Section 757.10)

The bill extends the deadline for renewing annual cigarette tax licenses. Under continuing law, a retailer, wholesaler, importer, or manufacturer of cigarettes is required to hold a license issued by TAX before selling or otherwise trafficking in cigarettes in Ohio. Such cigarettes are subject to state and county cigarette excise taxes. Under current law, each license expires on, and must be renewed by, the fourth Monday in May. The bill extends the renewal deadline to June 1.

The bill applies the renewal extension to existing licenses, so those licenses will remain valid until June 1, 2024, rather than May 27, 2024.

Cuyahoga County cigarette and vapor products taxes

(R.C. 5743.01, 5743.021, 5743.025, 5743.03, 5743.05, 5743.33, 5743.511, 5743.52, 5743.521, 5743.54, 5743.55, 5743.56, 5743.57, 5743.59, 5743.60, 5743.62, 5743.621, 5743.63, 5743.631, and 5743.64; Section 803.230)

The bill modifies the authority of Cuyahoga County to levy cigarette and vapor products taxes. First, the bill rescinds a recent act, S.B. 164 of the 134th General Assembly, which allows

the county to modify its cigarette tax base and to levy a new tax on nicotine vapor products. Second, the bill removes a 30¢ limit on the amount of cigarette taxes that can be levied.

Cigarette tax base

Under continuing law, Cuyahoga County can levy a tax on the sale, distribution, or use of cigarettes. Before S.B. 164, the tax could consist of two different levies: a tax of 30¢ per pack to support arts and cultural facilities and a tax of 4.5¢ per pack to fund the operation of a sports facility. Cuyahoga County is currently the only county authorized to levy a cigarette tax.

S.B. 164 allowed the county to convert its existing 30¢ per pack tax for arts and cultural facilities to a tax based on wholesale price. The new tax could equal up to 9% of the wholesale price of a pack of cigarettes.

The bill rescinds this change. Instead, the county may continue to levy a cents-per-pack tax to support arts and cultural facilities. However, the bill also removes the previous 30¢ limit on the tax, allowing the county to levy a rate greater than that amount, provided that county voters approve the increase.

Vapor products tax

The bill also repeals a provision of S.B. 164 that allowed Cuyahoga County to levy a new wholesale tax on nicotine vapor products to funds its arts and cultural district. That tax would be collected in the same manner as the state's existing tax on vapor products, which is paid primarily by distributors. However, unlike the state tax, which is volume-based, the county tax would be based on the products' wholesale price, at a rate of up to 9%.

Application to pending proposals

If Cuyahoga County has already submitted a ballot question to modify its cigarette tax base or levy a vapor products tax before the bill's 90-day effective date, the bill requires that the board of elections decline to place the question on the ballot.

Motor fuel use tax

Personal liability

(R.C. 5728.16)

The bill imposes personal liability for the fuel use tax on individual owners, employees, officers, and trustees who are responsible for reporting and paying the tax on behalf of a business taxpayer. An individual's personal liability under the bill is not discharged by the dissolution, termination, or bankruptcy of the business. If more than one individual has personal liability under the bill for the unpaid taxes, all of those individuals will be joint and severally liable. Several other state taxes have similar personal liability imposed.[261]

[261] E.g., R.C. 5735.40 (motor fuel tax), 5743.57 (tobacco and vapor products taxes), and 5747.07 (employer income tax withholding), not in the bill.

Fuel use tax background

In addition to a motor fuel tax imposed on motor fuel dealers, the state imposes a motor vehicle fuel use tax on heavy trucks on the amount of motor fuel consumed in Ohio, but purchased outside Ohio. The rate of this tax is the same as for the dealer-imposed motor fuel tax. A refund or credit is allowed for the fuel use tax on fuel purchased in Ohio for use in another state, provided that the other state imposes a tax on such fuel and allows a similar credit or refund.

Public utility taxation

Taxation of heating companies

(R.C. 5727.30 and 5751.01(E); Sections 757.80 and 803.330)

The bill exempts heating companies from the state's public utilities excise tax, and instead subjects such companies to the commercial activity tax (CAT). A heating company is a public utility that supplies water, steam, or air to consumers for heating purposes.

Under continuing law, the state levies a tax on the gross receipts of certain public utilities, including heating companies. Since public utilities pay this separate gross receipts tax, they are exempt from the CAT, which is a general tax on businesses' gross receipts. Under the bill, heating companies would become exempt from the public utility excise tax beginning on May 1, 2023. Since this is in the middle of a CAT quarterly tax period, heating companies would not become subject to the CAT until the beginning of the next quarter, on July 1, 2023.

The bill additionally requires that, if a heating company is currently recovering public utility excise tax amounts from customers in the company's rates, the company must pass on to customers its net reduction in taxes. The bill requires a company, no later than six months after May 1, 2023, to use one of three options in ongoing public utility law to pass on the reduction. At the company's option, it must (1) file an application not for an increase in rates under the ratemaking law, (2) file a modified schedule, or enter into a modified reasonable arrangement, regarding rate adjustments allowed under the law, or (3) enter into a modified agreement with a customer who has entered into an agreement with a company under the law that allows agreements for free or reduced rates.[262]

Municipal ridesharing tax

(R.C. 4925.09 and 4925.11)

The bill authorizes the largest municipality in a county with a population between 800,000 and 1 million, i.e., Cincinnati, to levy a tax on ridesharing services provided by a transportation network company (TNC) to passengers who begin or end their ride in the municipality.

The bill requires Cincinnati to use revenue from the tax to fund the costs of administering the tax and for economic development purposes, including, affordable housing, public

[262] R.C. 4905.31, 4905.34, and Chapter 4909, not in the bill.

infrastructure and facilities, residential development, mixed-use development, commercial development, land development, community facilities, and convention facilities, including hotels.

Tax incentives

Low-income housing tax credit

(R.C. 175.16, 5725.36, 5726.58, 5729.19, and 5747.83, with conforming changes in R.C. 175.12, 5725.98, 5726.98, 5729.98, and 5747.98)

The bill authorizes a nonrefundable tax credit for the development of low-income rental housing that is awarded in conjunction with an existing federal low-income housing tax credit (LIHTC). The credit may be claimed against the insurance premiums, financial institution, or income tax. The Director of the Governor's Office of Housing Transformation (GOHT) reserves credit amounts for federal LIHTC projects up to the amount necessary to ensure the project's financial feasibility. The total amount of state credits reserved by GOHT is limited to $100 million per fiscal year, though unreserved or recaptured amounts in one fiscal year may be carried forward and reserved in the next. Eligibility begins for projects placed in service on or after July 1, 2023, and GOHT is prohibited from reserving credits after June 30, 2027.

Federal LIHTC

The federal LIHTC is a federal income tax credit that offsets a portion of a developer's construction costs in exchange for reserving a certain number of rent-restricted units for lower-income households in a new or rehabilitated facility. In Ohio, the federal LIHTC is administered by GOHT.

To receive a federal LIHTC, developers must apply to GOHT before undertaking a project. If the project preliminarily qualifies for credit, based on federal criteria and the state's allocation plan, GOHT may set aside (or "allocate") a credit. Receipt of the credit is contingent upon completion of the project and the project entering service, i.e., beginning to rent units, generally within two years of allocation.[263] In practice, developers typically sell the rights to claim federal LIHTCs upon receiving an allocation to secure up-front financing necessary to undertake the project.

Ohio LIHTC

Any project that is allocated a federal LIHTC may also qualify for the bill's Ohio LIHTC, as long as the project is located in Ohio and placed into service at any time on or after July 1, 2023.

Reserved credit

A developer does not need to separately apply for the Ohio LIHTC. Instead, GOHT may reserve a state credit for any qualified project when allocating a federal LIHTC. When reserving a state credit, GOHT must send written notice of reservation to each of the qualified project's owners, which must include the aggregate amount of the credit reserved for all years of the qualified project's ten-year credit period and state that the receipt of the credit is contingent

[263] 26 U.S.C. 42.

upon issuance of an eligibility certificate after the project is placed into service. After receipt of that notice, the projects owners must identify to GOHT the party that will issue annual credit allocation reports to GOHT (see "***Claiming the credit and reporting requirements***," below). This "designated reporter" may be the owner or its member, shareholder, or partner.

The amount of credit reserved for any particular qualified project is determined by GOHT, but in no case may the reserved credit, combined with the allocated federal credit, exceed the amount necessary to ensure the financial feasibility of the project. The bill additionally requires GOHT to reserve credits in a manner that ensures the qualified project is creating housing units that would not otherwise be created.

Awarded credit

After the project for which a credit is reserved is placed into service and GOHT approves the federal LIHTC, GOHT must issue an eligibility certificate to each project owner and send a copy to TAX and INS. The certificate must state the amount of the credit that may be claimed for each year of the ten year credit period, which is the lesser of:

- The amount of the federal LIHTC that would be awarded for the first year of the federal credit period absent a first-year reduction required by federal law;
- $^{1}\!/_{10}$ of the reserved credit amount stated in the notice reserving the state LIHTC.

This provision effectively caps the amount of a state LIHTC at the amount of the corresponding federal credit.

Claiming the credit and reporting requirements

The bill allows the qualified project's owners, or the equity owners of a pass-through entity that is the project owner, to claim the state LIHTC. An owner is a person holding a fee simple or ground lease interest in the project. The credit may be applied against more than one tax over more than one year, and the credit may be allocated amongst various owners and their equity owners by agreement. The total credits claimed in connection with the applicable year of the project's credit period must not, however, exceed the amount stated on the eligibility certificate. Even though the credit is nonrefundable, any unclaimed amounts may be carried forward for up to five years.

Each year, a project's designated reporter must report to GOHT a list of each project or equity owner that has been allocated a portion of the credit awarded for that year, the amount that has been allocated to each, the tax each portion will be claimed against, and the aggregate credit amount allocated, which must not exceed the credit amount listed on the eligibility certificate. Any changes to this information must also be reported to GOHT within a time frame that GOHT must prescribe. A credit cannot be claimed without being listed on this annual report. Information in the report is not a public record, except for the aggregate amount of credits allocated.

Recapture

Federal law allows for the recapture of federal LIHTCs. Under the bill, if any portion of the federal LIHTC allocated to a qualified project is recaptured, GOHT must recapture a proportionate

amount of the state credit allocated to the same project. To effectuate this recapture, GOHT must request that TAX or INS, as applicable, issue an assessment to recover any previously claimed credit. Statutes of limitations that normally apply to the issuance of tax assessments, i.e., three or four years after the tax is due, do not apply to these assessments.

Fees and rules

The bill allows GOHT to assess application, processing, and reporting fees to cover the cost of administering the tax credit. It also allows DEV, in consultation with GOHT, TAX, and INS, to adopt rules necessary to administer the credit.

Single-family housing development credit

(R.C. 175.17, 5725.37, 5726.59, 5729.20, and 5747.84, with conforming changes in R.C. 175.12, 5725.98, 5726.98, 5729.98, and 5747.98)

The bill authorizes a nonrefundable tax credit against the insurance premiums, financial institutions, or income tax for investment in the development and construction of affordable single-family homes. To obtain a credit, a local government or quasi-public development entity, in partnership with a private "development team," must submit an application to the Governor's Office of Housing Transformation. Upon approving an application, the Office reserves a credit for the applicant to be awarded when the project is completed. The credit equals the amount by which the fair market value of the project's completed homes exceed the project's development costs. The applicant may allocate credits to taxpayers of the credit-eligible taxes who invest capital in the project. The total credit amount is claimed in equal increments over the ten years after the project's completion, and each project home is subject to an Office-prescribed affordability requirement for the ten years following its initial sale to a qualified buyer ("affordability period").

Application process

A county, township, municipal corporation, regional planning commission, community improvement corporation, economic development corporation, port authority, or county land reutilization corporation, i.e., a land bank, may apply for a credit. Each application must identify a project's development team, a person that will make annual credit allocation reports on behalf of the applicant ("designated reporter"), and an estimate of the project's total development costs. The Office may charge application, processing, and reporting fees to cover the cost of administering the credit.

Credit reservation and limits

The bill requires the Office to develop a plan for competitively awarding tax credits by establishing criteria and metrics by which projects will be evaluated. The Office is allowed to reserve a credit for any single-family housing development project that is located in Ohio and that meets the plan's qualifications. The Office's plan may allocate credits in a pooled manner. The bill sets forth several criteria, described below, that the Office may consider when evaluating applications, but allows DEV to adopt rules, in consultation with the Office, TAX, and INS, specifying the exact criteria to be considered.

Suggested criteria to consider
Underwriting criteria to assess the risk associated with a project and criteria by which the sponsoring applicant shall be responsible for risk associated with the project, such as homeowner abandonment, default, or foreclosure.
Requirements that the applicant provide capital assets or other investments to the project.
Criteria regarding the purchase, ownership, and sale of completed project homes.
Measures to maintain affordability of project homes during the affordability period, which may include a deed restriction for some or all of the tax credit value or appreciated value of the home.

The Office must notify each applicant, in writing, whether or not the applicant's project is approved for a credit reservation. If a project is approved, the notice will include the tax credit reservation amount with the stipulation that final receipt of the credit is contingent upon the project's completion and meeting certain reporting requirements. The amount of credit reserved for any single project is limited to the amount by which the fair market value of the project's homes, as appraised by the Office, exceed the project's estimated development costs. However, this amount can be increased or decreased depending on the actual development costs as they are certified at the time the credit is issued after completion of the project.

The bill generally limits the amount of total credits that may be reserved in a fiscal year to $50 million, but allows unreserved credit allocations and recaptured or disallowed credits to be added to the credit cap for the next fiscal year. The Office is prohibited from reserving any credits after June 30, 2027.

Project completion and claiming the credit

When a project is completed, the bill requires the original applicant to notify the Office and provide a final development cost certification. At that time, the Office is required to appraise the project's finished homes and, after approving the applicant's final cost certification, compute the amount of the tax credit. The Office then issues an eligibility certificate to the applicant that states the amount of the credit, i.e., $^{1}/_{10}$ of the amount issued in the initial certification, subject to any increase or decrease as a result of the final appraisal and cost certifications. That credit amount may then be claimed in each year of the ten year credit period listed on the certificate. The Office is required to certify a copy of each eligibility certificate to TAX and INS.

The applicant may allocate all or a portion of the annual credit amount for any year of the credit period to one or more project investors or equity owners of a pass-through entity project investor. An investor or owner allocated a credit may claim it against the insurance premiums, financial institution, or income taxes after the eligibility certificate has been issued and the annual reporting requirements discussed below have been complied with. To do so, the investor or owner must submit a copy of the certificate with the tax return for the year in which they claim the credit. The bill authorizes TAX and INS to request other documentation which an investor or owner must provide to claim the credit. If the credit exceeds the taxpayer's tax liability for that year, the credit may be carried forward for up to five years.

If a project ceases to qualify for a credit, the Office may disallow and recapture any credit issued by requesting that TAX or INS, as applicable, issue an assessment to recover any previously claimed credit. Statutes of limitations that normally apply to the issuance of tax assessments, i.e., three or four years after the tax is due, do not apply to these assessments.

Continuing obligations and reporting requirements

Throughout the development of the project, the applicant must maintain ownership of the homes until they are sold to qualified buyers. The bill authorizes DEV to establish, by rule, criteria to evaluate the qualifications for buyers. A qualified buyer must occupy a home constructed as part of a covered project as the buyer's primary residence for all ten years of the affordability period. During this period, the affordability of the home, as determined by DEV by rule, is to be maintained and services are to be provided by the applicant's development team.

Each year, a project's designated reporter must report to the Office a list of each investor or equity owner that has been allocated a portion of the credit awarded for that year, the amount that has been allocated to each, the tax each portion will be claimed against, and the aggregate credit amount allocated, which must not exceed the credit amount listed on the eligibility certificate. Any changes to this information must also be reported to the Office within a time frame that the Office must prescribe. A credit cannot be claimed without being listed on this annual report. Information in the report is not a public record, except for the aggregate amount of credits allocated.

Film and theater tax credits

Film and theater production credit cap

(R.C. 122.85)

The bill increases the total amount of film and theater tax credits that may be awarded each fiscal year, from $40 million to $50 million. It also requires that $5 million of the $50 million cap be reserved for Broadway theatrical productions each fiscal year. Continuing law allows a refundable tax credit for companies that produce all or part of a motion picture or Broadway theatrical production in Ohio and incur at least $300,000 in Ohio-sourced production expenditures. The credit equals 30% of the company's Ohio-sourced expenditures for goods, services, and payroll involved in the production. A company can claim the credit against the CAT, FIT, or income tax.

Under continuing law, DEV awards credits in two rounds, with the first ending July 31 and the second ending January 31. Currently, DEV may only award up to $20 million in the first round, plus any unused credits from the previous year. The bill increases that limit to $25 million, and requires unawarded credits from the $5 million reserved for Broadway productions to remain reserved for those productions when carried forward to the next year. For FY 2024, the first round limit remains $20 million because this provision will not have taken effect before the July 31 application deadline.

Film and theater capital improvement tax credit

(R.C. 122.852, 122.85(A)(4), 5726.59, 5726.98, 5747.67, 5747.98, 5751.55, and 5751.98)

The bill authorizes a new tax credit for a motion picture or Broadway theatrical production company that completes a capital improvement project in Ohio. Eligible projects include the construction, acquisition, repair, or expansion of facilities or equipment that will be used in a motion picture or Broadway production or for postproduction.

Generally, the credit equals 25% of either the company's actual qualified expenditures, or the amount of such expenditures estimated on the company's application, whichever is less. Qualified expenditures are Ohio-sourced capital improvement expenditures and include the purchase of goods or services directly for use in a capital improvement project, as well as any accounting and auditing expenses incurred to comply with the bill's reporting requirements. They do not include expenses on the basis of which an existing motion picture and theater credit has been awarded.

The credit is capped at $5 million per project, $5 million per county, and $100 million per fiscal year overall. If DEV does not issue the full $100 million allotment in a particular fiscal year, the excess allotment can be carried forward to the next fiscal year.

Key features of the credit include the following:

- The credit is refundable and may be claimed against the CAT, FIT, and income tax;
- A credit recipient can sell or transfer all or part of the credit to another person or persons with notice to DEV;
- A production company must show that it is making reviewable progress on its capital improvement project within 90 days after the Director approves the project. DEV can rescind approval of a project that does not begin between that 90-day deadline, unless there is good cause for the delay.
- The production company must engage an independent certified public accountant to certify the company's qualified capital improvement expenditures.
- DEV must adopt rules governing the credit program, including rules for evaluating applications.
- DEV will review and award applications for the credit in one round each fiscal year, beginning in FY 2025. A production company may apply for the credit either before or after the capital improvement project is complete. DEV may charge an application fee equal to the lesser of $10,000 or 1% of the estimated value of the credit.

The application must include a description of the project, the project's schedule, the estimated project expenditures and credit amount, and the estimated economic impact of the project in the state as a whole and in the community in which the project is located. DEV will rank applications based on their likely economic impact, the potential number of new jobs created, and the potential new payroll for employees in this state. After ranking the applications, DEV will

award credits to projects in the order of their ranking, starting with the projects that have the greatest economic and workforce development impact.

Once a project is approved and an accountant has certified the qualified expenditures, DEV will issue the production company a tax credit certificate.

Historic rehabilitation tax credit eligibility

(R.C. 149.311; Section 803.270)

The bill expands an existing prohibition on LIHTC property receiving a historic rehabilitation tax credit to any other federally subsidized residential rental property that is subsidized by one of the federal programs discussed in "**Valuation of subsidized residential rental housing**," above. The expanded prohibition applies to credit applications filed on or after the bill's 90-day effective date, but does not apply to applications for which credit approval is pending on that date.

Job creation and retention credit recapture adjustments

(R.C. 122.17 and 122.171)

Under continuing law, when DEV discovers that a taxpayer that has received a job creation or job retention tax credit (JCTC or JRTC) is not in compliance with the agreement for the credit, DEV may report that noncompliance to the Tax Credit Authority (TCA). After giving the taxpayer an opportunity to explain the noncompliance, TCA may require the taxpayer repay a portion of the credit by certifying the repayment to TAX or INS. The bill authorizes TCA to adjust that repayment amount if circumstances change after this, but only once within 90 days after the certification. However, no adjustment is allowed if the taxpayer has already repaid the amount or if TAX's or INS's assessment has been certified to the Attorney General for collection.

Background

Under continuing law, the TCA is authorized to enter into JCTC and JRTC agreements with employers to foster job creation or retention and capital investment in the state. The amount of the credit equals an agreed-upon percentage of the amount by which the employer's "Ohio employee payroll" (i.e., the compensation paid by the employer and used in computing the employer's tax withholding obligations) exceeds the employer's "baseline payroll" (i.e., Ohio employee payroll for the 12 months preceding the tax credit agreement). The credits may be claimed against the CAT, FIT, petroleum activity tax, domestic or foreign insurance premiums taxes, or personal income tax. The JCTC is a refundable credit, while the JRTC is nonrefundable. To ensure compliance with the terms of the agreement, each employer must file an annual report with TCA in which it reports its number of employees and payroll, among other metrics.

Research and development tax credits

(R.C. 5726.56 and 5751.51)

Continuing law allows a nonrefundable tax credit against the FIT and CAT equal to 7% of the taxpayer's excess qualified research and development (R&D) expenses above the average of the taxpayer's R&D expenses in the three preceding years. Unclaimed credits may be carried

forward for up to seven years. The bill changes the way certain taxpayers calculate and claim that credit, imposes recordkeeping requirements, and allows TAX more flexible audit authority.

Taxpayer groups

The bill modifies how a taxpayer comprised of more than one person – e.g., a pass-through entity with several owners – may calculate and claim R&D credits. Both the FIT and CAT require or allow such a "taxpayer group" to file and pay the tax as a single taxpayer.

The bill requires a taxpayer group to compute the R&D credit on a member-by-member basis, rather than across the entire taxpayer group. In other words, the group's total R&D credit equals the aggregate credit computed against each member's qualified R&D expenses. This computation and the R&D credit that may be claimed must be made on a form prescribed by TAX.

The bill also limits the members whose R&D expenses may be included in a group's aggregate credit amount by only allowing such members to include their portion of the credit if they are members of the group on December 31 of the year during which the R&D expenses are incurred. A similar membership requirement applies to the computation of any R&D credit carryforwards.

Recordkeeping requirements

The bill requires a taxpayer claiming an R&D credit to retain records substantiating the claim. The records must be kept for four years after the due date for the return on which the credit is claimed, or four years after it is actually filed, whichever is later. Records required to be retained include those relating to any R&D expenses used in calculating the credit and incurred in the year for which the credit was claimed and for the three preceding years.

Audits

In addition to TAX's general audit authority, the bill authorizes TAX to audit a representative sample of a taxpayer's R&D expenses to verify that the taxpayer has correctly computed its R&D credit. In undertaking this audit, the bill requires that TAX make a good faith effort to agree on a representative sample, but it does not preclude a representative sample audit absent such an agreement.

Exemption and exclusion for consumer-grade fireworks fees

(R.C. 5739.02(B)(65) and 5751.01(F)(2)(tt); Sections 803.50 and 803.190)

Continuing law imposes a 4% fee, collected by the State Fire Marshal, on the gross receipts from consumer-grade fireworks sales by licensed fireworks manufacturers, wholesalers, and retailers. The manufacturer, wholesaler, or retailer may separately or proportionately bill the fee to another person, including the consumer.[264]

The bill exempts the consumer-grade fireworks fees from sales and use tax, beginning October 1, 2023, so long as they are separately stated on the invoice, bill of sale, or similar

[264] R.C. 3743.22, not in the bill.

document the vendor gives the consumer in the retail sale. The bill also authorizes a business to exclude from its taxable gross CAT receipts collections of any separately stated and billed fireworks fees, beginning for CAT tax periods ending after the bill's 90-day effective date.

Deduction and exclusion for East Palestine derailment payments

(R.C. 5747.01(A)(39) and 5751.01(F)(2)(ss); Section 803.160)

The bill also authorizes an income tax deduction and a more limited CAT exclusion for certain payments received by a taxpayer and related to the train derailment near East Palestine that occurred on February 3, 2023. The deduction and exclusion applies to taxable years or tax periods beginning on or after January 1, 2023.

Income tax deduction

Under federal income tax law, a taxpayer may deduct payments received to reimburse or compensate the taxpayer for costs incurred for certain declared disasters.[265] The bill authorizes a state income tax deduction for any such payments resulting from that derailment that would be deductible under federal law if the derailment was a declared disaster that triggered the federal deduction. The payments must be made by a federal, state, or local government agency, a railroad company or any subsidiary, insurer, related person, or agent of a railroad company ("eligible payers"). The bill additionally authorizes the taxpayer to deduct any payments received from an eligible payer to compensate for business losses.

CAT exclusion

The bill authorizes a CAT exclusion for gross receipts received by a taxpayer from an eligible payer as compensation for business losses resulting from that derailment.

Property tax

Property sales ratio studies

(R.C. 5715.012; Section 803.370)

The bill makes several changes to the information that TAX uses to review and update property values for tax purposes. Under continuing law, as part of the three-year cycle of property reassessment, TAX performs studies that analyze a county's property values and recent sales data. These "sales ratio" studies compare sales prices and the assessed value of property. The goal is to ensure that property is being assessed at 35% of its fair market value. If TAX's studies show that property in a particular county is not being taxed at that threshold, TAX will require an adjustment in that county's property values. These studies, in particular, play a significant role in updating property values as part of a county's triennial update.

The bill revises these sales ratio studies. First, the bill requires that the studies include all sales made during the preceding three years, and that TAX give each of those sales equal weight. Under current law, TAX is only required to consider a "representative sampling" of the previous three years' sales, and may give more or less weight to sales from different years. Second, if the

[265] 26 U.S.C. 139.

total number of sales of similarly situated property during the three previous years is less than 5% of all such properties in the county, the bill allows TAX to require the county auditor to conduct actual appraisals of property in that class. Currently, TAX may conduct appraisals if there are insufficient sales to constitute a representative sample. Third, the bill requires TAX to consider "current economic conditions" when recommending an adjustment in county property values.

The bill's changes apply beginning in tax year 2023. Since TAX will likely have already completed its sales ratio studies and certified adjustments to a county's property tax values for tax year 2023 before the bill takes effect, the bill requires TAX to recalculate those adjustments, using the bill's new requirements. TAX must certify its updated values within 15 days after the bill's 90-day effective date. Due to this delay, the bill also extends the time for affected counties to finalize their tax duplicate and for taxpayers to make both of their installments of 2023 property taxes.

Temporary CAUV adjustment

(R.C. 5715.01; Section 757.90)

The bill temporarily adjusts the current agricultural use value ("CAUV") of farmland for property tax purposes. The changes will apply to farmland when it next undergoes a reappraisal or triennial update in 2023, 2024, or 2025.

Pursuant to authority granted in the Ohio Constitution, farmland may be valued at its CAUV – its value considering only its use for agriculture – rather than its fair market value. This usually results in a lower tax bill for farm owners because the land is often valued below its actual market value, particularly in areas where farmland is in demand for development purposes. A farm's CAUV is calculated using a complex formula that takes into account the farm's soil type, crop patterns and prices, management costs, and estimated income potential.

Under the bill, instead of directly applying this formula, a farm's CAUV at its next reappraisal or update will equal the average of the formula value calculated for that year and the values that would have been assigned if the land were in a county that underwent a reappraisal or update in each of the preceding two years.

As an example, consider a farm located in a county that undergoes a reappraisal in 2023. If the formula were applied for that year, the farm's CAUV would be $200 per acre. However, if the farm had been reappraised in 2022, its value would have been $190 per acre, and if it had been reappraised in 2021, its value would have been $180 per acre. Under the bill, the farm's reappraisal value will be $190 per acre (the average of $180, $190, and $200).

The adjusted value will apply until the land undergoes another reappraisal or update. In the above example, the farm's adjusted value will apply in 2023, 2024, and 2025. When the farm undergoes a triennial update in 2026, its value will be determined using the existing statutory formula.

Under continuing law, TAX publishes CAUV tables that prescribe the per-acre value of each soil type in the state. The bill requires that, if these tables have already been published for

the 2023 tax year when the provision takes effect, TAX must update the tables within fifteen days after the provision's effective date to take the bill's changes into account.

Park district renewal levies

(R.C. 1545.21)

The bill authorizes park districts to propose renewal levies, which extend the term of any existing levy at its current effective millage rate unless coupled with an increase or decrease. Under continuing law, a park district's voted property tax may be extended through a replacement procedure unique to park districts. Unlike these replacement levies, a renewal levy authorized by the bill may only be proposed in the last year of the levy it is renewing or the following year. Most other types of voted property taxes may be renewed, increased, or decreased under continuing law in a similar manner.

Valuation of subsidized residential rental housing

(R.C. 5713.03; Section 803.280)

Generally, under continuing law and practice, real property is appraised for tax purposes by a county auditor by using one of three methods – the income method (i.e., capitalizing the income generated by the property), cost method (i.e., the cost of constructing or improving the property), or comparable sales method (i.e., a comparison of the neighborhood sales prices of comparable properties).[266] All three methods are employed to value real property at its true, or fair market value, which is the uniform standard that all real property, except certain agricultural property, must be valued at, as required by the Ohio Constitution.[267] In the context of federally subsidized rental housing, courts have generally held that using the income approach is superior to the other two approaches when determining the property's fair market value. These cases generally result in subject property's fair market value being determined on the basis of its market rent, rather than any subsidized contract rent.[268] Courts and continuing law additionally require any valuation to take into account the effect of limitations on the property's value due to involuntary, governmental actions, such as the rent restrictions federal subsidies may impose.[269]

Under current, recently enacted law, county auditors are explicitly authorized to use any of the three methods in valuing low-income housing tax credit (LIHTC) property. The bill expands this authorization, beginning in tax year 2023, to apply to any property subsidized by the following programs, listed according to their most commonly used name and the section of federal law they are authorized under:

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[266] O.A.C. 5703-25-05 and 5703-25-07.

[267] Ohio Const., Art. XII, Sec. 2.

[268] See, e.g., *Alliance Towers v. Stark Cty. Bd. of Revision*, 37 Ohio St.3d 16, 23 (1988).

[269] R.C. 5713.03; *Woda Ivy Glen L.P. v. Fayette Cty. Bd. of Revision*, 121 Ohio St.3d 175, 2009-Ohio-762, ¶¶ 17, 23-24.

- Section 202, Supportive Housing for the Elderly;
- Section 811, Supportive Housing for Persons with Disabilities;
- Section 8, Housing Choice Voucher Program;
- Section 515, Rural Rental Housing Loans;
- Section 538, Guaranteed Rural Rental Housing Program; and
- Section 521, USDA Rural Rental Assistance Program.

Subsidized rental property

Cost audit

(R.C. 117.01 and 703.21)

The bill authorizes the Auditor of State to audit the construction and rehabilitation costs of any project that has received certain federal subsidies or tax credits to construct or renovate rental housing. The covered programs are those that county auditors are explicitly authorized, under the bill, to use one of three valuation methods in appraising (see "**Valuation of subsidized residential rental housing**," above).

Annual list

(R.C. 175.20)

The bill requires the Governor's Office of Housing Transformation (GOHT) to prepare and annually update a list of all such federally subsidized residential rental property in Ohio. The list must be organized by county and include information about each property including the owner, address, parcel numbers, program it is subsidized by, and, for LIHTC property, the name and business address of any person allocated the credit. Metropolitan housing authorities are required to supply information for the list at GOHT's request. The bill also makes the list a public record.

The first list must include all covered properties as of January 1, 2024, and must be prepared and certified to the Auditor of State, Board of Tax Appeals, and TAX by January 31, 2024. GOHT is required to update and recertify the list to those agencies in January of each following year. TAX, in turn, certifies the list to all county auditors.

Residential development land exemption

(R.C. 5709.56)

The bill authorizes a partial property tax exemption for unimproved land that has been subdivided for residential development. The value exempted is the value in excess of the fair market value of the property from which that land was subdivided, apportioned according to the relative value of each subdivided parcel (see "**Exempted portion**," below). Specifically, the exemption applies to any unimproved parcel subdivided pursuant to a plat and on which construction of residential buildings, e.g., single- or multi-family dwellings, is planned but has not started. The exemption does not apply to land included in a tax increment financing (TIF) arrangement.

The exemption applies beginning with the tax year in which the subdivided parcel first appears on the tax list, but no sooner than the tax year that includes the bill's 90-day effective ate. The exemption may be claimed for up to eight years, or until either the land is sold to another person or construction begins on a residential building. The exemption ceases to apply to the tax year following the year in which either event occurs. Construction of streets, sidewalks, curbs, or driveways or the installation of water, sewer, or other utility lines does not trigger the end of the exemption. Transferring the parcel to another person without consideration does not terminate the exemption.

The exemption is only available to the owner or owners of the land at the time it was subdivided, unless the land is transferred to another without consideration as mentioned above. As with other property tax exemptions, a parcel's owner is required to apply annually to the Tax Commissioner for the exemption. As part of an exemption application, the owner must expressly certify that the parcel qualifies as preresidential development property.

Exempted portion

Under continuing law, real property is valued according to its "fair market value," which, generally, is the unconditioned price the property would sell for in an arm's length sale, or the price for which it has in fact been sold recently in such a sale. However, certain agricultural land may alternatively be valued according to the land's current agricultural use value (CAUV), which is the estimated value of the land based on its income-producing potential as farmland. County auditors must appraise the fair market value of CAUV land even though the land is taxed according to its CAUV.

Regardless of whether the original property was valued according to its fair market value or CAUV, the bill attributes a base, taxable value to each parcel resulting from the subdivision since a subdivided parcel would not have had its own individual assessed value before it was subdivided. This base value equals the original property's fair market value, and not its CAUV, apportioned to each subdivided parcel according to the parcel's appraised value once the subdivision occurs in proportion to the total of the appraised values of all parcels resulting from the subdivision.

The bill accounts also for how the exemption applies if a residential development parcel that resulted from a prior subdivision is itself further subdivided. In such a case, the exemption continues to apply to the new parcels resulting from the later subdivision, with each of the new parcels having an unexempted value that is a proportion of the unexempted value of the larger parcel from which it was most recently subdivided; the proportion is based on each new parcel's appraised value relative to the total appraised value of all the new parcels.

The bill specifies that the partial exemption does not create a new method for valuing property for tax purposes and reaffirms that fair market value and CAUV are the only two authorized valuation methods. The bill also specifies that subdivided farmland may continue to be valued at its CAUV only if it is still used for farming, and requires the county auditor to routinely inspect such land to ensure that such land continues to qualify for CAUV valuation.

Brownfield property tax abatement

(Section 757.40)

The bill authorizes the owner of property currently subject to a ten-year property tax exemption for remediated brownfield development land to apply for an abatement or refund of taxes assessed on the property in tax years 2020 and 2021 that would not have been assessed had the property been subject to that exemption for those years. The property only qualifies if the owner was issued a covenant not to sue by the Ohio EPA in 2020 based on the owner's remediation activities and if the owner applies for the abatement within one year after the bill's 90-day effective date.

Under continuing law, the brownfield remediation exemption starts to apply not in the tax year that the covenant not to sue is issued, but the year in which the Ohio EPA certifies the covenant to TAX.[270] Thus, the bill applies to a situation where the covenant not to sue was issued two years before it was certified to TAX.

If the abatement is obtained, the bill shortens the exemption's duration by two years to account for the two years of abatement.

Tax increment financing

TIF background

Continuing law allows municipalities, townships, and counties to create a tax increment financing (TIF) arrangement to finance public infrastructure improvements. Through a TIF, the subdivision grants a property tax exemption for the increase in the assessed value of designated parcels that are part of a development project. The exemption may apply to specific parcels or to entire areas, known as "incentive districts." The owners of the parcels make payments in lieu of taxes to the subdivision equal to the amount of taxes that would otherwise have been paid with respect to the exempted improvements ("service payments"). TIFs thereby create a flow of revenue back to the subdivision, which generally uses those service payments to pay the public infrastructure costs necessitated by the development project.

Removal of nonperforming parcels

(R.C. 5709.40 and 5709.73)

The bill authorizes a township or municipality to remove a parcel from an existing municipal or township TIF, either individually or as part of an incentive district, and add the parcel to a new incentive district TIF, if the parcel's owner is required to make service payments under the existing TIF, but has not yet done so. Once added to the new TIF, the parcel is excluded from its former TIF and the owner is no longer required to make service payments under that former TIF. When the township or municipality subsequently applies to TAX for the TIF-authorized property tax exemptions, necessary to allow for service payments under the new TIF, it must

[270] R.C. 5709.87(B) and (C), not in the bill.

identify the affected parcels, the original TIF ordinance or resolution, and the value history of each affected parcel since the original TIF ordinance or resolution was passed.

Impacted city TIF service payment reallocation

(Section 757.70)

The bill authorizes the legislative authority of an impacted city, i.e., a city that meets certain urbanization or disaster criteria, to, under certain circumstances, reallocate parcel TIF service payments. Under current law, these payments must generally be used to fund public improvements that benefit the parcel being assessed. The bill allows these payments to be reallocated for other projects that relate to urban development generally, but do not benefit the assessed parcel, if the reallocation is made before July 1, 2024, and the parcel benefitting public improvements have been sufficiently funded.

30-year parcel TIF extension

(R.C. 5709.51)

In general, TIFs may be designated for a term of up to ten years or, with the approval of the appropriate school district, 30 years. Current law authorizes a county, municipality, or township to extend the term of a parcel TIF by an additional 30 years. The bill modifies the circumstances under which such an extension may be authorized.

First, as an alternative to the existing requirement that the aggregate TIF service payments exceed $1.5 million in the year before an extension can be adopted, the bill allows a subdivision to determine that payments will meet the $1.5 million threshold in any future year of the TIF and adopt the extension on the basis of that determination. Second, the bill also applies a bar that prohibits such an extension if the service payments exceeded $1.5 million in any year preceding the year before the extension is adopted to extensions adopted after 2023. Current law only applies this bar to extensions adopted after 2020.

Third, rather than waiting for or satisfying one of the above requirements in order to amend an existing TIF resolution to authorize an up to 30-year extension, as required under current law, the bill allows a subdivision to extend the term of a TIF in the original resolution authorizing the TIF, presumably based on the subdivision's determination that the service payments will meet the $1.5 million threshold in the future.

The bill applies these changes to any pending and completed TIF proceedings.

Extension of certain municipal TIFs

(R.C. 5709.40(L))

The bill also allows a municipality that created an incentive district TIF before 2006 to extend that TIF for up to 15 years, provided that certain conditions are met. In general, under continuing law, a subdivision can authorize a TIF for up to 30 years with school board approval or up to ten years without school board approval.

To be eligible for the extension, the municipality must (a) obtain the approval of the school board of each district in which the TIF is located and (b) notify each county in which the TIF is located. Unlike continuing law generally, if a school board fails to either approve or deny

the TIF within the time allocated, the municipality cannot create the TIF. However, similar to continuing law, if the resolution creating the TIF provides for compensation to be paid to a school district, or if a school district has adopted a resolution waiving its right to approve TIFs, the school board's approval is not required.

If the TIF is extended, the percentage of improvements exempted cannot exceed the percentage originally authorized. For example, if 80% of the value of improvements were exempted under the original TIF, the extended TIF cannot allow an exemption of more than 80%.

Property tax foreclosure notice publication

(R.C. 323.25, 323.69, 5721.14, and 5721.18)

The bill modifies publication procedures for notices of impending tax foreclosure actions. Specifically, the bill allows a tax foreclosure notice to be published online if the notice is first published in a newspaper of general circulation in the county where the property is located. If online notice is used, the notice must begin to appear one week after the initial newspaper publication and continue to appear until one year after the foreclosure proceeding results in a judgment and finding against the property. The county clerk of courts decides which website of the county or court the online notice will appear. Online publication is considered "served" and a foreclosure proceeding action may thus continue two weeks after the clerk first posts the notice.

Under current law, publication of the notice must be made three times in a newspaper. Publishing the notice of a foreclosure action, along with other steps taken during the tax foreclosure process, such as title searching and notification by mail or in person, is meant to fulfill the state's obligation under the Due Process Clause to provide notice to property owners and lienholders of an impending action that may result in the property being taken and sold.

The bill also specifies that if a property tax foreclosure notice is not published online, then all publications of the notice beyond the first may be made in an abbreviated form in a newspaper pursuant to continuing law's abbreviated newspaper publication procedures for government notices.

Qualified energy project tax exemptions

(R.C. 5727.75)

The bill extends the sunset date for real and tangible personal property exemptions for certain renewable energy projects. In general, a project seeking exemption must (1) apply to DEV to be certified as a qualifying project, (2) in some cases obtain the approval of a county in which the project will be located, (3) comply with certain deadlines and construction, safety, education, and labor requirements, and (4) make payments in lieu of taxes (PILOTs) to be distributed in the same manner as property taxes.

Under current law, exemptions for qualifying projects that are in their construction or installation phases are generally scheduled to sunset after tax year 2025, provided they enter construction or installation by December 31, 2024. The bill extends these sunset dates by four years. In line with those extensions, the bill extends other deadlines projects must satisfy.

Under current law, if a renewable energy project is placed in service by December 31, 2025, the property tax exemption may continue in perpetuity, as long as the project continues to comply with certain certification requirements. The bill extends the placed-in-service deadline to December 31, 2029.

Special improvement districts

Park district property

(R.C. 1710.01, 1710.02, 1710.03, and 1710.13)

The bill prohibits park district property from being included in a special improvement district (SID) unless the park district consents to its inclusion. Under continuing law, SIDs may be created within the boundaries of one or more municipalities or townships to finance public improvements or services via special assessments on most property within a district. The bill's exclusion for park district property puts such property in line with the similar continuing exclusion for county, township, municipal, state, and federal property.

Tax administration

Delivery of tax notices

(R.C. 5703.056 and 5703.37; conforming changes in numerous other R.C. sections)

The bill expands the means by which TAX may send tax notices. For any tax notice currently required to be sent by certified mail, the bill allows TAX to alternatively send the notice by ordinary mail or electronically, including by email or text message. Under continuing law, electronic delivery is only allowed if the taxpayer gives consent.

In addition, the bill specifies that electronic notices can be sent to a taxpayer's authorized representative, and requires TAX to establish a system to issue notifications of tax assessments to taxpayers through secure electronic means. Under continuing law, if an electronic notice is not accessed after two attempts, TAX must send it by ordinary mail.

The bill also eliminates certain recordkeeping requirements that a delivery service must meet before it can be used by TAX to deliver tax notices. Specifically, it eliminates the requirement that the delivery service record the date on which the document was sent and delivered.

Electronic conveyance forms

(R.C. 319.20)

Under continuing law, whenever real property or a manufactured or mobile home is transferred, the grantee is required to file a statement with the county auditor attesting to the property's value and acknowledging that certain information related to the property's eligibility for the homestead exemption or current agricultural use valuation (CAUV) status has been considered as part of the transfer. The statement must be accompanied by any required property transfer tax.

Continuing law requires the grantee to file three copies of this statement, but the bill alternatively allows a grantee to submit a single copy of the statement electronically.

Corporation franchise tax amended filings

(R.C. 5733.031; Section 757.30)

The bill eliminates a requirement that taxpayers file amended corporation franchise tax (CFT) reports. The CFT was fully repealed in 2013, but if an adjustment to a corporation's federal tax return alters the corporation's previous CFT tax liability, the corporation must still file an amended CFT report. Under the bill, corporations are no longer required to file amended reports after December 31, 2023. Similarly, no corporation may request a refund after that date.

Disclosure of confidential tax information

(R.C. 5703.21 with conforming changes in R.C. 1346.03, 1509.11, 4301.441, and 5749.17)

The bill streamlines the authority of TAX to share confidential tax information with state agencies. Under continuing law, unless an exception applies, tax return information is confidential and cannot be disclosed by an employee of TAX or any other individual. Currently, the law lists several exceptions authorizing the disclosure of information to specific state agencies. The bill replaces much of this list, which involves specific state agencies, with a general authorization for TAX to share information with any state or federal agency when disclosure is necessary to ensure compliance with state or federal law. The receiving agency is prohibited from disclosing any of this shared information, except as otherwise authorized by state or federal law.

Refunds of tax penalties

(R.C. 5703.052 and 5703.77)

The bill makes conforming changes to a law, recently enacted in H.B. 66 of the 134th General Assembly, that allows taxpayers to obtain a refund of tax-related penalties and fees.

Under continuing law, TAX may impose penalties if a taxpayer fails to comply with tax filing and reporting requirements – for example, if a taxpayer fails to file a tax return, pay the full amount due, pay a tax electronically when required to do so, or obtain a required license or registration. H.B. 66 allowed taxpayers who overpaid any such penalty to obtain a refund of that amount, with interest.

The bill updates two provisions to reflect this change. Both provisions, which were inadvertently excluded from H.B. 66, currently only refer to refunds of overpaid taxes, rather than both overpaid taxes and penalties.

Local Government and Public Library Funds

Permanent increase

(R.C. 131.51; Section 387.20)

The bill permanently increases, beginning in FY 2024, the percentage of state tax revenue that the Local Government Fund (LGF) and Public Library Fund (PLF) each receive per month, to 1.7%.

Under current law, the LGF and PLF are each allocated 1.66% of the total tax revenue credited to the GRF each month. This percentage has been set in permanent law since FY 2014, following a series of decreases in allocations to both funds. Over the past decade, however, the actual percentage of tax revenue allocated to the LGF and PLF has fluctuated slightly. The General Assembly has repeatedly authorized "temporary" increases to the PLF allocation, ranging from 1.68% to 1.70%. The PLF allocation for FYs 2022 and 2023 currently stands at 1.70%. The LGF allocation was temporarily increased once, to 1.68% for FYs 2020 and 2021, but the current allocation stands at 1.66%.[271]

Under continuing law, most of the money in the LGF and PLF is distributed monthly to each county's undivided local government or public library fund, largely based upon that county's historical share. Each county distributes its share among local governments or libraries, respectively, according to a locally approved formula or, in a few counties, a statutory need-based formula. A smaller portion of the LGF is paid directly to townships, smaller villages, and municipalities.

Minimum county distributions

(R.C. 5747.501; Sections 803.170 and 812.20)

The bill also increases the minimum amount distributed from the LGF to counties, beginning in FY 2024.

Under continuing law, LGF funds are distributed to each county in the state. In FY 2013, LGF distributions were reduced by 50% compared to previous levels. At the time, the proportionate share of the reduced LGF received by each county was held at FY 2013 levels, which included a minimum distribution for certain counties: if a county's LGF was less than $750,000, that county's distribution was not reduced; if the 50% reduction reduced a county's LGF below $750,000, the county received $750,000.

The bill increases the minimum LGF threshold for all counties to $850,000. Based on calendar year 2022 LGF data, the change appears to affect six counties who in that year received less than $850,000: Harrison, Monroe, Morgan, Noble, Paulding, and Vinton counties. Under continuing law, as necessary, the proportionate shares of other counties may be adjusted to produce the funds needed to meet the minimum distribution requirement.

Alternative method to apportion county undivided funds

(R.C. 5747.53)

Under continuing law, a portion of the funds in the state's LGF are deposited in each county's undivided local government fund (CULGF) each year. Those funds are then distributed to the county and townships, municipalities, and park districts in the county according to a

[271] Section 387.20 of H.B. 110 of the 134th General Assembly, Section 387.20 of H.B. 166 of the 133rd General Assembly, Section 387.20 of H.B. 49 of the 132nd General Assembly, and Section 375.10 of H.B. 64 of the 131st General Assembly.

statutory formula or by an alternative method of apportionment provided for by the county budget commission.[272]

A budget commission may adopt alternative methods of apportioning CULGF funds through one of two methods. The first, sometimes referred to as the "standard procedure," requires approval of the county commissioners, the city with the largest population residing in the county, and a majority of the county's other municipal corporations and townships. Under continuing law, an alternative method of apportionment adopted under this method continues until it is revised, amended, or repealed. The bill requires the county budget commission to review such an alternative method at a public hearing held at least once in the year following the bill's 90-day effective date and once in every fifth year thereafter. The budget commission is required to give notice of this hearing to political subdivisions eligible to receive CULGF funding and allow their representatives to testify on the alternative apportionment method. The bill does not, however, require any changes based on the review.

A second method for the approval of an alternative method of apportionment, unchanged by the bill, allows approval of an alternative apportionment method without consent from a county's largest city if that city and the other political subdivisions meet certain requirements. Such a method is only effective for one year.

[272] R.C. 5747.51 and 5747.52, not in the bill.

DEPARTMENT OF TRANSPORTATION

Transportation Review Advisory Council

- Alters the membership of the Transportation Review Advisory Council (TRAC), which currently and under the bill consists of nine voting members, as follows:
  - Reduces the number of members appointed by the Governor from six to five;
  - Increases the number of members appointed by the Senate President from one to two;
  - Increases the number of members appointed by the Speaker of the House from one to two; and
  - Makes the Director of Transportation a nonvoting member.

Ohio Wayside Detector System Expansion Program

- Establishes the Ohio Wayside Detector System Expansion Program, administered by the Ohio Rail Commission.
- Allows railroad companies doing business in Ohio to apply for competitive grants under the program for wayside detector system projects, including projects related to installation, equipment, power sources, and employee training.
- Requires the railroad company to fund a percentage of the wayside detector system project, based on the size of the railroad company, with the Commission providing the remaining portion.
- Requires the Commission to establish any procedures and requirements necessary to administer the program.

Transportation Review Advisory Council

(R.C. 5512.07; Section 755.20)

The Transportation Review Advisory Council (TRAC) consists of nine voting members (under the bill and current law). The bill alters the membership of the Council by doing the following:

- Reducing the number of members appointed by the Governor from six to five;
- Increasing the number of members appointed by the Senate President from one to two;
- Increasing the number of members appointed by the Speaker of the House from one to two; and
- Making the ODOT Director a nonvoting member instead of a voting member as under current law.

To effectuate the alterations to Council membership, the bill requires the following to occur not later 60 days after the bill's effective date:

- The Governor must remove one person from the Council who was previously appointed;
- The Senate President must appoint one additional person who serves the remaining term of the member removed by the Governor; and
- The Speaker must appoint one additional member to serve a five-year term from the date of appointment.

Under current law, the Council reviews the written project selection process for proposed new transportation capacity projects submitted to it by the Director. The Council may approve the process or make revisions to it.

Ohio Wayside Detector System Expansion Program

(Sections 411.10, 411.11, 513.10, and 749.70)

The bill establishes the Ohio Wayside Detector System Expansion Program, administered by the Ohio Rail Commission. Under the program, any railroad company that does business in Ohio may apply for competitive grant funding to use for wayside detector system projects. Wayside detector systems are the electronic devices or series of connected devices that scan passing trains, rolling stock, on-track equipment, and their competent equipment and parts for defects. Defects include hot wheel bearings, hot wheels, defective bearings, dragging equipment, excessive height or weight, shift loads, low hoses, rail temperature, and wheel condition. A railroad company must use the program's grant funds to help install, purchase equipment and upgrades and improve a system's power sources for, and train employees on wayside detector systems.

The bill requires a recipient railroad company to fund a percentage of the wayside detector systems project, based on the size of the railroad company. The Commission then provides the remaining portion of the cost. Specifically, a Class I company must fund 75%, a Class II company must fund 50%, and a Class III company must fund 25%. The federal Surface Transportation Board makes the Class determinations.

The Commission must manage the program by establishing any necessary procedures and requirements to administer it. This may include grant application procedures, application evaluation criteria, award processes, and any conditions for expenditure of grant funding awarded under the program. The bill appropriates $10 million for the program.

TREASURER OF STATE

Pay for Success contracts

- Eliminates the requirement that at least 75% of Pay for Success contracts include performance targets requiring greater improvement in the targeted area vs. other areas (based on scientifically valid regional or national data).
- Removes the requirement that the Treasurer of State adopt rules establishing a process to determine whether the regional or national data used to determine the performance targets are scientifically valid.

State real property

- Transfers, from the Treasurer to the Department of Administrative Services, the responsibility to develop and maintain a comprehensive and descriptive database of all real property under the custody and control of the state, and requires each state agency to collect and maintain information on its respective landholdings.
- Removes the Treasurer from the Ohio Geographically Referenced Information Program Council.

Housing bonds

- Requires the Treasurer to assume the authority, duties, assets, and liabilities of the Ohio Housing Finance Agency, abolished by the bill, effective January 1, 2024.
- Allows the Treasurer to issue bonds on behalf of the new Governor's Office of Housing Transformation upon certification by the Director of Development.

Authority of the Treasurer of State

- Specifies that custodial funds do not include items held in safekeeping by the Treasurer, including collateral pledged to a state agency.
- Allows payment out of custodial funds upon any proper order of the officer authorized to make such a payment, regardless of whether that order is directed to the Treasurer.
- Provides that the term "warrant" includes an order drawn upon the Treasurer by an authorized person at a state entity holding a custodial account.
- Clarifies that warrants may have multiple payees and may be paid through a variety of instruments, including commercial paper, stored value cards, direct deposit, and drawdown by electronic benefit transfer.
- Requires the Treasurer to provide the Director of Budget and Management ("OBM Director") electronic records of all paid warrants on a daily basis, rather than monthly, and eliminates a requirement that the OBM Director provide the Treasurer with paper receipts.

- Creates the Treasurer's Information Technology Reserve Fund, consisting of unexpended amounts transferred from the Securities Lending Program Fund and an account used to service federal student loans, for the purpose of acquiring or maintaining hardware, software, or contract services for the Treasurer's office.
- Requires bid requests for contracts with financial institutions relating to financial transaction devices to be published on a state agency website instead of a newspaper.
- Authorizes the State Board of Deposit to contract with other financial institutions, in addition to the winning bidders, if such contracts are in the best interest of the state.
- Repeals authorization for the Treasurer to contract with financial institutions for the collection of taxes and fees at a P.O. Box.

Uniform Depository Act

- Changes the timeline and method of when and how the Treasurer must notify the Board of Deposit about the classification of interim moneys.
- Modifies the classification of state moneys for purposes of deposits with public depositories and investments.
- Modifies eligibility of financial institutions to hold warrant clearance accounts with active deposits (i.e., public funds needed to meet current demands), as well as corresponding reporting requirements.
- Expands the purposes of warrant clearance accounts to include funding electronic benefit transfer cards, issuing stored value cards (i.e., prepaid cards), or otherwise facilitating the settlement of state obligations.
- Modifies the timeline and processes for designating public depositories of state funds but largely retains existing law as it pertains to designating public depositories for the funds of local governments, school districts, and other subdivisions.
- Expands the ways in which the Treasurer may invest interim moneys.
- Allows the Treasurer, rather than the State Board of Deposit, to select which interim investments or negotiated deposits are to be sold or redeemed when the amount of active deposits is insufficient to meet anticipated demands.
- Creates the Home Improvement Linked Deposit Program, administered by the Treasurer of State, to provide reduced rate loans to homeowners for maintenance or improvements for their homes.
- Creates the Homeownership Savings Linked Deposit Program to create the availability of premium rate savings accounts for the down payment and closing costs associated with the purchase of a home.
- Modifies the statutes governing the existing Adoption Linked Deposit Program, Agricultural Linked Deposit Program, and Small Business Linked Deposit Program to consolidate the administrative requirements in the statutes.

- Eliminates the SaveNOW Linked Deposit Program, Business Linked Deposit Program, Housing Linked Deposit Program, Assistive Technology Device Linked Deposit Program, and the Short-term Installment Loan Linked Deposit Program.
- Excludes moneys of metropolitan housing authorities from the Ohio Pooled Collateral Program.
- Authorizes the Petroleum Underground Storage Tank Release Compensation Board to allow the Treasurer to invest surplus funds.

Social Security for employees of political subdivisions

- Repeals the ability for certain county-related corporations or cities to opt into Social Security and the Treasurer's involvement in the payment of contributions to the U.S. Treasury.

Board of Commissioners of the Sinking Fund

- Eliminates many of the procedures for payment on bonded debt, but does not change requirement to pay the bonded debt.

Ohio coupon bonds and unclaimed funds

- Designates certain state bonds issued before 1985, referred to as "Ohio coupon bonds" as unclaimed funds if the bond's principal and interest is not redeemed for three years following maturity.
- Establishes a procedure whereby these coupon bonds, unlike other property subject to Unclaimed Funds Law, may escheat to the state.
- Allows the Director of Commerce discretion to pay out claims for coupon bonds that have already escheated to the state, minus the costs incurred by the state in securing title to the bonds.

Trust companies and family trust companies

- Shifts responsibility, from the Treasurer to the Superintendent of Financial Institutions, for accepting securities from trust companies and family trust companies.

Insurance companies

- Eliminates the Treasurer's role in accepting securities from certain insurance companies and gives full responsibility to the Superintendent of Insurance.
- Requires the resident and nonresident surplus lines broker's license renewal fee to be paid to the Superintendent of Insurance, instead of the Treasurer.

Collateral from certain reimbursing employers

- Eliminates the ability of a nonprofit employer wishing to be a reimbursing employer under the Unemployment Compensation Law to deposit collateral securities with the Director of Job and Family Services in lieu of a surety bond.

Community school closing audit bonds

- Removes all of the following related to community school closing audit bonds:
  - The option for a community school to deposit a $50,000 cash guarantee with the Auditor of State in lieu of a bond.
  - A community school governing authority's ability to provide a written guarantee of payment in lieu of posting a bond, but retains it for a school sponsor or operator.
  - The requirement that upon the filing of a bond, the Auditor of State deliver the bond to the Treasurer of State.
  - The Treasurer's responsibility to hold in trust all surety bonds filed or cash deposited for community schools.
- Requires the Attorney General, instead of the Treasurer, to assess a bond for the costs of the audit to reimburse the Auditor of State or public accountant for costs incurred in conducting audits of closed community schools that cannot pay.

Administration of state taxes

- Requires the Tax Commissioner, rather than the Treasurer, to collect most taxes required to be paid electronically.
- Provides that, when required, such taxes must be paid "electronically," rather than "by electronic funds transfer."
- Makes various other changes related to the administration of state taxes.

Motor vehicle and watercraft

- Transfers from the Treasurer to the Registrar of Motor Vehicles the responsibility to receive sales and use taxes from the sale of motor vehicles, off-highway motorcycles, and all-purpose vehicles that are collected by each clerk of courts.
- Transfers from the Treasurer to the Registrar the associated requirement to remit those taxes to the Tax Commissioner.
- Transfers from the Treasurer to the Tax Commissioner the responsibility to receive sales and use taxes from the sale of watercraft and outboard motors that are collected by each clerk of courts.
- Transfers from the Treasurer to the Registrar the responsibility for receiving monetary deposits to maintain financial responsibility for a motor vehicle.
- Establishes the Financial Responsibility Custodial Fund in which the money must be deposited.
- Makes conforming changes to allow the Registrar, rather than the Treasurer, to return deposits in certain circumstances, such as when a depositor has died.

- Eliminates the option to deposit government bonds to maintain financial responsibility for a motor vehicle.

ODNR surety requirements

- Creates the Performance Cash Bond Refunds Fund that consists of cash received by the Department of Natural Resources (ODNR) from other entities as performance security.
- Makes other changes related to ODNR's surety requirements, including:
  - Requiring any cash surety collected by ODNR to be credited to the Performance Cash Bond Refunds Fund; and
  - Eliminating the Treasurer's involvement in the safekeeping of deposited sureties and instead requiring the relevant ODNR Division Chief to hold the sureties in trust.

Technical changes

- Replaces "standard rating service" throughout the Revised Code with the more commonly used term, "statistical rating organization."
- Eliminates references to the federal Office of Thrift Supervision and the Ohio Building Authority, which no longer exist.

Pay for Success contracts

(R.C. 113.60)

Continuing law requires the Treasurer of State to specify performance targets to be met by a service provider under a Pay for Success contract. If scientifically valid regional or national data is available to compare the targeted area vs. other areas, the performance targets must require greater improvement within the targeted area vs. other areas.[273] The bill eliminates the requirement that at least 75% of Pay for Success contracts include performance targets requiring greater improvement in the targeted area vs. other areas. And, the bill removes the requirement that the Treasurer adopt rules establishing a process to determine whether the regional or national data is scientifically valid.[274]

State real property

(R.C. 125.901 and 125.903)

The bill transfers, from the Treasurer to DAS, the responsibility to develop and maintain a comprehensive and descriptive database of all real property under the custody and control of the state. Under continuing law, the database must adequately describe, when known, the location, boundary, and acreage of the property, the use and name of the property, and the contact information and name of the state agency managing the property. Information in the

[273] R.C. 113.61, not in the bill.

[274] R.C. 113.60.

database must be available to the public free of charge through a searchable internet website. The bill removes the requirement for the Treasurer to allow public comment on property owned by the state.

Ohio Geographically Referenced Information Program Council

The bill requires each landholding state agency to collect and maintain a geographic information systems database of its landholdings, and to provide the database to the Ohio Geographically Referenced Information Program Council, a Council established by law within DAS to coordinate the property owned by the state. Current law requires the Council and the Treasurer to collect the information. The bill removes the Treasurer from the Council.

Housing bonds

(R.C. 175.06)

Under the bill, all duties, powers, rights, obligations, and functions of the Ohio Housing Finance Agency related to financing obligations (i.e., bonds, notes, and other obligations) are transferred to the Treasurer. The Treasurer, upon certification by the Director of Development, is required to issue bonds on behalf of the new Governor's Office of Housing Transformation for the purposes of the state's affordable housing programs. The transfer is effective January 1, 2024.

Authority of the Treasurer of State

(Sections 130.110 to 130.116)

Custodial funds

(R.C. 113.05 and 113.11)

Under current law, changed in part by the bill, a custodial account is an account that is in the custody of the Treasurer but that is not part of the state treasury and must be kept separate from state treasury assets. The bill specifies that custodial funds do not include items held in safekeeping by the Treasurer, such as collateral pledged to a state agency.

Current law stipulates that no money may be paid out of a custodial fund except on proper order to the Treasurer by the officer authorized to pay money out of the fund. The bill removes reference to the Treasurer and, thereby, allows for payment out of custodial funds whenever ordered by the authorized officer, regardless of where that order is directed.

Warrants

(R.C. 113.11, 131.01, and 4749.01)

Under current law, changed in part by the bill, a "warrant" is an order drawn upon the Treasurer by the Director of Budget and Management (OBM Director) directing the Treasurer to pay a specified amount. The bill expands this definition to include an order drawn by any authorized person at a state entity that has a custodial account in the custody of the Treasurer, and clarifies that warrants may have multiple payees.

Current law includes as examples of warrants: (1) an order to make a lump-sum payment to a financial institution for the transfer of funds by direct deposit or the drawdown of funds by

electronic benefit transfer, and (2) the resulting electronic transfer to or by the ultimate payees. The bill revises the examples to state that a variety of payment instruments may be used, including paper warrants, stored value cards, direct deposit to the payee's bank account, or the drawdown of funds by electronic benefit transfer. The bill defines a stored value card as a payment card on which money may be loaded and stored, and with which that money may be accessed through automated teller machines, point of sale terminals, or other electronic media. The term does not include any payment card that can access money in a linked external account maintained by a financial institution.

Current law prohibits money from being paid out of, or transferred from, the state treasury without a warrant issued by the OBM Director. The bill largely retains this prohibition, but specifies that money may be paid out or transferred upon an order of the OBM Director, rather than a warrant.

Record of payments

(R.C. 113.12)

Under current law, the Treasurer must pay all warrants drawn on the Treasurer by the OBM Director. At least once each month, the Treasurer must surrender to the OBM Director all warrants the Treasurer has paid, accept the receipt of the OBM Director, and hold that receipt as evidence of payment until an audit of the state treasury and custodial funds is completed.

The bill revises this process in three ways. First, it specifies that the warrant must be a "valid warrant," which the bill defines as a warrant that is not stopped, stale dated for age, voided, canceled, altered, or fictitious. Second, instead of providing the OBM Director all warrants paid on a monthly basis, the bill requires the Treasurer, on a daily basis, to provide the OBM Director the electronic records of all the warrants paid, adjusted, or returned. Third, the bill eliminates the requirement that the OBM Director provide, and the Treasurer retain, paper receipts.

Treasurer's Information Technology Reserve Fund

(R.C. 113.22, 135.47, and 3366.05)

The bill creates the Treasurer's Information Technology Reserve, which will consist of unexpended amounts transferred from either or both of the following: (1) the Securities Lending Program Fund, and (2) the custodial account created under an existing program that allows the Treasurer to act as an eligible not-for-profit servicer of student loans owned by the federal government. Moneys credited to the new fund may be expended only to acquire or maintain hardware, software, or contract services for the efficient operation of the Treasurer's office. Unexpended amounts must be retained in the fund and reserved for future technology needs.

Requests for proposals on financial transaction devices

(R.C. 113.40)

Continuing law allows the State Board of Deposit to adopt a resolution authorizing the acceptance of payment by financial transaction devices (credit, debit, and stored value cards, for example) to pay for state expenses. The Board's resolution must designate the Treasurer as the

administrative agent. In this role, the Treasurer must follow certain statutory procedures whenever the Treasurer plans to contract with financial institutions, issuers of financial transaction devices, or processors of financial transaction devices. One of these procedures requires the Treasurer, prior to sending any financial institution, issuer, or processor a copy of a request for proposal, to advertise the Treasurer's intent to request proposals in a newspaper of general circulation in Ohio once a week for two consecutive weeks. The bill instead requires that such advertising be provided by electronic publication on a state agency website made available to the general public. In addition, the request for proposals must be electronically mailed.

Also, the bill authorizes the Board of Deposit to contract with one or more additional entities subsequent to the award, if the Board determines that it is necessary and in the state's best interest.

Contract with financial institutions for the collection of taxes

(Repealed R.C. 113.07; R.C. 113.05)

Under current law, the Treasurer may enter into a contract with a financial institution under which the financial institution receives and deposits tax and fee payments on behalf of the Treasurer. The bill eliminates the law authorizing such a contract.

Uniform Depository Act

The Uniform Depository Act governs the deposit and investment authority of public moneys of the state and Ohio's political subdivisions, including active deposits (i.e., public funds needed to meet current demands) and inactive or interim deposits (i.e., public funds not needed to meet current demands). The bill makes various changes to the Act.

Classification of interim moneys

(R.C. 135.02 and 135.143)

Current law requires the Treasurer to notify the State Board of Deposit within 30 days of classifying public moneys as interim moneys during a period of designation. The bill instead requires the Treasurer to notify the Board, on or before the 10th day of each month, that the following reports pertaining to the preceding month have been posted to the Treasurer's website:

- The daily ledger report of the state funds;
- The monthly portfolio report detailing the current inventory of all investments and deposits held within the classification of interim moneys;
- The monthly activity report within the classification of interim moneys summarized by type of investment or deposit.

Current law requires the chairperson of the Board to provide a monthly report to the Board on classification of public moneys as interim moneys, and to post that report monthly to a website maintained by the Treasurer. The bill instead requires that the chairperson provide a notification to the Board that the reports described above have been posted on the website.

State money classifications

(R.C. 135.01, 135.04, 135.05, and 135.06)

The bill specifies that, in the context of the state treasury, interim moneys are public moneys that are not active deposits and may be invested in accordance with the provisions of the Uniform Depository Act pertaining to the investment of interim funds. It also eliminates references to inactive deposits in the context of state moneys throughout the Uniform Depository Act. For example, under current law, public depositories, i.e., financial intuitions authorized to hold public deposits, are permitted to hold active deposits, inactive deposits, and interim deposits of public moneys of the state. The bill eliminates the eligibility of public depositories to hold inactive deposits of the state. In other words, under the bill, state money has only have two classifications: active deposits and interim deposits. The subdivisions of the state will retain the three classifications: active, inactive, and interim deposits.

Active deposits and warrant clearing accounts

(R.C. 131.01, 135.01, and 135.04)

Under current law, to facilitate payments from the state treasury, the Treasurer may establish warrant clearance accounts in public depositories that are located in areas where the volume of warrant clearances justifies the establishment of an account. The bill eliminates the qualifier and, therefore, allows the Treasurer to establish warrant clearance accounts in any public depository regardless of the volume of clearances in the area.

Under current law, any financial institution in Ohio that has a warrant clearance account established by the Treasurer must, not more than ten days after the close of each quarter, prepare and transmit to the Treasurer an analysis statement of the account for the quarter. The statement must contain information required by the State Board of Deposit and must be used by the Treasurer in determining the level of balances to be maintained in the account. The bill instead requires such financial institutions to provide the statement on a monthly basis, 15 days after the close of each month. The bill also eliminates the requirement that the Treasurer use the information in the statement to determine the level of balances in each account.

The bill also expands the purposes of the warrant clearance accounts to include both of the following: (1) funding electronic benefit transfer cards, issuing stored value cards (i.e., prepaid cards), or otherwise facilitating the settlement of state obligations, and (2) for the deposit of custodial moneys from an account held in the custody of the Treasurer to facilitate settlement of obligations of the custodial fund.

Designating public depositories

(R.C. 135.05, 135.06, 135.08, 135.10, and 135.12; Section 130.113)

The bill changes the timeline and processes for designating public depositories of state funds but retains current law as it applies to the funds of local governments, school districts, and other subdivisions. Current law requires that, at least three weeks prior to the statutory deadline for designating public depositories, the State Board of Deposit and all other governing boards, by resolution, estimate the aggregate maximum amount of public money subject to its control to be awarded and be on deposit as inactive deposits. The resolution and notice of the date of the

meeting to designate the depository must be published in a newspaper once a week for two consecutive weeks. The bill exempts the State Board of Deposit from the newspaper publication requirement but retains the requirement for other governing boards.

Also, under current law, each eligible institution desiring to be a public depository of inactive deposits of the public moneys of the state or a subdivision must, not more than 30 days prior to the deadline, make application of this to the proper governing board. The bill specifies that this provision only applies to inactive public moneys of a subdivision. The bill allows eligible institutions to apply to the State Board of Deposit earlier; not more than 120 days prior to the selection date.

Under current law, the State Board of Deposit meets on the third Monday of March in every even-numbered year to designate public depositories for the public moneys of the state. Public depositories that are selected hold that designation for two years. The bill changes the state timeline for designating public depositories to a four-year cycle, starting in 2025. Accordingly, public depositories designated by the state will have a term of four years instead of two. The bill specifies that public depositories of state funds designated in 2022 will retain that designation for three years, instead of two, until the bill's new timeline is implemented in 2025. The bill retains the five-year cycle prescribed by existing law for governing boards other than the state.

The bill adds that, during the designation period, whenever a statute authorizes a new custodial fund to be created, the State Board of Deposit will meet to award the public moneys associated with the new custodial fund to a designated public depository. During a designation period, whenever a state agency requests to change its public depository, the State Board of Deposit must meet to consider the request.

Investment of interim funds

(R.C. 135.143)

Continuing law authorizes the Treasurer to invest all or any part of the interim moneys of the state in specified investments. One permissible investment is in written repurchase agreements, i.e., a form of short-term borrowing through which a dealer sells government securities to investors and then buys them back (usually the next day) at a slightly higher price. Currently, the Treasurer may invest in repurchase agreements with any eligible Ohio financial institution that is a member of the Federal Reserve System or federal home loan bank, or any registered U.S. government securities dealer.

The bill adds that the Treasurer may invest in repurchase agreements with any counterparty rated in one of the three highest categories by at least one nationally recognized standard rating service, or otherwise determined by the Treasurer to have adequate capital and liquidity. The bill specifies that, for purposes of repurchase agreement investments: (1) the Treasurer may only buy or sell securities that consist of debt interests currently authorized by law, (2) the securities must be issued by domestically organized entities, and (3) the investment is subject to the continuing law cap of 25% of the state's portfolio which may be invested in debt interests other than commercial paper.

Another category of permissible investment is certificates of deposit in eligible institutions applying for interim moneys. This category includes linked deposits. The bill expands this category to include savings accounts and deposit accounts and revises references of the eligible institutions applying for interim money in the form of linked deposits to conform to the changes made to the linked deposit programs under the bill and to include all linked deposit programs administered by the Treasurer of State except the newly created Homeownership Savings Linked Deposit Program (see "**Linked deposit programs**," below).

A third type of permissible investment under continuing law is investment in obligations issued by the state, a political subdivision, or certain nonprofit corporations or associations. To qualify, the nonprofit corporation or association must do business in Ohio, be rated in the four highest categories by at least one nationally recognized standard rating service, and be identified in an agreement that provides for both of the following: (1) the purchase of the obligations by the Treasurer, and (2) payment to the treasurer of a fee as consideration for the Treasurer's agreement to purchase the obligations. Under current law, such an agreement is permissible only if the obligations have a demand feature, by which the purchaser may require the Treasurer to purchase the obligations at par value plus accrued interest. The bill instead requires the obligation to include a conditional liquidity requirement.

Transferring funds from one classification to another

(R.C. 135.15)

Under continuing law, changed in part by the bill, whenever a governing board is of the opinion that the actual amount of active deposits is insufficient to meet anticipated demands, it must direct the Treasurer to sell interim money investments or transfer inactive deposits to active deposits in an amount sufficient to meet those demands. The governing board must designate the depositories from which the withdrawals will be made and the amount to be withdrawn from each such depository.

The bill modifies this process when state funds are involved. First, it allows the State Board of Deposit and the Treasurer of State to generate the needed funds by redeeming negotiated deposits. Second, the bill gives the Treasurer, rather than the Board, discretion in selecting the instruments to be sold or redeemed.

Linked deposit programs

(R.C. 135.61 to 135.65, 135.70 to 135.71, 1733.04, and 1733.24; Repeals R.C. 135.101 to 135.106 and 135.61 to 135.97)

The bill makes several changes to the linked deposit programs administered by the Treasurer. Under continuing law, for purposes of the linked deposit programs, the Treasurer invests state funds in certificates of deposits or other financial institution instruments at an eligible lending institution. The Treasurer agrees to accept a reduced rate-of-return on the investment, and, in turn, the eligible lending institution agrees to pass the savings on to approved borrowers in the form of an interest-rate reduction.

The bill eliminates the SaveNOW Linked Deposit Program, the Short-term Installment Loan Linked Deposit Program, Business Linked Deposit Program, Housing Linked Deposit

Program, and Assistive Technology Device Linked Deposit Program and consolidates the administrative requirements in the statutes governing the continuing Adoption Linked Deposit Program, Agricultural Linked Deposit Program, and Small Business Linked Deposit Program. The Treasurer will continue to administer the remaining linked deposit programs and the eligibility requirements remain the same for borrowers. The bill also creates two new linked deposit programs, the Home Improvement Linked Deposit Program, to provide reduced rate loans to homeowners to improve, maintain, or restore an existing home and the Homeownership Savings Linked Deposit Program which authorizes eligible participants to receive above-market interest rates on savings accounts for the purpose of making a down payment and paying closing costs associated with the future purchase of a primary residence.

Home Improvement Linked Deposit Program

To be eligible for the new Home Improvement Linked Deposit Program, the bill requires the individual borrower to be a resident of Ohio and the owner of an existing homestead located in Ohio. The loan must be used to improve or maintain that existing homestead. Homestead is defined in the bill as a dwelling owned and occupied in Ohio as a single-family residence by an individual, including a house, condo, unit in multi-unit dwelling, a manufactured home, or any other building with a residential classification, as allowed by the Treasurer. The eligible borrower must certify on the loan application that the reduced rate loan will be used exclusively to improve, maintain, or restore the eligible borrower's existing homestead and the borrower must include official estimates or receipts for the total amount of the loan.

Homeownership Savings Linked Deposit Program

The bill creates the Homeownership Savings Linked Deposit Program to provide a "premium savings rate" accounts at "eligible savings institutions" for "eligible participants" to be used for "eligible home costs" associated with the future purchase of a home. Under the bill, an "eligible participant" means an individual resident of Ohio who agrees to use amounts deposited to the savings account for "eligible home costs," i.e., the down payment and closing costs associated with the purchase of a home. Account holders may also transfer funds from one homeownership savings linked deposit account to another homeownership savings linked deposit account at a different eligible savings institution.

Under the bill, the Treasurer must establish and adopt rules to administer the program. Under the program, the Treasurer is authorized to invest state funds in certificates of deposit or other financial instruments with an eligible savings institution and, in doing so, agree to receive a reduced rate of return on the investment. The eligible savings institution then must agree to pass on its interest rate savings to eligible participants in the form of a higher interest rate, referred to by the bill as a "premium savings rate," on the Homeownership Savings Linked Deposit Accounts established at the savings institution by the participants.

Eligible savings institutions and eligible participants

The bill defines "eligible savings institution" as a financial institution that is eligible to offer accounts to Ohio residents for the purpose of saving for eligible home costs, agrees to participate in the program, and is either a public depository eligible to accept state funds under the Uniform Depository Act (banks, federal savings associations, savings and loan associations, or savings

banks) or a credit union. The bill specifies that the savings institution must comply with Ohio's Uniform Depository Act. Once the savings institution is eligible for the program, it can accept and review applications for homeownership savings linked deposit accounts from eligible participants.

An eligible participant must certify on the application that they reside in Ohio, that the funds in the account will be used exclusively for eligible home costs, and that they agree to hold only one account under the program per program period. The program period is five years from the date the participant opens an account with the savings institution. A person who makes a false statement on the application is guilty of falsification, a first degree misdemeanor.[275]

The savings institution may then forward to the Treasurer a homeownership savings linked deposit package, which includes a certification by the savings institution that each applicant included in the package is eligible to participate in the program. The bill prohibits any fees charged to any party for the preparation, processing, or reporting of any application to a savings institution related to participation in the program.

Accepting a linked deposit package

The Treasurer may accept or reject a homeownership savings linked deposit package, or any portion of it, based on the Treasurer's evaluation of the amount of state funds to be deposited with the savings institution. Under continuing law, the Treasurer can invest in linked deposits provided that, at the time of placement, the combined amount of the investments in all the linked deposit programs are not more than 12% of the state's total average investment portfolio. If the Treasurer accepts the homeownership savings linked deposit package, or any portion of it, the Treasurer may place, purchase, or designate a linked deposit with the savings institution at the discount interest rate, and in accordance with the deposit agreement and any additional procedures established by the Treasurer.

Deposit agreement

The savings institution and the Treasurer must enter into a deposit agreement, which includes the requirements necessary to carry out the purposes of the program, including details relating to the maturity period of the linked deposit (which cannot exceed five years), the times the interest must be paid, and any other information, terms, or conditions the Treasurer requires.

Premium savings rate account

Upon the Treasurer's placement, purchase, or designation of the linked deposit, the savings institution must offer and place the premium savings rate on the participant's account. Unless otherwise specified in the deposit agreement, the premium savings rate must be at a rate equal to or exceeding the present savings rate applicable to each specific participant in the accepted package plus the difference between the prevailing interest rate and the discount interest rate at which the linked deposits were placed, made, or designated. The rate will only apply to the account for the duration of the program period as designated in the agreement. After that, the savings account is no longer a part of the program and the savings institution can

[275] R.C. 2921.13, not in the bill.

apply a market interest rate to the savings account. The bill does not prohibit participants from reapplying for the program at the same savings institution or another savings institution, so long as the participant only has one account enrolled in the program at any time.

At the conclusion of the program period and at the time of maturity, the savings institution must provide a certificate of compliance to the Treasurer in the form and manner prescribed by the Treasurer and must return the amount of the corresponding linked deposit to the Treasurer in a timely manner.

Early withdrawal

If a savings institution changes the terms of a participant's account, the amount of the linked deposit associated with the account plus applicable interest must be returned to the Treasurer in a timely manner, and without early withdrawal penalties.

Legal immunity

The bill specifies that neither the state nor the Treasurer are liable to any savings institution or any eligible participant for the terms associated with a homeownership savings linked deposit account. Any misuse or misconduct on the part of a savings institution or an eligible participant does not affect the deposit agreement between the savings institution and the Treasurer.

Report

The bill requires the Treasurer and the Tax Commissioner to issue a report regarding the efficacy of the Homeownership Savings Linked Deposit Program no later than January 31, 2027. The report must contain information on the number of accounts created, the number of participating savings institutions, the total amount contributed into the accounts, the total tax deductions claimed for the accounts, the average yield on the accounts, and any other information the Treasurer and Commissioner deem relevant. The report must be delivered to the Governor, the Speaker of the House, and the Senate President.

Eligible lending institutions

Under continuing law, a financial institution that would like to participate in a link deposit program must be a public depository or otherwise meet eligibility criteria under the program. The bill expands eligibility by authorizing credit unions to be eligible lending institutions under all continuing linked deposit programs and the new Home Improvement Linked Deposit Program and the Homeownership Savings Linked Deposit Program. Under current law, credit unions are eligible financial institutions under the Adoption Linked Deposit Program and the Agricultural Linked Deposit Program, but not the Small Business Linked Deposit Program.

Eliminated reporting requirements

The bill eliminates several reporting requirements under the continued linked deposit programs, including all of the following:

- A requirement, under the Small Business Linked Deposit Program, that the Treasurer and the Department of Development notify each other at least quarterly of the names of the businesses receiving financial assistance from their respective programs.

- A requirement, under the Small Business Linked Deposit Program, that the Treasurer annually report on the program for the preceding calendar year to the Governor, the Speaker of the House of Representatives, and the President of the Senate.
- A similar annual report required for the Adoption Linked Deposit Program.

Ohio Pooled Collateral Program

(R.C. 135.182)

The bill specifies for purposes of the Ohio Pooled Collateral Program, metropolitan housing authority moneys are not considered public deposits and, therefore, are not subject to the program's provisions. Under continuing law, the Ohio Pooled Collateral Program allows a public depository to secure all of its public deposits collectively by pledging a single pool of collateral to the Treasurer of State. Otherwise the depository must secure each public deposit separately, at 105% of par value.

Investment of the Petroleum Underground Storage Tank Release Compensation Board funds

(R.C. 3737.945)

The Ohio Petroleum Underground Storage Tank Release Compensation Board consists of government and industry representatives and has the primary responsibility of administering the Petroleum Underground Storage Tank Financial Assurance Fund. The fund provides a mechanism for all underground storage owners and operators to meet U.S. Environmental Protection Agency regulations requiring them to demonstrate financial capability to pay for potential damages caused by releases from their underground storage tanks. Current law requires that moneys in the funds of the Board, in excess of current needs, can be invested by the Board in notes, bonds, or other obligations of the U.S., or of Ohio, or any political subdivision. The bill adds that investments can be made with the investment pool managed and administered by the Treasurer.

Social Security for employees of political subdivisions

(Repealed R.C. Chapter 144)

With few exceptions, Ohio public employees do not participate in Social Security for their government service. The federal Social Security Act did not allow for coverage of state and local government employees until 1950, when Congress amended the Act to allow a state to elect coverage for its government employees through an agreement with the federal government. Ohio's agreement exempts members of the state's retirement systems and the Cincinnati Retirement System from contributing to Social Security for government service covered by those system.[276] This agreement is known as Ohio's "Section 218 Agreement."

[276] 42 U.S.C. 418 and Social Security and Government Employers (PDF), which may be accessed by conducting a keyword "Publication 963" search on the Internal Revenue Service (IRS) website: irs.gov.

The bill repeals the ability for certain political subdivisions to elect Social Security coverage. The following subdivisions may make this election:

- A city that has its own retirement system and includes any municipal university belonging to the city (currently, only Cincinnati has its own retirement system); or
- A county-related corporation (i.e., a nonprofit corporation that carries out county-related recreational functions).

To make the election, such a city or county-related corporation must first submit a plan for approval by the state. Payment of contributions are made from the Social Security Contribution Fund from payments made by such a city or county-related corporation to the fund.

Ohio's Section 218 Agreement provides Social Security coverage for three groups of local employees: certain Cincinnati employees who are members of the Teachers Insurance and Annuity Association, Lucas County Recreation Inc., and Toledo Mud Hens Baseball Club, Inc.[277]It appears these groups are covered by the process eliminated by the bill to obtain Social Security coverage, but it is not clear whether any of these groups are currently using the process.[278]

Board of Commissioners of the Sinking Fund

(R.C. 126.06, 127.14, 129.06, and 129.09; Repealed R.C. 129.02, 129.03, 129.08, 129.06 to 129.10, 129.18 to 129.20, and 129.72 to 129.76)

The bill repeals various provisions regarding the administration of state-issued bonds by the Board of Commissioners of the Sinking Fund. The bill eliminates the public improvements bond retirement fund and corresponding procedures for the payment of principal and interest on constitutionally authorized bonds for capital improvements. The bill also eliminates many of the procedures for the payment of principal and interest on bonded debt, but does not change the requirement to pay on the bonded debt. For example, the bill eliminates the requirement that, when paid, the bonds or certificates of the bonded debt must (1) be canceled, (2) marked with the word "paid" on the face of the certificates and with the date and signature of the Board, and (3) filed in the office of the Board. The bill also eliminates the requirement that, when interest is paid on the bonded debt to the owner or the owner's agent, attorney, or legal representative, written proof of the authority of the agent, attorney, or legal representative must be presented and filed with the Board.

The bill repeals the following requirements:

- That the Board's office be located in Columbus and be equipped with fireproof vaults and safes;
- That the secretary of the Board keep a journal of proceedings, orders, and requisitions of the Board, a register of the certificates and bonded debt of the state and transfers of such certificates, and all papers issued by the Board;

[277] Ohio Section 218 agreement.

[278] See Ohio Attorney General Opinions No. 72-019.

- That the Board apply surplus funds to other state debt on terms the Board deems to be in the best interests of the state or, alternatively, invest the funds in debt certificates;
- That the Board arrange with a bank to pay annual interest on bonded debt and that the Board publish notice of the place of payment in a newspaper of general circulation in Columbus;
- That the Board keep stock ledgers for the accounts of bonded debt;
- That the Board keep accounts of the amount to the credit of each class or portion of the irredeemable state debt;
- That transfers of certificates of bonded debt be made in the Board's office by the owner of the debt;
- Procedures for renewal of certificates of lost or destroyed certificates of bonded debt;
- Procedures for keeping transfer books and payroll and for making payment of interest on state debt;
- That the Board must cover the payment of bonded debt and report a detailed statement of such payments to the Governor;
- Sale or disposal requirements for new certificates, including the minimum sale or disposal price, the maximum interest rate, and the apportionment of certificates among multiple winner bidders;
- Modification of tax levies for public improvement and other obligations.

Ohio coupon bond and unclaimed funds

(R.C. 169.053)

The bill deems certain Ohio coupon bonds held by a person, business, or the government as abandoned and as unclaimed funds subject to Ohio's Unclaimed Funds Law in a manner parallel to U.S. savings bonds. Under Ohio's Unclaimed Funds Law, the Division of Unclaimed Funds within the Department of Commerce is responsible for the safekeeping and return of moneys designated as unclaimed.

The bill defines a "state of Ohio coupon bond" as tangible or intangible property, in the form of a coupon bond and its related interest coupons issued by this state prior to 1985 and to which all of the following apply:

1. It has matured, been called and defeased, or otherwise become due and payable.

2. Either the Treasurer or the trustee bank is the paying agent.

3. The owner has neither registered the bond or interest coupon nor claimed the bond's principal or interest.

In order for the coupon bond or interest coupon to qualify as unclaimed funds, the bill requires that the owner be unknown to the Treasurer and that the coupon bond's principal or interest to have remained unclaimed and unredeemed for three years after final maturity, call

date, interest payment date, or other payment date. The bill specifies that, after being deemed abandoned and considered unclaimed funds for a period of three years, coupon bonds escheat to the state. While most other unclaimed funds are held for safekeeping with the Division of Unclaimed Funds indefinitely until an owner comes forward to claim them, this escheating process parallels the procedure for U.S. savings bonds.

The bill establishes procedures that must be taken by the Director of Commerce prior to escheatment of coupon bonds. If no claim is filed on the bond within three years, 180 days of abandonment, the Director must commence a civil action for a determination that the bond escheats to the state. However, the Director can postpone the action until a sufficient number of bonds have accumulated to justify the expense of the proceedings. Prior to the civil action, there must be notice provided by publication. If no person files a claim or appears at the hearing to substantiate a claim, or if the court determines that a claimant is not entitled to the property, and if the court is satisfied by the evidence that the Director has substantially complied with the laws of this state, the court must enter a judgment that the bonds have escheated to the state.

After redeeming a coupon bond that escheats to the state, the Director is required to pay all costs incident to the collection and recovery from the proceeds and disburse the remainder in the manner provided under the Unclaimed Funds Law. If any person claiming a coupon bond that has escheated to the state, or for the proceeds from the bond, may file a claim with the Director. The Director has discretion to pay the claim less any expenses and costs incurred by the state in securing full title and ownership of the property by escheat. If payment has been made to a claimant, no action thereafter may be maintained by any other claimant against the state or any officer of the state, for or on account of the payment of the claim.

Trust companies and family trust companies

(R.C. 1111.04 and 1112.12)

Under current law, changed in part by the bill, prior to soliciting, engaging, or transacting in trust business in Ohio, a trust company or a family trust company must pledge to the Treasurer authorized interest bearing securities valued at $100,000. The bill instead requires that the securities be pledged to the Superintendent of Financial Institutions who is required, under continuing law, to review and approve the securities.

Under current law, changed by the bill, the Treasurer must permit the trust company or family trust company, with approval of the Superintendent of Financial Institutions, to substitute securities pledged or to withdraw securities. Similarly, under current law, the Treasurer must permit the trust company or family trust company to collect interest on paid securities. The bill eliminates the Treasurer's role in these processes and instead requires the Superintendent to permit substitution, withdrawal, and collection of interest on such securities.

Insurance companies

Title guarantee and trust companies

(R.C. 1735.03)

Under existing law, changed in part by the bill, a title guarantee and trust company is prohibited from doing business until it has deposited with the Treasurer $50,000 in permitted securities. The Treasurer must hold the securities as securities for the faithful performance of all guarantees entered into and all trusts accepted by the company, and as long as it is solvent, the Treasurer must allow the company to collect the interest on the securities. The Treasurer must also surrender any securities pledged in excess of what is required. The bill transfers the responsibility of managing the securities deposited by the title guarantee and trust company to the Superintendent of Insurance.

Insurance company securities

(R.C. 3903.73 and 3925.26)

Similarly, under existing law, changed in part by the bill, all securities deposited by insurance companies with the Superintendent of Insurance must be deposited by the Superintendent with the Treasurer, and the Treasurer cannot deliver the securities or coupons, except with the written order of the Superintendent. The bill removes the Treasurer's obligations and gives the Superintendent full responsibility to take the security deposits.

Also, when an accident insurance company wants to do business in another state, it must make a deposit of securities with the Treasurer and the Treasurer must issue a certificate to the Superintendent. The bill removes the Treasurer and instead requires the securities to be placed with the Superintendent.

License fees for resident and nonresident surplus lines brokers

(R.C. 3905.32)

Existing law requires that each license fee for the initial license of a resident and nonresident surplus line broker be paid to the Superintendent of Insurance and that the renewal fee be paid to the Treasurer. The bill instead requires both the initial license fee and renewal fee be paid to the Superintendent.

Collateral from certain reimbursing employers

(R.C. 4141.241)

Current law requires a nonprofit employer wishing to be a reimbursing employer under the Unemployment Compensation Law to submit collateral to the Director, which may be a surety bond approved by the Director or other forms of collateral security approved by the Director. The bill eliminates the option to deposit collateral securities in lieu of a surety bond.

Ohio's unemployment system has two types of employers: contributory employers and reimbursing employers. Employers who are assigned a contribution rate and make contributions to the Unemployment Compensation Fund are contributory employers. Most private sector

employers are contributory employers. Certain employers are allowed to reimburse the fund after benefits are paid; they are known as "reimbursing employers."[279]

Community school closing audit bonds and guarantees

(R.C. 3314.50)

The bill removes certain provisions of law related to the bond, cash deposit, or written guarantee required for a community school closing audit. Current law prohibits a community school from opening for operation in any school year unless the governing authority of the school has posted a bond in the amount of $50,000 with the Auditor of State. In lieu of a bond, a community school governing authority may deposit with the Auditor $50,000 cash as a guarantee of payment. The bond or cash guarantee must be used, in the event the school closes, to pay the Auditor any moneys owed by the school for the costs of any audits conducted by the Auditor or a public accountant. Community school entities also may provide a written guarantee to pay for the costs of the audit, instead of posting a bond or cash guarantee.

First, the bill removes the option for a community school to pay a $50,000 cash deposit instead of posting a bond, but it retains the written guarantee.

Next, it removes the ability of a governing authority of a community school to provide a written guarantee of payment in lieu of posting a bond. However, a school sponsor or operator still may provide a written guarantee in lieu of a bond.

Further, the bill removes the requirement that after a bond is filed, (1) the Auditor deliver the bond to the Treasurer, and (2) the Treasurer must hold it in trust. The bill also removes the Treasurer's responsibility to safekeep all surety bonds filed or cash deposited.

Finally, the bill requires the Attorney General, instead of the Treasurer, to assess the bond of the costs of a closing audit. Under continuing law, when the Auditor finds that a community school has closed and cannot pay for the costs of audits, the Auditor must declare the surety bond or cash deposit forfeited. The Auditor must certify the amount of forfeiture to the Treasurer, who must pay money from the named surety or from the school's cash deposit as needed to reimburse the Auditor or public accountant for costs incurred in conducting audits of the school.

Administration of state taxes

Electronic tax payments

(R.C. 131.01, 5727.25, 5727.31, 5727.311, 5727.42, 5727.47, 5727.53, 5727.81, 5727.811, 5727.82, 5727.83, 5733.022, 5735.062, 5739.031, 5739.032, 5739.07, 5743.05, 5743.051, 5745.03, 5745.04, 5745.041, 5747.059, 5747.07, 5747.072, 5747.42, 5747.44, and 5747.451)

Many state taxpayers are either allowed or required to pay their taxes electronically. Under current law, electronic payments for certain taxes are sent to the Treasurer, while payments for other taxes are sent to the Tax Commissioner. The bill modifies this protocol, so

[279] R.C. 4141.01(L), not in the bill.

that nearly all state tax payments – electronic and nonelectronic – will be made to the Tax Commissioner.

Current law also generally requires that, when a taxpayer is required to pay a state tax electronically, the payment must be send by "electronic funds transfer." The bill instead requires that taxpayers make such payments "electronically." One statute generally applicable to the Treasurer defines an electronic funds transfer as the electronic movement of funds via automated clearing house or wire transfer. The term "electronically" is not defined, but likely encompasses a broader range of payments.

Related tax changes

(R.C. 125.30, 718.01, 5725.17, 5725.22, 5727.25, 5727.311, 5727.47, 5727.81, 5727.811, 5727.82, 5727.83, 5733.022, 5735.03, 5739.032, 5743.15, 5745.01, 5747.07, 5747.072, 5747.42, and 5747.44)

The bill also makes the following changes to the administration of state taxes:

- Removes a requirement that the Tax Commissioner maintain a list of taxpayers that are required to pay certain taxes electronically to the Treasurer.
- Requires that, after county auditors collect cigarette license application fees from retail and wholesale dealers, the portion of those fees that is dedicated to the Cigarette Tax Enforcement Fund should be sent to the Tax Commissioner, rather than the Treasurer of State.
- Provides that, when a motor fuel dealer makes a cash deposit to secure their payment of motor fuel taxes, the dealer must send the payment to the Tax Commissioner, rather than the Treasurer of State. Under continuing law, motor fuel dealers are required to either file a surety bond or make a cash deposit that will be held in trust by the state for the payment of taxes due.
- Makes changes to the administration of the domestic insurance company premiums tax.
- Repeals obsolete provisions.

Motor vehicles and watercraft

Certificate of title taxes

(R.C. 1548.06 and 4505.06)

The bill transfers from the Treasurer to the Registrar of Motor Vehicles the responsibility to receive sales and use taxes from the sale of motor vehicles, off-highway motorcycles, and all-purpose vehicles that are collected by each clerk of courts. For purposes of receipt of the taxes, the Registrar must date stamp the tax remittance report and may require clerks to submit the taxes and remittance reports electronically. After receiving the taxes and date stamping the report, the Registrar must forward the taxes to the Tax Commissioner. Under current law, the Treasurer receives those tax collections and performs all duties related to their remittance.

The bill makes similar changes with respect to sales and use tax collections for watercraft and outboard motors. However, it transfers the responsibilities from the Treasurer to the Tax

Commissioner, thus eliminating the need to date stamp and forward a tax remittance report. It also allows the Commissioner to receive the taxes and reports electronically.

Cash in lieu of proof of financial responsibility

(R.C. 4509.62, 4509.63, 4509.65, and 4509.67)

The bill transfers the responsibility for receiving monetary deposits to maintain financial responsibility for a motor vehicle from the Treasurer to the Registrar. Under current law, a person may deposit $30,000 (in lieu of obtaining auto insurance) with the Treasurer, in the form of cash or government bonds (U.S., Ohio, or local government), for the purpose of maintaining proof of financial responsibility for their motor vehicle. The Treasurer then must issue the depositor a certificate of deposit that the Registrar can accept in lieu of the requirement to maintain auto insurance. However, the Treasurer cannot accept a deposit unless the depositor also presents evidence that there are no outstanding judgments against the depositor in the depositor's county of residence.

The bill retains the option for a person to deposit cash, but eliminates the option to deposit government bonds for purposes of maintaining proof of financial responsibility. Additionally, it eliminates the requirement that a certificate for the deposit be issued to the depositor. The Registrar, like the Treasurer under current law, is prohibited from accepting the deposit unless it is accompanied by evidence that the depositor has no outstanding judgments. The bill also establishes the Financial Responsibility Custodial Fund in which the money received by the Registrar must be deposited. The Registrar must hold the money to satisfy any execution of a judgment against the depositor.

Finally, the bill makes conforming changes to allow the Registrar, rather than the Treasurer, to return the deposit in certain circumstances (such as when the depositor has obtained auto insurance or has died). Under current law, the Registrar must direct the Treasurer to return the money (or bond).

ODNR surety requirements

(R.C. 1501.04, 1501.10, 1503.05, 1509.07, 1509.225, 1514.04, 1514.05, and 1521.061)

The bill creates the Performance Cash Bond Refunds Fund that consists of money received by the Department of Natural Resources (ODNR) from other entities as performance security. Once an entity completes work or satisfies the terms for which the performance cash bond was required, the money is refunded to the entity. However, if the performance cash bond is forfeited, the money must be transferred to the appropriate fund within the state treasury.

The bill also makes various changes related to ODNR's surety requirements, most notably eliminating the Treasurer of State's involvement in the safekeeping of deposited sureties. Those changes are described below in the table.

ODNR surety changes		
Person or entity to deposit surety	**Surety allowed under current law in lieu of bond**	**Surety changes under the bill**
A lessee that enters into a lease of a public service facility in a state park must furnish surety to ensure that the lessee performs fully all terms of the lease.	Irrevocable letter of credit to the state, cash, or negotiable certificates of deposit of any bank or savings and loan association organized or transacting business in the U.S., all deposited with the Treasurer.	Requires any cash surety to be credited to the Performance Cash Bond Refunds Fund. Also requires the ODNR Director to receive deposits of cash or certificates of deposits from those lessees instead of the Treasurer.
A person that bids on a timber sale agreement must file surety in accordance with the terms of a timber sale agreement entered into with the Chief of the Division of Forestry.	Cash, U.S. government securities, negotiable certificates of deposit, or irrevocable letters of credit issued by any bank or organized or transacting business in Ohio, all held by the Treasurer for safekeeping.	Eliminates the option for a bidder to use U.S. government securities as surety. Requires any cash surety to be credited to the Performance Cash Bond Refunds Fund. Requires the Chief to receive all other surety from those bidders for safekeeping instead of the Treasurer.
An oil or gas well owner must file surety with the Chief of Oil and Gas Resources Management prior to obtaining a permit to operate or produce from a well.	Cash, negotiable certificates of deposit, or irrevocable letters of credit, issued by any bank organized or transacting business in Ohio, all of which are given to the Chief who delivers them to the Treasurer to hold in trust.	Requires any cash surety to be credited to the Performance Cash Bond Refunds Fund. Requires the Chief to hold the surety in trust instead of the Treasurer.
A brine transporter must file surety with the Chief of Oil and Gas Resources Management prior to obtaining a registration certificate to provide compensation for damage and injury resulting from transporters' violations of transporter regulations.	Cash or negotiable certificates of deposit issued by any bank organized or transacting business in Ohio, both of which are given to the Chief who delivers them to the Treasurer to hold in trust.	Requires any cash surety to be credited to the Performance Cash Bond Refunds Fund. Requires the Chief to hold the surety in trust instead of the Treasurer.
An applicant for a surface or in-stream mining permit must file surety with the Chief of the	Cash, irrevocable letter of credit, or certificates of deposit, all of which are given to the Chief who	Requires any cash surety to be credited to the Performance Cash Bond Refunds Fund.

ODNR surety changes		
Person or entity to deposit surety	**Surety allowed under current law in lieu of bond**	**Surety changes under the bill**
Division of Mineral Resources Management.	delivers them to the Treasurer to hold in trust.	Requires the Chief to hold the surety in trust instead of the Treasurer. Accordingly, requires the Chief, instead of the Treasurer, to release the surety when mining reclamation is completed.
An applicant for a permit to construct a dam or levee must file surety with the Chief of the Division of Water Resources.	Cash, U.S. government securities, negotiable certificates of deposit issued by any bank organized or transacting business in Ohio, all of which are given to the Chief who delivers them to the Treasurer to hold in trust.	Eliminates the option for an applicant to use U.S. government securities as surety. Requires any cash surety to be credited to the Performance Cash Bond Refunds Fund. Requires the Chief to hold the surety in trust instead of the Treasurer.

Technical changes

(R.C. 135.01, 135.08, 135.14, 135.142, 135.143, 135.31, 135.35, 135.45, 135.46, 1112.12, 1315.54, 1345.01, 2109.37, 2109.372, 2109.44, 3916.01, 4710.03, and 4763.13)

The bill replaces the term "standard rating service" in the entire Revised Code to the more commonly used term, "statistical rating organization."

The bill removes all references to the federal "Office of Thrift Supervision," which no longer exists, and likewise removes a reference to the Ohio Building Authority, which no longer exists.

BUREAU OF WORKERS COMPENSATION

Workers' compensation coverage for certain prison laborers

- Eliminates a requirement that inmates participating in the Federal Prison Industries Enhancement Certification Program must be covered by a disability insurance policy to provide benefits for loss of earning capacity due to an injury and for medical treatment of the injury following the inmate's release from prison.
- Allows inmates participating in the program to be covered as employees of the Department of Rehabilitation and Correction (DRC), or a private party participating in the program under certain circumstances, for purposes of the Workers' Compensation Law.
- Prohibits a private party from participating in an employer model enterprise under the program unless the private party meets certain requirements and is approved by the DRC Director.
- Requires an inmate to voluntarily consent to participate in the program before participating.
- Suspends an award of compensation or benefits under Workers' Compensation while a claimant is imprisoned, similar to current law workers' compensation claims.
- Requires an inmate who is injured or who contracts an occupational disease arising out of participation in authorized work activity in the program to receive medical treatment and medical determinations for purposes of Workers' Compensation from DRC's medical providers while in DRC custody.
- Limits medical determinations made by DRC's providers to initial claim allowances and requests for additional conditions.

Employers providing work-based learning programs

- Makes permanent a pilot program set to expire March 23, 2024, prohibiting the Administrator from charging an employer's experience for a workers' compensation claim if the employer provides work-based learning experiences for career-technical education program students and the claim is based on a student's injury, occupational disease, or death.
- Exempts the program's rules from review by the Joint Committee on Agency Rule Review, similar to other rules related to ratemaking under continuing law.

Workers' compensation coverage for certain prison laborers

(R.C. 5145.163)

The bill eliminates the requirement that inmates participating in the Federal Prison Industries Enhancement Certification Program must be covered by a disability insurance policy to provide benefits for loss of earning capacity due to an injury and for medical treatment of the

injury following the inmate's release from prison. Instead, these inmates may be covered as employees under the Workers' Compensation Law. The Federal Prison Industries Enhancement Certification Program is a federal program that allows prison industry enterprises under the program to be exempt from federal restrictions on prisoner-made goods in interstate commerce. Federal law prohibits program participants from denying workers' compensation coverage to inmates who work under the program.[280]

Under continuing law, there are two enterprise models under the program: (1) customer model enterprises and (2) employer model enterprises. In a customer model enterprise, a private party participates in the enterprise only as a purchaser of goods. In an employer model enterprise, a private party participates in the enterprise as an operator of the enterprise.

If an inmate works in a customer model enterprise under the program, the bill allows DRC to be the inmate's employer for workers' compensation purposes. If the inmate works in an employer model enterprise under the program, the bill allows the private participant to be the inmate's employer for workers' compensation purposes. The bill specifies that inmates are not employees of DRC or a private participant in an enterprise under the program for any other purpose.

Under the Workers' Compensation Law, every employee who is injured or who contracts an occupational disease arising out of the employee's employment, and the dependents of each employee who dies as a result of such an injury or occupational disease, is generally entitled to receive compensation for loss sustained on account of the injury, occupational disease, or death, and the medical, nurse, and hospital services and medicines, and funeral expenses in the case of death. [281] Compensation and benefits are paid either directly from the employee's self-insuring employer or from the State Insurance Fund in the case of an employer who pays premiums into the fund.

Administration of the program

Under the bill, to participate in an employer model enterprise under the program a private party must be approved by the DRC Director. The Director may approve a private party to participate in an employer model enterprise only if the private party meets the following requirements:

- The private party provides proof of workers' compensation coverage;
- The private party carries liability insurance in an amount the DRC Director determines to be sufficient;
- The private party does not have an unresolved finding for recovery by the Auditor of State.

The bill requires an inmate to voluntarily consent to participate in the program before participating. This consent disclaims the inmate's ability to choose a medical provider while the

[280] 18 U.S.C. 1761.

[281] R.C. 4123.54, not in the bill.

inmate is imprisoned and subjects the inmate to the bill's requirements related to workers' compensation coverage and the program.

Workers' compensation while imprisoned

If an inmate is injured or contracts an occupational disease arising out of participation in authorized work activity in the program, the bill allows the inmate to file a workers' compensation claim while the inmate is in DRC custody. Consistent with continuing law prohibiting payment of compensation or benefits while a claimant is confined in correctional institution or county jail in lieu of a correctional institution, compensation or benefits under the Workers' Compensation Law cannot be paid during the period of a claimant's confinement in any correctional institution or county jail.[282] The bill requires any remaining amount of an award of compensation or benefits to be paid to a claimant after the claimant is released from imprisonment. However, compensation and benefits are suspended if a claimant is reimprisoned and resume on the claimant's release.

If an inmate is killed or dies as the result of an occupational disease contracted in the course of participation in authorized work activity in the program, the inmate's dependents may file a claim.

Medical treatment and determinations

If an inmate in DRC custody files a claim, the bill requires the inmate to receive medical treatment and medical determinations for purposes of the Workers' Compensation Law from DRC's medical providers. The bill limits medical determinations made by DRC's providers to initial claim allowances and requests for additional conditions.

An inmate may request a review by DRC's chief medical officer, and in the event of an appeal, a medical evaluation from a medical practitioner affiliated within DRC's network of third-party medical contractors or a medical practitioner in a managed care organization located in Franklin County. A managed care organization manages the medical portion of a workers' compensation claim for claimants who are not imprisoned under continuing law.[283]

Employers providing work-based learning program

(R.C. 111.15 and 119.01; Sections 107.10 and 107.11, codifying Section 3 of S.B. 166 of the 134th G.A. as R.C. 4123.345)

The bill makes the Employers Providing Work-Based Learning Pilot Program a permanent program. Currently, the two-year pilot program expires March 23, 2024. The program requires the Administrator, subject to the approval of the Bureau of Workers' Compensation Board of Directors, to adopt a rule prohibiting the Administrator from charging any amount with respect to a claim for compensation or benefits under the Workers' Compensation Law to an employer's experience if both of the following apply:

[282] R.C. 4123.54, not in the bill.

[283] R.C. 4121.44, not in the bill.

- The employer provides a work-based learning experience for students enrolled in an approved career-technical education program;
- The claim is based on a student's injury, occupational disease, or death sustained in the course of and arising out of the student's participation in the employer's work-based learning experience.

Under continuing law, Ohio's Minor Labor Law requirements (concerning minor work hours and activities in which a minor may engage) does not apply to a student participating in the program.

An employer's experience in being responsible for its employees' workers' compensation claims may be used in calculating the employer's workers' compensation premiums. Thus, not charging a claim to the employer's experience may result in a mitigation of an increase in the employer's premiums as a result of the claim.[284]

The bill exempts the program's rules from legislative review by the Joint Committee on Agency Rule Review (JCARR). Under continuing law, rules relating to ratemaking are exempt from JCARR review.

[284] See R.C. 4123.29, 4123.34, and 4123.39, not in the bill, and O.A.C. 4123-17-03.

DEPARTMENT OF YOUTH SERVICES

- Allows the Director of Youth Services to request the prosecuting attorney or juvenile court to file a motion with the juvenile court to modify where a person age 18 or older and in the custody of the Department of Youth Services (DYS) is being held, if the person is serving a sentence imposed for being a delinquent child.
- Requires the motion to state that there is probable cause to believe that either of the following misconduct has occurred and that at least one incident of misconduct of that nature occurred after the person turned 18:
  - The person committed an act that is a violation of the rules of the institution and that could be charged as a felony, or the person committed two or more acts that are violations of the rules of the institution and that could be charged as a first degree misdemeanor offense of violence.
  - The person engaged in conduct that creates a substantial risk to the safety or security of the institution or the institution's staff, the community, or the victim.
- Allows the juvenile court to modify the place at which the person is held from a DYS facility to a Department of Rehabilitation and Correction facility if the juvenile court finds the above by clear and convincing evidence.

Modify place a person is held

(R.C. 2152.26 and 2152.261)

Motion to modify

The bill allows the DYS Director to request the prosecuting attorney of the county in which the juvenile court imposed a sentence for being a delinquent child to file a motion with that juvenile court to modify the place at which the person is held if all of the following apply to the person:

- The person is at least 18 years old.
- The person is in the institutional custody, or an escapee from the custody, of DYS.
- The person is serving a sentence imposed for being a delinquent child.

The bill requires the motion to state that there is reasonable cause to believe that either of the following misconduct has occurred and that at least one incident of misconduct of that nature occurred after the person reached 18 years old:

- The person committed an act that is a violation of the rules of the institution and that could be charged as a felony, or the person committed two or more acts that are violations of the rules of the institution and that could be charged as a first degree misdemeanor offense of violence.

- The person engaged in conduct that creates a substantial risk to the safety or security of the institution or the institution's staff, the community, or the victim.

If the prosecuting attorney declines a request to file a motion that was made by DYS or fails to act on a request made by DYS within five days of the request to file a motion, the bill allows DYS to notify the juvenile court of the above circumstances. Upon receiving the notice, the juvenile court may seek to modify the place the person is held upon its own motion.

Hearing

Within 20 days of the filing of the motion to modify, the bill requires the juvenile court to hold a hearing to determine whether to modify the place at which a person is held. At the hearing, the person who is the subject of the motion has the right to be present, to receive notice of the grounds upon which the place at which the person to be held is to be modified, to be represented by counsel, to be advised on the procedures and protections set forth in the Rules of Criminal Procedure, and to present evidence on the person's own behalf, including evidence that the person has a mental illness or intellectual disability. If the person presents evidence that the person has a mental illness or intellectual disability, the juvenile court must consider that evidence in determining whether to modify the place at which the person is held. The person may not waive the right to counsel. The hearing must be open to the public.

Order to modify

The bill allows the juvenile court to modify the place at which the person is held if the juvenile court finds all of the following on the record by clear and convincing evidence:

- The person is at least 18 years old and has been admitted to a DYS facility or criminal charges are pending against the person.
- The person engaged in the misconduct described above.

If a juvenile court issues an order modifying the place at which the person is held, the bill requires DYS to transfer the person to the Department of Rehabilitation and Correction (DRC). The juvenile court must state in its order the total number of days that the person has been held in detention or in a facility operated by, or under contract with, DYS. The time a person must serve on the sentence imposed on the person for being a delinquent child must be reduced by the total number of days the person is held in a juvenile facility or detention after the order is issued and before the person is transferred to the custody of DRC.

Community control and post-release control

The bill specifies that any community control imposed as a part of the adult sentence or as a condition of judicial release from prison must be under the supervision of the entity that provides adult probation services in the county. Any post-release control imposed after the offender otherwise is released from prison must be supervised by the Adult Parole Authority.

LOCAL GOVERNMENT

Local competitive bidding thresholds

- Increases statutory competitive bidding thresholds to $75,000 for counties, townships, municipal corporations, libraries, fire and ambulance districts, regional airport authorities, and regional water and sewer districts, and subsequently increases the amount annually by 3%.
- Prohibits subdividing projects or purchases to avoid competitive bidding requirements.

County road improvements and public improvement projects

- Increases (from 10% to 20%) the allowable difference between a county road improvement project's estimate and the project's contract price.
- Increases (from 10% to 20%) the allowable difference between a public improvement project's estimate and the project's contract price.

County credit cards

- Requires each county to adopt a policy regarding the use of its credit cards.
- Requires purchases on a county credit card to be for work-related expenses that serve a public purpose.
- Generally does not allow the use of a county credit card for finance charges, late fees, or sales tax unless approved by the board of county commissioners.

County recorder

- Allows a county recorder to extend current approved funding requests for the county recorder's technology fund beyond those formerly allowed, and requires a board of county commissioners to approve the extension.

Jail commissary profits

- Permits a sheriff to use profits from a jail commissary fund to pay for construction or renovation of a jail facility to provide medical or mental health services.

Drainage Assessment Fund

- Abolishes the Drainage Assessment Fund, which was funded by the General Assembly and which was used to pay each state agency's share of local drainage assessments made under the county ditch laws.
- Eliminates an associated requirement that state agencies include the cost of the state's share of drainage assessments billed by county auditors in budget requests from the fund.

Township cemetery deeds

- Allows a township to record cemetery lot/right deeds with the county recorder as an alternative to the township maintaining a book of the deeds.

Referendum on township zoning plan

- Increases the number of signatures required to place a question of whether to repeal a township zoning plan on the ballot for the electors to vote on from not less than 8% of the total vote cast in that township for all candidates for Governor at the most recent general election at which a Governor was elected to 25%.

New community authorities (NCAs)

- Allows inclusion of township-owned property in a new community district.
- Allows a board of township trustees to approve creation of a new community authority (NCA) or a change to the territory of an existing new community district, if the territory of the district (or the territory added or removed) is located entirely in the township and meets certain population criteria.
- Specifies that property subject to an NCA development charge may not also be exempted from taxation by a downtown redevelopment district (DRD) or transportation finance district (TFD).

Municipal notices

- Allows a municipal corporation to publish certain items either via newspaper, on the state's public notice website, or on the municipal corporation's website and social media account.

Municipal rental registry

- Prohibits a municipal corporation that creates or maintains a registry of rental property, rental property tenants, or rental property owners from using state funds or charging a fee to support the registry.

Free assistance dog registration

- Expands the types of assistance dogs that qualify for free dog registration from the county auditor to include those trained by for-profit special agencies, in addition to those trained by nonprofit special agencies as in current law.
- Eliminates an ambiguity in the law related to the training of assistance dogs.

Police officer minimum hiring age

- Lowers the minimum age for a person to be eligible for an original appointment as a police officer from 21 to 18 years old.

Notify land banks of foreclosure sales

- Requires the levying officer to notify land banks when residential property is to be sold at public auction.

Regional transportation improvement projects (RTIPs)

- Authorizes an existing RTIP to enter into a memorandum of understanding with the Department of Transportation concerning improvements within 2,500 feet of the RTIP's right-of-way.
- Allows such an RTIP to exercise certain powers pursuant to that memorandum related to project funding, economic development, the operations of businesses, public-private partnerships, and the acquisition of property by appropriation or otherwise.
- Makes several changes to the procedures and requirements for the creation of a transportation financing district by an RTIP.

Public meetings of economic development entities

- Authorizes a board of directors of a community improvement corporation, a board of directors of a joint economic development zone, and a joint economic development review council, to hold public meetings by interactive video conference or by teleconference provided that certain criteria are met.

Local regulation of tobacco and alternative nicotine products

- Prohibits local regulation of tobacco products and alternative nicotine products.
- Prohibits fees, taxes, assessments, and charges on such products other than those expressly authorized by state law.

Local government bidding thresholds

(R.C. 9.17, 307.86, 307.861, 308.13, 505.08, 505.37, 505.376, 511.01, 511.12, 515.01, 715.18, 731.141, 735.05, 737.03, 3375.41, 5549.21, and 6119.10)

The bill increases statutory competitive bidding thresholds from $50,000 to $75,000 for counties, townships, municipal corporations, libraries, fire and ambulance districts, regional airport authorities, and regional water and sewer districts.[285] Starting in 2025, the bill increases the threshold amount by 3% each year; the Director of Commerce must calculate and publish the new amount each year.

The increase from $50,000 to $75,000 also applies when a town hall is being built in a township. Under continuing law, to build, improve, enlarge, or remove a town hall at a cost exceeding that threshold, the trustees must get the approval of the voters.

The county competitive bidding requirement currently allows the commissioners to exempt an expenditure from the requirement if an emergency exists and the cost is less than $100,000; the bill increases this amount to $125,000.

[285] One threshold applicable to municipal corporations is currently $10,000. See R.C. 715.18.

Finally, throughout the competitive bidding laws applicable to each type of political subdivision, the bill prohibits subdividing a purchase, lease, project, or other expenditure into components or separate parts in an effort to avoid a competitive bidding requirement.

County road improvements and public improvement projects

(R.C. 153.12 and 5555.61)

Currently, the contract price of a county road improvement project or a public improvement project may exceed the estimate by only 10%. The bill increases this to 20%. The bill does not impact state public improvement projects.

County credit cards

(R.C. 301.27)

Counties currently have authority to use credit cards, but only for certain expenses set forth in the Revised Code (e.g., food, transportation, and lodging). The bill requires each county to adopt a policy regarding the county's use of credit cards; the board of county commissioners adopts the policy in consultation with the county auditor. The policy must include a procedure for submitting itemized receipts for purchases, which the bill requires be submitted for each purchase, and any other provision the commissioners determine is necessary. The bill eliminates the list of allowable uses, and instead specifies that a credit card be used only for purchases that are work-related and serve a public purpose. The purchase must be payable with available money from an appropriate line item. A credit card cannot be used to pay finance charges, late fees, or sales tax unless the commissioners approve. The bill retains many provisions, including for instance the requirement to reimburse the county for inappropriate charges.

County recorder

(R.C. 317.321)

The bill allows a county recorder to extend current approved funding requests for the county recorder's technology fund beyond those formerly allowed, and requires a board of county commissioners to approve these extensions, notwithstanding continuing statutory limitations. Under continuing law, a county recorder's funding request for technology fund purposes generally is limited to a five-year period. However, in 2013 and again in 2019,[286] the General Assembly enacted language that allowed, temporarily, for extensions of funding beyond the five-year period and a mandatory bump of up to $3 to be directed to the county recorder's technology fund from the county general fund. Absent the extensions, it appears the law would resort to discretionary county commissioner approval, rejection, or modification with a mandatory bump of up to $3, for a period of up to five years, provided the total of such allocations could not exceed $8. Essentially, the General Assembly has "grandfathered" allocation of recorder's fees to the technology fund since 2013, notwithstanding the approved proposal agreement provided for the term of the funding.

[286] H.B. 59 of the 130th General Assembly and H.B. 166 of the 133rd General Assembly.

The bill similarly extends any proposal that was approved by the board of county commissioners before, and is in effect on the bill's effective date, to continue to January 1, 2030, notwithstanding the number of years of funding specified in the approved proposal. The bill also provides that a proposal submitted between October 1, 2019, and October 1, 2028, for the mandatory bump of up to $3 be credited to the technology fund, in addition to the other funding allocation; if the total of those two amounts does not exceed $8, the board must approve the proposal.

Jail commissary profits

(R.C. 341.25)

Continuing law permits a sheriff to establish a commissary for county jails. If a commissary is established, the sheriff also must establish a commissary fund, which is strictly controlled in accordance with procedures adopted by the Auditor of State. The bill adds to the uses for which sheriffs may use profits from a jail commissary fund. Under the bill, the sheriff may use these profits to pay for construction or renovation of a jail facility to provide medical or mental health services.

Under current law, profits from the fund may be used for certain other expenditures, including sheriff and employee salaries, and purchasing equipment.

Drainage Assessment Fund

(R.C. 6131.43; repealed R.C. 6133.15)

The bill abolishes the Drainage Assessment Fund. The fund was established in the state treasury and funded by the General Assembly. It was used to pay each state agency's share of local drainage assessments made under the county ditch laws. Correspondingly, the bill eliminates an associated requirement that state agencies include the cost of the state's share of drainage assessments billed by county auditors in budget requests from the fund.

Township cemetery deeds

(R.C. 317.08, 517.07, and 517.271)

The bill provides townships an alternative means of maintaining a record of cemetery lot/right deeds. Currently each township fiscal officer must record the deeds in a book kept by the township. The bill allows a township, alternatively, to record the deeds with the county recorder.

Referendum on township zoning plan

(R.C. 519.12 and 519.25)

The bill increases the number of signatures required to place a question of whether to repeal a township zoning plan on the ballot for the electors to vote on from not less than 8% of the total vote cast in that township for all candidates for Governor at the most recent general election at which a Governor was elected to 25%. Under continuing law, a township zoning plan may be repealed if the board of township trustees receives a petition to submit the question of whether or not the plan of zoning in effect in the township must be repealed to the electors. If

the petition is signed by the required number of qualified electors residing in the unincorporated area of a township included in the zoning plan which seeks to be repealed, the board will adopt the resolution presented in the petition. The resolution is then certified to the board of elections not later than 90 days before the day of an election at which the question is to be voted on. If a majority of the vote cast is in favor of repealing the zoning plan, then the zoning plan will no longer be in effect. Additionally, a board of township trustees can adopt its own resolution to repeal a zoning plan and does not need to be submitted to the electors for a vote.

New community authorities (NCAs)

(R.C. 349.01, 349.03, 349.04, and 349.14)

Background

Continuing law allows for the creation and implementation of "new community development programs," which aim to develop new properties in relation to existing communities while incorporating planning concepts that promote utility, open space, and supportive facilities for industrial, commercial, residential, cultural, educational, and recreational activities. The resulting "new community districts," each of which is governed by a body referred to as a new community authority (NCA), are intended to be characterized by well-balanced and diversified land-use patterns.

Township developers

Under existing law, changed in part by the bill, a developer that controls or owns land and would like to form a new community district must file a petition with the clerk of the appropriate organizational board of commissioners to create an NCA. A "developer," under existing law, includes a person, municipal corporation, county, or port authority. The bill adds a township to that definition and, thereby, explicitly authorizes townships to petition to form a new NCA, or add or delete territory from an existing new community district.

New NCAs

Under existing law, the board of county commissioners or sometimes, depending on the location of the new community district, the legislative authority of a municipal corporation, is the organizational board of commissioners with the authority to approve the district and create an NCA. Additionally, depending on the location of the proposed district, the petition must also be approved by the most populous municipal corporation of the county or the most populous municipal corporation of a neighboring county. If more than half of the proposed NCA is located within the most populous municipal corporation of a county, the legislative authority of that municipal corporation, and not the board of county commissioners of the county, must approve the petition.

The bill specifies that if a proposed new community district is comprised entirely of unincorporated territory within the boundaries of a township with a population of at least 5,000, and it is also located in a county with a population of at least 200,000 and not more than 400,000 (i.e., Butler, Stark, Lorain, Warren, Lake, Mahoning, Delaware, Clermont, or Trumbull county), then the organizational board of commissioners may be either the board of county commissioners or the board of township trustees of the township. Furthermore, if the petition

to create an NCA for such a district is submitted to the board of county commissioners, and not to the board of township trustees, the bill allows the board of township trustees to intervene and disallow the NCA.

Existing NCAs

Under continuing law, changed in part by the bill, a developer that wishes to add or delete territory from an existing new community district may file an application with the clerk of the organizational board of commissioners that originally approved creation of the NCA. If the territory proposed to be added or deleted from the district is (1) located entirely within a municipal corporation, (2) mostly located in the most populous municipal corporation in the county, or (3) located in the unincorporated area of a township described above, the bill requires the developer to submit the petition to both the original organizational board of commissioners and the legislative authority of the municipal corporation or board of trustees of the township, as applicable. The bill specifies that the legislative authority of the municipal corporation or board of trustees of the township is the "acting organizational board of commissioners" for the purposes of the petition and, therefore, has the authority to approve or disapprove the proposed territory changes.

Community development charge

Under continuing law, an NCA may levy a "community development charge" within its boundaries to pay for its community development programs. If an NCA imposes a community development charge determined on the basis of rentals received from leases of real property, that real property cannot be exempted from taxation under a tax increment financing (TIF) arrangement. The bill also prohibits exemption of such property under a downtown redevelopment district (DRD) or transportation finance district (TFD) arrangement. Under continuing law, a DRD and TFD generate revenue for economic development projects in the same manner as a TIF – by exempting improvements to real property and requiring the property owner to make service payments in lieu of taxes.

Municipal notices

(R.C. 125.182, 731.21 to 731.25; related changes in R.C. 504.12, 504.121, 504.122, 504.123, 504.124, 504.125, 504.126, 715.691, 715.70, 755.13, and 1545.09)

Continuing law requires a municipal corporation to publish a succinct summary of each municipal ordinance or resolution. Rather than require publication via newspaper as under current law, the bill allows a municipal corporation to select one (or more) of three methods: (1) newspaper, (2) the state's public notice website, or (3) the municipal corporation's website and social media account. Continuing law specifically requires some items to be published via newspaper. For other items (statements, orders, proclamations, notices, and reports) that require publication but not specifically via newspaper, the municipal corporation may select one of the three methods under the bill, rather than use newspaper publication as currently required.

Many provisions related to other types of political subdivisions (e.g., townships and park districts) tie their requirements to the municipal requirements. The bill only changes requirements for municipal corporations, so in order to maintain current law with respect to the

other political subdivisions, the bill makes numerous changes to their provisions. While it may appear to be modifying the requirements, the changes effectively keep those requirements as they currently stand.

Municipal rental registry

(R.C. 5323.10)

The bill prohibits a municipal corporation that has a rental registry from using state funds or imposing a fee against the tenant or owner to fund or support the registry. Prohibiting a fee may violate Article XVIII, Section 3, of the Ohio Constitution, which gives municipal corporations the authority to adopt and enforce local police, sanitary, and similar regulations, so long as an ordinance does not conflict with a general state law.

Free assistance dog registration

(R.C. 955.011)

The bill expands the types of assistance dogs that qualify for free dog registration from the county auditor. Under current law, an assistance dog is a guide dog, hearing dog, or dog that has been trained to assist a person with a mobility impairment (service dog). An assistance dog owner is exempt from county dog registration fees if the owner shows proof that the dog is, in fact, an assistance dog. To qualify for free registration, the dog must be trained by a nonprofit special agency. The bill allows an assistance dog to be trained by a for-profit special agency, in addition to a nonprofit, to qualify for free dog registration.

In addition, the bill eliminates an ambiguity in the law related to the training of assistance dogs. Under current law, it is unclear what qualifies as "training" because the phrase "by a nonprofit special agency" may only apply to the training of a service dog under a legal interpretation known as the doctrine of the last antecedent. R.C. 1.42 provides that statutory words and phrases must be read in context and construed according to the rules of grammar and common usage. The rules of grammar provide that absent of legislative intent to the contrary, qualifying words and phrases must be applied only to their immediate or last antecedent, and not to the other remote or preceding words.[287]

Current law defines "assistance dog" to mean "a guide dog, hearing dog, or service dog that has been trained by a nonprofit special agency." Therefore, when applying the doctrine of the last antecedent, the phrase "that has been trained by a nonprofit special agency" may only apply to a service dog. The bill eliminates this ambiguity by removing the last antecedent and clarifying that the training applies to each type of assistance dog, not just service dogs.

[287] See *Ohio Neighborhood Fin., Inc. v. Scott*, 139 Ohio St.3d 536, 2014- Ohio-2440, 13 N.E.3d 1115 and *Hedges v. Nationwide Mut. Ins. Co.*, 109 Ohio St.3d 70, 2006-Ohio-1926, 846 N.E.2d 16.

Police officer minimum hiring age

(R.C. 124.41)

The bill lowers the minimum age for a person to be eligible to receive an original appointment as a police officer from 21 years old under current law to 18 years old. Continuing law also requires the person to pass a physical examination to receive the appointment. Continuing law also allows a municipality or civil service township to establish a police cadet program for the purpose of training persons to become police officers. A person participating in such a program may become a police cadet at 18 years old.

Notify land banks of foreclosure sales

(R.C. 2329.261 and 2329.27)

Under continuing law, when a court orders the sale of real property due to the owner's failure to pay a debt (a writ of execution), the property must be sold at a public auction. Under the bill, if the sale is of "qualifying residential property" located in an area that has a land reutilization program, then the officer selling the property must notify the electing subdivision or county land reutilization corporation (both commonly referred to as "land banks") of the sale to give the land bank a chance to purchase the property. "Qualifying residential property" is defined in the bill as a single-family residential property, including a single unit in a multi-unit property containing not more than ten units but excluding manufactured homes, that has at least 1,000 square feet of habitable space per unit.

The bill requires the officer selling the property at the foreclosure sale to maintain a website and phone number to provide information on applicable properties, which may be an existing website it uses for other information, including the official public sheriff sale website used to conduct online auctions.

Regional transportation improvement projects (RTIPs)

Continuing law authorizes the boards of county commissioners of two or more counties to enter into a cooperative agreement creating a regional transportation improvement project (RTIP). The purpose of an RTIP is to undertake transportation improvements within the participating counties. The agreement governs the scope of the project and includes a comprehensive plan for its completion. The only existing RTIP encompasses Carroll, Columbiana, and Stark counties.

The bill makes several changes to RTIPs and the special financing districts that counties participating in an RTIP may create to generate funding for projects.

Memorandum of understanding with Department of Transportation

(R.C. 4504.22, 5595.01, 5595.03, 5595.04, 5595.041, 5595.042, 5595.05, 5595.06, 5709.481, and 5709.50)

The bill allows the governing board of an RTIP formed before the bill's 90-day effective date ("qualified RTIP"), to negotiate and enter into a memorandum of understanding with the Department of Transportation (ODOT) concerning infrastructure improvements and economic

development activities that are at least partially funded by private sources and are in close proximity to the RTIP right-of-way ("opportunity corridor improvements").

A qualified RTIP that enters into a memorandum of understanding with ODOT, in addition to all current authority an RTIP possesses, may do any or all of the following:

- Purchase property located within the RTIP "development area," i.e., the area within 2,500 feet of RTIP right-of-way and in which opportunity corridor improvements may be undertaken, except by eminent domain, for use by the RTIP board for transportation or opportunity corridor improvements.
- Appropriate property, through eminent domain, within the RTIP right-of-way exclusively for a transportation improvement described in the memorandum of understanding, provided the appropriation authority is also described in the memorandum. The board is explicitly prohibited from appropriating property under current law.
- Receive and reinvest funds from the development area.
- Contract for the use of digitalized procurement planning and permitting systems.
- Request and receive grants and private contributions.
- Establish, acquire, own, control, manage, sell, or transfer businesses.
- Form and manage public-private enterprises, i.e., private corporations, jointly owned by the RTIP board and a private party, to manage opportunity corridor improvements, subject to the approval of ODOT.
- Enter into an agreement with the Ohio Academic Resource Network for the purpose of establishing, expanding, or improving broadband or other digital services in the development area.

While not specifically intertwined with a memorandum of understanding, the bill also allows revenue sources of a qualified RTIP authorized under continuing law to be used for opportunity corridor improvements and clarifies that land within the RTIP development may be exempted from property taxation and subject to payments in lieu of taxes (PILOTs) by a municipal corporation, township, or county under continuing tax increment financing (TIF) law.

Transportation financing districts (TFDs)

(R.C. 5709.48, 5709.49, 5709.50, and 5709.83; Section 803.260)

Counties participating in an RTIP may create a transportation financing district (TFD) that, similar to a TIF incentive district, generates funding for projects by exempting the increase in assessed value of property in the district from taxation and collecting service payments from property owners. Service payments may be used in furtherance of the RTIP and in accordance with the cooperative agreement and, as authorized by the bill, any memorandum of understanding.

The bill makes several changes to TFDs. First, the bill requires that a TFD must generally include all of the territory of the counties participating in the RTIP. Under current law, a TFD may,

but is not required to, include territory from all of the participating counties. Under continuing law, which the bill retains, a TFD may not include residential property or property that is already exempt under a TIF arrangement.

Second, the bill requires that the RTIP governing board enter into an agreement with each property owner whose property will be included in the TFD. Under current law, the board must get the approval of all property owners, but is not required to enter into a formal agreement with each owner. Under the bill, each agreement must specify the projects and purposes for which the owner's service payments will be used. If an owner refuses to enter into an agreement, the owner's property must be excluded from the TFD.

Third, the bill aligns the notice and approval requirements for creating TFD with those that apply to a TIF arrangement. Specifically, the bill eliminates a requirement that all taxing districts within the territory of a proposed TFD approve its creation. Instead, similar to the creation of a TIF, only the approval of school districts within the territory is required, and only if the proposed exemption is greater than 75% or longer than ten years. In lieu of seeking school district approval, the RTIP may agree to fully compensate school districts for their resulting revenue loss or, similar to current law, a district may negotiate a compensation agreement in exchange for its approval. A school district may also waive its right to approve TFDs.

The bill's TFD changes apply to any resolution granting a TFD tax exemption adopted on or after the bill's 90-day effective date.

Public meetings of economic development entities

(R.C. 715.693 and 1724.11)

The bill authorizes a board of directors of a community improvement corporation, a board of directors of a joint economic development zone, and a joint economic development review council to hold public meetings by interactive video conference or by teleconference. Under the bill, the meetings must comply with all of the following requirements:

1. The board or council establishes a primary meeting location that is open and accessible to the public.

2. Meeting-related materials that are available before the meeting are sent via electronic mail, facsimile, hand-delivery, or U.S. postal service to each member.

3. In the case of an interactive video conference, the board or council causes a clear video and audio connection to be established that enables all meeting participants at the primary meeting location to see and hear each member.

4. In the case of a teleconference, the board or the council causes a clear audio connection to be established that enables all meeting participants at the primary meeting location to hear each member.

5. All board or council members have the capability to receive meeting-related materials that are distributed during a meeting.

6. A roll call voice vote is recorded for each vote taken.

7. The minutes of the board or council meeting identify which members remotely attended the meeting by interactive video conference or teleconference.

The bill requires a board or council, which wishes to exercise its authority to meet by interactive video conference or by teleconference, to adopt rules necessary to implement that authority. At a minimum the rules must do all of the following:

1. Authorize board members to remotely attend a meeting by interactive video conference or teleconference, or by a combination thereof, in lieu of attending the meeting in person;

2. Establish a minimum number of members that must be physically present in person at the primary meeting location;

3. Require that not more than one member remotely attending a meeting by teleconference is permitted to be physically present at the same remote location;

4. Establish geographic restrictions for participation in meetings by interactive video conference and by teleconference;

5. Establish a policy for distributing and circulating meeting-related materials to members, the public, and the media in advance of or during a meeting at which members are permitted to attend by interactive video conference or teleconference;

6. Establish a method for verifying the identity of a member who remotely attends a meeting by teleconference.

Local regulation of tobacco and alternative nicotine products

(R.C. 9.681)

The bill prohibits local governments from adopting regulations related to tobacco and alternative nicotine products. It states that the regulation of tobacco products and alternative nicotine products is a matter of general statewide concern that requires statewide regulation and that the state has adopted a comprehensive plan with respect to all aspects of the giveaway, sale, purchase, distribution, manufacture, use, possession, licensing, taxation, inspection, and marketing of tobacco products and alternative nicotine products. Accordingly, under the bill, political subdivisions are prohibited from enacting, adopting, renewing, maintaining, enforcing, or continuing in existence any charter provision, ordinance, resolution, rule, or other measure that conflicts with or preempts any policy of the state, including any of the following:

- Setting standards, requirements, taxes, fees, assessments, or charges that are the same as or similar to, that conflict with, that are different from, or that are in addition to, any standard, requirement, tax, fee, assessment, or other charge established or authorized by state law;
- Lowering or raising an age requirement in connection with the giveaway, sale, purchase, distribution, manufacture, use, possession, licensing, taxation, inspection, and marketing of tobacco products or alternative nicotine products;

- Prohibiting an employee 18 years of age or older of a manufacturer, producer, distributor, wholesaler, or retailer of tobacco products or alternative nicotine products from selling or handling tobacco products or alternative nicotine products.

The bill requires courts, in addition to any other relief provided, to award costs and reasonable attorney fees to any person, group, or entity that prevails in a challenge to an ordinance, resolution, regulation, local law, or other action as being in conflict with state law. The bill specifies that these provisions are not to be interpreted as prohibiting a political subdivision from levying a tax expressly authorized by state law.

Prohibiting local regulations of tobacco products and alternative nicotine products may violate Article XVIII, Section 3, of the Ohio Constitution, which gives municipal corporations the authority to adopt and enforce local police, sanitary, and similar regulations, so long as an ordinance does not conflict with a general state law.

ADMINISTRATIVE PROCEDURE ACT ADJUDICATIONS

- Allows, unless another law applies, an agency conducting an adjudication under the Administrative Procedure Act (APA) to serve a document on a party to the adjudication through email, facsimile, traceable delivery service, or personal service.
- Specifies the date on which service of a document is complete when using one of the methods listed above.
- Requires certain notices and orders that must be served on a party in an APA adjudication to be provided to the party's attorney or other representative rather than requiring the notices be mailed as under current law.
- Specifies that an agency's rejection of an application for registration or renewal of a license is not effective until the 15th day after notice of the rejection is mailed to the licensee.

Administrative Procedure Act adjudications

(R.C. 119.05, 119.06, 119.07, 3711.14, 3722.07, 4121.443, 4715.30, 4717.14, 4723.281, 4725.24, 4730.25, 4731.22, 4734.37, 4741.22, 4757.361, 4759.07, 4760.13, 4761.09, 4762.13, 4766.11, 4774.13, 4778.14, 4779.29, 5104.042, 5119.33, 5119.34, 5119.36, 5123.19, and 5165.87; with conforming changes in numerous other R.C. sections)

Service of adjudication documents

The bill allows, unless another law applies, an agency conducting an adjudication under the Administrative Procedure Act (APA) – R.C. Chapter 119 – to serve a document on a party to the adjudication through any of the following methods:

- Email at the party's last known email address;
- Facsimile transmission at the party's facsimile number appearing in the agency's official records;
- Traceable delivery service at the party's last known physical address;
- Personal service.

Service of a document using a method listed above is complete on the following dates:

- For email, the date receipt of the document is relayed electronically to the agency either by a direct reply from the recipient or through electronic tracking software demonstrating that the recipient accessed the document.
- For facsimile transmission, the date indicated on the facsimile transmission confirmation page.
- For traceable delivery service, the delivery date indicated on the notice of completed delivery provided to the agency by the delivery service.

- For personal service, the date indicated on a document confirming physical delivery signed by either the intended recipient, an adult located at the intended recipient's address, or delivery personnel.

One's "last known address" is the mailing address or email address in an agency's official records. "Traceable delivery service" is any delivery services provided by the U.S. Postal Service or a domestic commercial delivery service that allows the sender to track a sent item's progress and provides notice of a completed delivery to the sender.

If an agency fails to complete service using a party's last known address or facsimile number, the agency may complete service using an alternative address or number. The agency must verify the alternative address or number as current before attempting service.

When an agency is unable to complete service using a method described above, the agency must publish a summary of the notice's substantive provisions in a newspaper of general circulation in the county where the party's last known address is located. Notice by publication is complete on the date of publication. An agency that completes service by publication must send a proof of publication affidavit to the party by ordinary mail at the party's last known address. The affidavit must include a copy of the publication.

An agency that accomplishes services by email, facsimile transmission, traceable delivery or personal service at an alternative address or facsimile number is not required to complete service by publication.

Currently, unless another law applies, the APA requires an agency to attempt service through registered or certified mail. When registered or certified mail is returned because the recipient fails to claim it, the agency must attempt service through ordinary mail and obtain a certificate of mailing. If registered, certified, or ordinary mail is returned for failure of delivery, the agency either must make personal delivery or attempt service by publication in the manner described above. Current law does not allow service through email, facsimile, or domestic commercial delivery service.

Providing notices to attorneys

The bill requires an agency to provide copies of APA notices and orders to an affected party's attorney or other representative. Current law requires the notices and orders be mailed to the attorney or representative.

Rejection of registration or renewal

The bill specifies that an agency's rejection of an application for registration or renewal of a license is not effective until the 15th day after notice of the rejection is mailed to the licensee. Current law sets 15 days as a minimum number of days before the rejection is effective. Under continuing law, an agency that rejects an application for registration or renewal of a license generally must afford the rejected applicant a hearing when the applicant requests one. However, the following agencies are not required to grant a hearing to an applicant to whom a new license was refused because the applicant failed a licensing examination:

- The State Medical Board;

- State Chiropractic Board;
- The Architects Board;
- Ohio Landscape Architects Board;
- The Occupational Therapy, Physical Therapy, and Athletic Trainers Board.

ELECTRONIC NOTIFICATION AND MEETINGS

Casino Control Commission

- Requires an applicant for casino-related licenses, including for casino operator, management company, holding company, gaming-related vendor, and casino gaming employee to certify that the information provided in the application is true.

Department of Commerce

Board of Building Standards

- Removes telegraph facilities as one of the "workshops or factories" that the Board of Building Standards has control over regarding required alternations or repairs.

Division of Liquor Control

- Specifies that, if the initial required certified notice of unpaid permit fees to a liquor permit applicant is returned because of failure or refusal of delivery, the Division of Liquor Control must send a second notice by regular mail.

Division of Securities

- Eliminates the requirement that copies of process or pleadings served by the Division of Securities on the Secretary of State, acting as agent for the person to be served, be delivered in duplicate and eliminates the requirement that the Secretary use certified mail to forward the documents.
- Eliminates the requirement that securities sold in violation of the securities law be tendered to the seller either in person or in open court to trigger a refund requirement, instead only requiring a tender without specifying method.

Division of Finance Institutions

- Changes, in the list of approved delivery methods, "any other means of communication authorized by the director" to whom the notice is sent to any means authorized by the board of directors acting together.

Department of Developmental Disabilities

- Removes obsolete law requiring the Director of Developmental Disabilities to submit a report to the General Assembly with certain data regarding residential facility licenses issued by the Department of Developmental Disabilities.

Department of Education

- Eliminates the following laws that became obsolete on June 30, 2008:
  - Requirement that school districts or school buildings in academic emergency or academic watch, under former law, submit required information to the Department of Education before approval of a three-year continuous improvement plan;

- Requirements for site evaluations conducted for school districts or schools in academic emergency or academic watch.

Environmental Protection Agency

- Authorizes the Director to provide notice of a hearing on the Environmental Protection Agency's website in circumstances where current law requires public notice by newspaper publication.
- Authorizes the Director to deliver documents or notice by any method capable of documenting the intended recipient's receipt of the document or notice rather than requiring a document or public notice be provided by certified mail.
- Specifies that the holder of the first mortgage on a regulated facility may contact the mortgagor to determine if the facility is abandoned by any method capable of documenting the intended recipient's receipt of the document or notice, rather than by mail, telegram, telefax, or similar communication only, as in current law.

Department of Insurance

- Replaces the requirement that individuals seeking access to personal information held by certain insurance organizations be allowed to see and copy that information in person or obtain a copy by mail with a requirement that the individual be able to obtain in a manner agreed upon by the individual and the insurance organization.

Department of Job and Family Services

- Removes references to unemployment compensation warrants drawn by the Director of Job and Family services bearing the Director's facsimile signature (but maintains the authority to have the signatures printed on the warrants).

Department of Public Safety

Restricted driver's license: subsequent annual license

- Eliminates several procedural requirements regarding the submission of a physician's statement accompanying an application for an unrestricted driver's license.

Driver training school anatomical gift instruction

- Allows driver training schools to use specified electronic formats to convey information about anatomical gifts to driver training students, rather than a video cassette tape, CD-ROM, interactive videodisc, or other format.

Failure to maintain motor vehicle insurance

- Eliminates a reference to the personal delivery of a motor vehicle registration or driver's license if a person is required to surrender the registration or license because of a failure to maintain motor vehicle insurance.

Seizure of license plates after offense

- Eliminates the requirement that an arresting officer remove the license plates on a vehicle seized as part of an arrest for: (1) driving under an OVI suspension or (2) wrongful entrustment of a vehicle and, instead, requires the license plates to remain on the vehicle unless ordered by a court.

Public Utilities Commission of Ohio

- Eliminates items buried or placed below ground or submerged in water for telegraphic communications as a form of "underground utility facility" for purposes of continuing law regarding the protection of such facilities.
- Removes the requirement that an excavator must provide any fax numbers they may have in the excavator's notification to a protection service before an emergency excavation required under continuing law.

Department of Taxation

- Removes a requirement that certain tax-related documents be open for public inspection.

Department of Transportation

- Makes advertising for bids for Ohio Department of Transportation (ODOT) contracts in a newspaper of general circulation optional rather than required.
- Requires, rather than authorizes, the ODOT Director to publish notice for bids in other publications as the Director considers advisable.

Bureau of Workers' Compensation

- Specifies that electronic documents have the same evidentiary effect as originals in a workers' compensation-related proceeding.

Notice and submission requirements

- Makes changes throughout the Revised Code related to:
  - Notice requirements related to certain events or services; and
  - Electronic submission to receive certain public services.

Electronic meetings for public entities

- Makes changes throughout the Revised Code to permit certain public entities to meet via electronic means.

Maintenance of stenographic records

- Makes changes throughout the Revised Code related to the maintenance of stenographic records.

Casino Control Commission

(R.C. 3772.11, 3772.12, and 3772.131)

Under current law, casino-related license applications, including those for a casino operator, management company, holding company, gaming-related vendor, and casino gaming employee must be made under oath. The bill removes the requirement that an oath be administered and instead requires that the applications must be certified as true.

Department of Commerce

Board of Building Standards

(R.C. 3781.11(A)(6) and (D)(2))

The bill removes telegraph offices as a "workshop or factory" for purposes of Board rules and standards. Under current law, the Board cannot require alterations or repairs to any part of a workshop or factory meeting certain criteria under continuing law.

Division of Liquor Control

Payment of liquor application fees

(R.C. 4303.24)

The bill specifies that, if the initial required certified notice of unpaid permit fees to a liquor permit applicant is returned because of failure or refusal of delivery, the Division of Liquor Control must send a second notice by regular mail. It retains the requirement that the Division cancel the permit application if the permit applicant does not remit the unpaid permit fees to the Division within 30 days of the first notice.

Division of Securities

Service through the Secretary of State

(R.C. 1707.11)

Under continuing law, certain people must appoint the Secretary of State as their agent to receive service of process and pleadings on their behalf. The bill eliminates a requirement that copies of process or pleadings served by the Division of Securities on the Secretary, acting as agent for the person to be served, be delivered in duplicate. It also eliminates the requirement that the Secretary use certified mail to forward the documents.

Tender for refund

(R.C. 1707.43)

Under continuing law, a buyer who is sold securities in violation of the Securities Law may receive a refund by tendering the securities back to the seller. The bill eliminates the requirement that the securities be tendered either in person or in open court to trigger a refund requirement. It instead requires tender without specifying a method.

Division of Financial Institutions

(R.C. 1733.16)

Continuing law requires that notice of credit union board of directors meetings must be given to each director. The bill modifies the use of alternative delivery methods by removing the law that allows a director receiving the notice to specify another means of communication, and instead allows alternative methods approved by the board of directors acting together.

Department of Developmental Disabilities

(Repealed R.C. 5123.195)

The bill removes obsolete law requiring the Director of Developmental Disabilities to submit a report to the General Assembly after calendar years 2003, 2004, and 2005. The report was to summarize rules regarding residential facility licensure; the number of licenses issued, renewed, or denied; how long those licenses were issued; sanctions imposed on licenses, and any other information the Director deemed important.

Department of Education

(R.C. 3302.04(D)(3) and (4))

The bill eliminates the obsolete requirement that school districts or school buildings in academic emergency or academic watch submit information to the Department of Education before approval of a three-year continuous improvement plan. It also eliminates the obsolete requirements for site evaluations for districts or buildings in academic emergency or academic watch. The requirements expired on June 30, 2008.

Environmental Protection Agency

General authorizations

(R.C. 3745.019)

The bill provides general authorization to the Director of the Ohio Environmental Protection Agency (OEPA) as follows:

- Authorizes the Director to provide public notice of a hearing on the OEPA website in circumstances in which the Director currently must provide notice by newspaper publication;
- Authorizes the Director to deliver documents or notice by any method capable of documenting the intended recipient's receipt of the document or notice in circumstances in which the Director currently must provide the document or public notice by certified mail.

It is unclear why, given these broad authorizations, the bill also amends other notice provisions that provide for newspaper publication or certified mail.[288]

[288] See for example, R.C. 3704.03, 3734.02, and 3734.021.

Regulated facilities

(R.C. 3752.11)

The bill specifies that the holder of the first mortgage on a regulated facility may contact the mortgagor to determine if the facility is abandoned by any method capable of documenting the intended recipient's receipt of the document or notice. Current law requires that the contact be made by mail, telegram, telefax, or similar communication only.

Department of Insurance

(R.C. 3904.08)

Continuing law allows individuals to request access to their personal information held by insurance institutions, agents, and insurance support organizations. Currently, individuals must be allowed to see and copy the information in person or allowed to obtain a copy by mail. The bill changes this requirement, instead mandating that individuals be able to obtain a copy of the information in a manner agreed upon by the individual and the insurance institution, agent, or support organization.

Department of Job and Family Services

(R.C. 4141.09 and 4141.47)

Continuing law specifies that the Treasurer of State must make disbursements from the state Unemployment Compensation Fund and the Auxiliary Services Personnel Unemployment Compensation Fund on warrants drawn by the Director of Job and Family Services. Currently, the warrants may include the facsimile signatures of the Director and the employee responsible for accounting for the funds printed on the warrants. The bill removes the reference to "facsimile" and maintains the authority to have signatures printed on the warrants. Because neither current law nor the bill require the Director or employee to directly sign the warrants, it is unclear whether removing "facsimile" has any substantive effect.

Department of Public Safety

Restricted driver's license: subsequent annual license

(R.C. 4507.081)

Under current law, a restricted license is issued to a person who has certain medical conditions that inhibit safe driving, but only if the person's conditions are under effective control. The holder of a restricted license may subsequently apply for an unrestricted annual license when the restricted license expires. Obtaining the annual license is contingent upon submission of a licensed physician's statement attesting that the condition is dormant or under medical control (for a period of one year before application). The bill eliminates the following regarding this annual license:

- The stipulation that the applicant submit the physician's statement to the Registrar of Motor Vehicles by certified mail;
- A requirement that the license holder obtain a physical validation sticker for use in conjunction with the license;

- A requirement that the physician's statement be made in duplicate; and
- A provision allowing an annual license applicant to maintain a physical duplicate copy of the physician's statement authorizing the applicant to operate a motor vehicle for no more than 30 days following the date of submission of the statement.

Driver training school anatomical gift instruction

(R.C. 4508.021)

The bill allows driver training schools to use a website, email communication, compact disc media, or other electronic format to provide information about anatomical gifts to driver training students. Current law specifies the schools must use a video cassette tape, CD-ROM, interactive videodisc, or other electronic format.

Failure to maintain motor vehicle insurance

(R.C. 4509.101)

The bill allows an administrative hearing regarding a person's failure to maintain motor vehicle insurance to be held remotely upon the person's request. Under continuing law, a person adversely affected by an administrative driver's license suspension associated with this offense may request a hearing within ten days of the issuance of the order imposing the suspension.

The bill eliminates a reference to the personal delivery of an impounded or suspended driver's license or registration if a person is required to surrender a license or registration because of a failure to maintain motor vehicle insurance. Thus, under the bill, a person may deliver those items (if impounded or suspended) to the Registrar by any means.

Seizure of license plates after offense

(R.C. 4510.41)

The bill eliminates the requirement that an arresting officer remove the license plates on a vehicle seized as part of an arrest for either of the following violations:

- Driving under an OVI suspension; or
- Wrongful entrustment of a vehicle.

Instead, the bill requires the license plates to remain on the vehicle unless otherwise ordered by a court.

Public Utilities Commission of Ohio

Underground utility facilities – classification

(R.C. 3781.25(B) and 3781.29(C)(1))

The bill removes "telegraphic communications" from being classified as an "underground utility facility" for purposes of the law regarding utility protection services. Under current law, any item buried or placed below ground or submerged under water for use in connection with the storage or conveyance of telephonic or telegraphic communications (among other things) is

considered an "underground utility facility" subject to continuing law regarding utilities registering the location of, and protecting through marking, these facilities.

Excavator contact information

(R.C. 3781.29(E)(1)(b))

The bill removes the requirement that an excavator, before performing an emergency excavation, provide any fax numbers they may have to a protection service. Under current law, notification must be provided to an underground utility protection service before commencing an emergency excavation, and it must include the excavator's name, address, email addresses, and telephone and facsimile numbers.

Department of Taxation

Public inspection of tax documents

(R.C. 5751.40 and 5736.041)

The bill removes two requirements that certain tax-related documents be open for public inspection. Instead, the following documents need only to be made available on the Department of Taxation's website:

- Certificates issued to qualified distribution centers (QDCs) under the commercial activity tax (CAT). Under continuing law, suppliers that ship goods to a QDC can exclude a portion of their receipts from the CAT. Current law requires the Department of Taxation to "publish" QDC certificates, but does not specifically require online publication. The bill specifies that these certificates must be available online for at least four years from the date they were issued.
- A list of motor fuel suppliers who are subject to the state's petroleum activity tax. This list is already authorized, but not required, to be published on the Department of Taxation's website.

Department of Transportation

(R.C. 5525.01)

The bill makes advertising for bids for Ohio Department of Transportation (ODOT) contracts in a newspaper of general circulation optional and requires the ODOT Director to publish notice for bids in other publications, as the Director considers advisable. Current law specifies the opposite – it requires newspaper publication and makes other publications optional.

Bureau of Workers' Compensation

(R.C. 4123.52)

The bill specifies that electronically stored records have the same evidentiary effect as originals in a workers' compensation proceeding before the Industrial Commission, a Commission hearing officer, or a court. Under continuing law, records preserved using photographs, microphotographs, microfilm, films, or other direct forms of retention media also have the evidentiary effect of originals in the same proceedings.

Changes to notice requirements

The bill also modifies the type of communication media through which public entities or others may make required notice of events or services. The table below describes the type of notice and the change made to the permitted form of communication. The table indicates these changes as follows:

Table 1: Notification changes A=Added by bill as new form of communications; C=Current law unchanged by the bill; R=Removed by bill									
Type of notice	**Mail**	**Commercial/ common carrier**	**Email/ electronic**	**Fax**	**Newspaper**	**Telephone**	**Telegraph**	**In-person**	**R.C. citation**
Controlling Board									
Notice to G.A. members regarding changes to capital appropriations	**C**		**A**						127.15
Ohio Casino Control Commission									
Notices of intent to include a person on an exclusion list	**C**	**A**						**C**	3772.031
Notices of including a person on an exclusion list via emergency order	**C**	**A**	**A**						3772.04
Notice of termination of employment of a "key employee"	**C**	**A**	**A**					**A**	3772.13

Table 1: Notification changes A=Added by bill as new form of communications; C=Current law unchanged by the bill; R=Removed by bill									
Type of notice	**Mail**	**Commercial/ common carrier**	**Email/ electronic**	**Fax**	**Newspaper**	**Telephone**	**Telegraph**	**In-person**	**R.C. citation**
Department of Commerce – Division of Liquor Control									
Notice of entering into an agency store contract or relocation of a store[289]	**R**							**R**	4301.17
Notice of distribution of liquor permit fees	**C**		**A**						4301.30
Department of Commerce – Division of Securities									
Notice of hearing to revoke approval of securities exchange or system	**R**		**A**						1707.02
Notice of hearing to suspend the exemption of a security	**R**		**A**						1707.02
Notice of hearing to determine fairness of issuance and exchange of securities through plan of	**A**		**A**					**C**	1707.04

[289] The bill eliminates the reference to mailed notice in R.C. 4301.17, but it does not specify the means by which notice must be given.

Table 1: Notification changes A=Added by bill as new form of communications; C=Current law unchanged by the bill; R=Removed by bill									
Type of notice	**Mail**	**Commercial/ common carrier**	**Email/ electronic**	**Fax**	**Newspaper**	**Telephone**	**Telegraph**	**In-person**	**R.C. citation**
reorganization, recapitalization, or refinancing									
Notice of process served upon Secretary of State as presumed agent for person making or opposing control bid	**R**						**R**		1707.042
Notice to Division of registration by coordination						**C**	**R**		1707.091
Notice by Division of stop order in response to failed registration by coordination	**C**					**C**	**R**		1707.091
Notice by Division to issuer as to whether all conditions for registration by coordination are met						**C**	**R**		1707.091

Table 1: Notification changes A=Added by bill as new form of communications; C=Current law unchanged by the bill; R=Removed by bill									
Type of notice	**Mail**	**Commercial/ common carrier**	**Email/ electronic**	**Fax**	**Newspaper**	**Telephone**	**Telegraph**	**In-person**	**R.C. citation**
Department of Commerce – Division of Financial Institutions									
Credit unions notice to directors of board meetings							**R**		1733.16
Department of Commerce – Division of Real Estate & Professional Licensing									
Notice of license renewal	**R**		**A**						4735.14
Requirement to send license of each real estate salesperson to the real estate broker associated with salesperson	**R**		**A**						4735.13
Requirement that real estate broker return license to Division of Real Estate and Professional Licensing when real estate salesperson no longer associated with broker	**R**		**A**						4735.13

Table 1: Notification changes A=Added by bill as new form of communications; C=Current law unchanged by the bill; R=Removed by bill									
Type of notice	**Mail**	**Commercial/ common carrier**	**Email/ electronic**	**Fax**	**Newspaper**	**Telephone**	**Telegraph**	**In-person**	**R.C. citation**
Department of Education									
State Board of Education – Record and attestation of meetings			**A**					**C**	3301.05
Department of Education – Report regarding the implementation and effectiveness of the program under which higher-poverty public schools must offer breakfast to all enrolled students before or during the school day			**A**						3313.818
School districts not subject to Civil Service Law – Termination of nonteaching employee contracts[290]	**C**		**A**						3319.081

[290] Current law requires that employees whose contracts are terminated be served by certified mail; the bill adds additional mailing options.

Table 1: Notification changes A=Added by bill as new form of communications; C=Current law unchanged by the bill; R=Removed by bill									
Type of notice	**Mail**	**Commercial/ common carrier**	**Email/ electronic**	**Fax**	**Newspaper**	**Telephone**	**Telegraph**	**In-person**	**R.C. citation**
School district boards of education – Notices of nonrenewal of teachers' contracts[291]	**C**		**A**					**C**	3319.11
Superintendent of Public Instruction – Notices of failure to submit fingerprints as a requirement of licensure	**C**		**A**						3319.291
State Board of Education or Superintendent of Public Instruction – Issuance of subpoenas in investigations or hearings regarding teacher misconduct[292]	**C**		**A**					**C**	3319.311

[291] Current law requires that notices of nonrenewal be sent to teachers via certified mail; the bill adds additional mailing options. The bill also adds new forms of mailing options for a teacher to notify a district board of the teacher's desire for a hearing regarding nonrenewal of contract.

[292] Current law requires subpoenas to be issued via certified mail or by personal delivery; the bill adds additional mailing options. See also R.C. 3319.31, not in the bill.

Table 1: Notification changes A=Added by bill as new form of communications; C=Current law unchanged by the bill; R=Removed by bill									
Type of notice	**Mail**	**Commercial/ common carrier**	**Email/ electronic**	**Fax**	**Newspaper**	**Telephone**	**Telegraph**	**In-person**	**R.C. citation**
School districts and other public schools – Notices regarding truancy or other attendance issues[293]	**C**		**A**						3321.21
Environmental Protection Agency									
Notice of a public hearing on an application for a variance from air emission requirements for an air contaminant source[294]	**A**		**A**		**C**				3704.03

[293] Current law requires notices regarding student truancy or other attendance issues be sent via registered mail; the bill adds additional mailing options.

[294] Current law requires notice by certified mail. The bill allows either certified mail or any other type of mail accompanied by receipt. Current law also requires notification in a newspaper with general circulation in the applicable county. The bill allows either notice by newspaper publication or notice on OEPA's website.

Table 1: Notification changes A=Added by bill as new form of communications; C=Current law unchanged by the bill; R=Removed by bill									
Type of notice	**Mail**	**Commercial/ common carrier**	**Email/ electronic**	**Fax**	**Newspaper**	**Telephone**	**Telegraph**	**In-person**	**R.C. citation**
Notice of a public hearing on an application for a variance from solid waste facility permitting requirement[295]			**A**		**C**				3734.02
Notice of public hearing on application for variance from infectious waste treatment requirements[296]			**A**		**C**				3734.021
Department of Job and Family Services									
County department of job and family services – notice to assistance group of option for pre-sanction conference								**R**	5107.161

[295] Current law requires notification in a newspaper with general circulation in the applicable county. The bill allows either notice by newspaper publication or notice on OEPA's website.

[296] Current law requires notification in a newspaper with general circulation in the applicable county. The bill allows either notice by newspaper publication or notice on OEPA's website.

Table 1: Notification changes A=Added by bill as new form of communications; C=Current law unchanged by the bill; R=Removed by bill									
Type of notice	**Mail**	**Commercial/ common carrier**	**Email/ electronic**	**Fax**	**Newspaper**	**Telephone**	**Telegraph**	**In-person**	**R.C. citation**
Office of Child Support – acknowledgment of paternity	**C**							**R**	3111.23
Department of Medicaid (ODM)									
ODM – exception review of nursing facility quarterly resident assessment data								**R**	5165.193
ODM, Department of Health, and nursing facilities – written notice regarding nursing facility certification and survey orders	**C**							**C**	5165.86[297]

[297] The bill expands this current authority by also permitting the notice to be provided by other means reasonably calculated to provide prompt actual notice.

Table 1: Notification changes A=Added by bill as new form of communications; C=Current law unchanged by the bill; R=Removed by bill									
Type of notice	**Mail**	**Commercial/ common carrier**	**Email/ electronic**	**Fax**	**Newspaper**	**Telephone**	**Telegraph**	**In-person**	**R.C. citation**
Home care attendants – health and welfare meetings with consumers			**A**			**A**		**C**	5166.303[298]
ODM – notice to hospital of preliminary amount of Hospital Care Assurance Program assessment	**R**								5168.08
ODM – notice to hospital of preliminary amount of hospital assessment	**R**								5168.22 and 5168.23
Department of Natural Resources – Division of Oil and Gas Resources Management									
Copy of drilling permit application to local government	**C**		**C**	**R**					1509.06

[298] The in-person meeting requirement may be satisfied by telephone or other electronic means, if permitted by ODM rules.

Table 1: Notification changes A=Added by bill as new form of communications; C=Current law unchanged by the bill; R=Removed by bill									
Type of notice	**Mail**	**Commercial/ common carrier**	**Email/ electronic**	**Fax**	**Newspaper**	**Telephone**	**Telegraph**	**In-person**	**R.C. citation**
Notice of order regarding adjudication, determination, or finding[299]	**C**		**A**						1571.10 and 1571.14
Hearing officer Notice of order affirming or vacating adjudication, determination, or finding[300]	**C**		**A**						1571.14 and 1571.15
Notice of hearing of complaint regarding underground storage of gas[301]	**C**		**A**						1571.16

[299] R.C. 1571.10 provides for certified mail or electronic notice, rather than registered mail as under current law.

[300] R.C. 1571.14 and 1571.15 provide for certified mail or electronic notice, rather than registered mail as under current law.

[301] R.C. 1571.16 provides for certified mail or electronic notice, rather than registered mail as under current law.

Table 1: Notification changes A=Added by bill as new form of communications; C=Current law unchanged by the bill; R=Removed by bill									
Type of notice	**Mail**	**Commercial/ common carrier**	**Email/ electronic**	**Fax**	**Newspaper**	**Telephone**	**Telegraph**	**In-person**	**R.C. citation**
Department of Natural Resources – Division of Mineral Resources Management									
Notices related to coal mining reclamation services[302]	**C**		**A**						1513.08
Notice of death by accident in any mine			**A**			**C**	**R**		1565.12
Department of Natural Resources – other notifications									
Reservoir operator that plugs or reconditions a coal mine in a specific time – Notice that plugging or reconditioning will be delayed[303]	**C**		**A**						1571.05

[302] R.C. 1513.08 provides for certified mail or electronic notice with acknowledgment of receipt.

[303] R.C. 1571.05 provides for certified mail or electronic notice, rather than registered mail as under current law.

Table 1: Notification changes A=Added by bill as new form of communications; C=Current law unchanged by the bill; R=Removed by bill									
Type of notice	**Mail**	**Commercial/ common carrier**	**Email/ electronic**	**Fax**	**Newspaper**	**Telephone**	**Telegraph**	**In-person**	**R.C. citation**
Gas storage well inspector – Notice of use of alternative method or material regarding underground storage of gas[304]	**C**		**A**						1571.08(A)
Gas storage well inspector – Notice of objection regarding resolution of underground storage of gas issue[305]	**C**		**A**						1571.08(B)

[304] R.C. 1571.08(A) provides for certified mail or electronic notice, rather than registered mail as under current law.

[305] R.C. 1571.08(B) provides for certified mail or electronic notice, rather than registered mail as under current law.

Table 1: Notification changes A=Added by bill as new form of communications; C=Current law unchanged by the bill; R=Removed by bill									
Type of notice	**Mail**	**Commercial/ common carrier**	**Email/ electronic**	**Fax**	**Newspaper**	**Telephone**	**Telegraph**	**In-person**	**R.C. citation**
Public Utilities Commission of Ohio									
Underground Technical Committee – Copy of meeting-related documents for committee members before meeting	**C**		**C**	**R**					3781.342(C)
Department of Rehabilitation and Correction									
Notice regarding escaped prisoners	**C**		**A**	**C**					5120.14
Written notice, request, and certificate for a prisoner's request for final disposition of a pending untried indictment, information, or complaint against the prisoner	**C**		**A**	**A**					2941.401

Table 1: Notification changes A=Added by bill as new form of communications; C=Current law unchanged by the bill; R=Removed by bill									
Type of notice	**Mail**	**Commercial/ common carrier**	**Email/ electronic**	**Fax**	**Newspaper**	**Telephone**	**Telegraph**	**In-person**	**R.C. citation**
Bureau of Workers' Compensation									
Workers' compensation information a professional employer organization must provide to a client employer after receiving a written request from the client employer	**C**		**A**					**C**	4125.03
Consultation between Administrator of Workers' Compensation and designee that must occur before the designee issues certain orders under the Public Employment Risk Reduction Program						**R**		**R**	4167.10
Local government									
Municipal corporations – Notice regarding escaped prisoners	**C**		**A**	**C**					753.19

Authority for public entities to meet via electronic means

The bill permits certain public entities to meet via electronic means, instead of in-person meetings, provided that the meetings still allow for interactive public attendance.

Table 2: Public entities authorized to meet via electronic means

Public entity	Description	R.C. citation
Ohio Advisory Council for the Aging	Permits the council to form a quorum and take votes at meetings conducted electronically, if arrangements are made for interactive public attendance at those meetings	173.03
Internet- or computer-based community schools (e-schools) – meetings with students	Permits e-school teachers to meet with each student electronically	3314.21
School districts or other public schools – hearings for students and parents regarding notice to Registrar of Motor Vehicles for excessive unexcused student absences from school	Permits districts and schools to conduct hearings electronically if requested by the child's parent, guardian, or custodian.	3321.13
Department of Public Safety – Registrar of Motor Vehicles	Authorizes an administrative hearing on the suspension or impoundment of a driver's license or license plates for a failure to provide proof of motor vehicle insurance to be held remotely upon request.	4509.101
County, township, or municipal corporation	Before creating a tax increment financing district (TIF), community reinvestment area (CRA), enterprise zone, or similar tax-exempt district, a political subdivision must send notice to each school district located within the proposed district or area. The school district may request a meeting with the political subdivision to discuss the terms of the agreement[306]	5709.83

[306] There is no requirement under continuing law that these meetings allow public attendance or participation.

Electronic submission to receive certain public services

The bill permits or requires public entities to establish electronic means of submission for such services as licensure, approvals, and other services. The table below provides an overview of these changes.

Table 3: Services permitting or requiring electronic submission

Public entity	Description	R.C. citation
Department of Natural Resources – Division of Oil and Gas Resources Management	May require electronic submission of various documents; permits the Division Chief to establish a procedure to exempt a participant from electronic submission	1509.031
School district boards of education – notice of surplus property for donation	Removes the requirement that district boards publish, in a "newspaper of general circulation," notice of intent to donate property that is not needed, obsolete, or unfit for the district's use with a value of less than $2,500; but maintains requirement of continual posting of such notice in the district board's office Permits a nonprofit organization to submit electronically its written notice to a district board of its desire to obtain donated district property	3313.41(G)
Department of Education – Jon Peterson Special Needs Scholarship provider information to applicants	Permits an alternative public or registered private provider of special education services to submit the profile of the provider's program to applicants by electronic means	3310.521
Board of county commissioners of a county solid waste management district and the board of directors of a joint solid waste management district	Allows a board to submit a report of fees and accounts to OEPA in any manner prescribed by the Director, rather than by computer disk only, as in current law	3734.575
Every court of record	When a person forfeits bail for a traffic or equipment offense, requires a county court judge, mayor of a mayor's court, or clerk to submit to the Bureau of Motor Vehicles, in a secure electronic format, an abstract of the court record (current law does not specify the method of submission)	4510.03

References to stenographic records

The bill modifies or removes references to public entities creating or retaining stenographic records of certain proceedings. The table below summarizes these changes.

Table 4: Stenographic recordkeeping requirements

Public entity	Description	R.C. citation
Department of Commerce – Division of Financial Institutions	Provides that a "stenographic record" includes the use of an audio electronic recording device in administrative hearings conducted by the Division	1121.38
Department of Commerce – Board of Building Standards	Removes the requirement that the Department of Commerce must assign stenographers to the Board of Building Standards to aid in their duties	3781.08
Department of Natural Resources – Division of Mineral Resources Management	Removes option to retain a stenographic record of certain proceedings	1513.071 and 1513.16
State Board of Education	Removes the requirement that public meetings of the State Board be recorded "in a book provided for that purpose"	3301.05
School district board of education	Removes the requirement that district boards provide for a "complete stenographic record" of hearings regarding teacher contract termination	3319.16
OEPA – hearing on application for variance from solid waste facility requirements	Authorizes the OEPA Director to make either a complete stenographic record **or** electronic record of testimony and other evidence submitted at the hearing (rather than a stenographic record only, as in current law)	3734.02
OEPA – hearing on application for variance from infectious waste treatment requirements	Authorizes the OEPA Director to make either a complete stenographic record **or** electronic record of testimony and other evidence submitted at the hearing (rather than a stenographic record only, as in current law)	3734.021
OEPA – public meeting on variance from Voluntary Action Program requirements	Authorizes a stenographic record **or** electronic record of proceedings (rather than stenographic only, as in current law)	3746.09

Table 4: Stenographic recordkeeping requirements		
Public entity	**Description**	**R.C. citation**
BWC	Removes a requirement that all testimony recorded during a BWC proceeding be taken down by a BWC-appointed stenographer	4121.19
BWC	Removes a requirement that BWC pay for stenographic depositions when a claim is appealed to a court but retains the requirement that the BWC pay for the depositions filed	4123.512

MISCELLANEOUS

JobsOhio contract extension

- Allows the state, upon agreement with JobsOhio, to extend the original transfer agreement regarding spirituous liquor distribution in Ohio for an additional 15 years from the end of the original term by entering into a new agreement.
- Requires the General Assembly to approve any transfer agreement extension by concurrent resolution.

Abolish Ohio Housing Finance Agency

- Abolishes the Ohio Housing Finance Agency on January 1, 2024.
- Transfers authority, duties, assets, and liabilities of the agency related to financing obligations to the Treasurer of State.
- Transfers all other authority, duties, assets, and liabilities of the agency and all agency employees to the new Governor's Office of Housing Transformation in the Department of Development.

OneOhio Recovery Foundation

- Defines "OneOhio Recovery Foundation" to mean a nonprofit corporation receiving payments under the settlement agreement in *State of Ohio v. McKesson Corp.,* Case No. CVH20180055 (C.P. Madison Co., settlement agreement of October 7, 2021) and its constituent regional boards.
- Specifies that OneOhio Recovery Foundation is not a state agency, executive agency, public office, state entity, public employer, or a department, office, or institution and exempts it from the requirements of other state agencies, executive agencies, public offices, state entities, public employers, or departments, offices, or institutions.
- Exempts OneOhio Recovery Foundation from Ohio's Open Meetings Law but requires that a meeting of the full board of OneOhio Recovery Foundation be open to the public unless its directors vote to hold an executive session by a majority of the quorum of the board.

Work location for certain state employees

- Prohibits full-time state employees, other than judicial branch employees and full-time DEW employees, from working from their place of residence for more than eight hours per 40 hour workweek from October 1, 2023, through June 30, 2025.
- Prohibits full-time DEW employees from working from their place of residence for more than eight hours per week from August 1, 2023, through June 30, 2025.
- Permits a state employer to allow a state employee who is not a DEW employee to work from the employee's place of residence for any hours worked over 40 hours in a workweek.

- Specifies the bill does not prevent a state employee who is not a DEW employee from being permitted to work from the employee's place of residence for more than eight hours per 40 hour workweek as a reasonable accommodation under the federal Americans with Disabilities Act or Ohio's Civil Rights Law.

Data verification codes – children receiving services from publicly funded programs

- Authorizes specified state agency directors – on behalf of programs that are publicly funded – to request and receive data verification codes for children who are younger than compulsory school age and are receiving services from the publicly funded programs.

Month of the Military Child

- Designates April as the Month of the Military Child.

JobsOhio contract extension

(R.C. 4313.02)

The bill allows the state, upon agreement with JobsOhio, to extend the original transfer agreement regarding spirituous liquor distribution in Ohio for an additional 15 years from the end of the original term by entering into a new agreement. It also requires the General Assembly to approve any transfer agreement extension by concurrent resolution.

In 2013, the state entered into a 25-year agreement with JobsOhio granting JobsOhio exclusive rights to the state's spirituous liquor distribution. In exchange for these exclusive rights, JobsOhio pays a portion of the annual liquor profits to the state. The current agreement between the state and JobsOhio is set to expire in 2038.

Abolish Ohio Housing Finance Agency

(R.C. 122.941, 135.143, 149.43, 154.20, 169.05, 174.01, 174.03, 174.05, 174.06, 174.07, 175.01, 175.02, 175.03 (repealed), 175.04, 175.05, 175.051 (future repeal), 175.052, 175.053, 175.06, 175.07, 175.08, 175.09, 175.10, 175.11, 175.12, 175.13, 175.14, 175.15, 175.31, 175.32, 3701.68, 3742.32, 3951.01, 5315.02; Sections 525.40 and 525.41)

Effective January 1, 2024, the bill abolishes the Ohio Housing Finance Agency (the "agency"). The agency assists with the financing, refinancing, production, development, and preservation of affordable housing for occupancy by low- and moderate-income persons. Its duties include the apportionment and administration of the federal low income housing tax Credit (LIHTC).

Under the bill, all duties, powers, rights, obligations, and functions of the agency related to financing obligations (i.e., bonds, notes, and other obligations) are transferred to the Treasurer of State. All other duties, rights, obligations, and functions of the agency are transferred to the newly created Governor's Office of Housing Transformation in the Department of Development. All current employees of the agency are retained and moved to the office, subject to continuing law involving layoffs and other reductions in state agency workforce needs.

OneOhio Recovery Foundation

(R.C. 182.02)

The bill defines "OneOhio Recovery Foundation" to mean a nonprofit corporation receiving payments under the settlement agreement in *State of Ohio v. McKesson Corp.,* Case No. CVH20180055 (C.P. Madison Co., settlement agreement of October 7, 2021) and its constituent regional boards and specifies it is not a state agency, executive agency, public office, state entity, public employer, or a department, office, or institution.[307]

The bill exempts the OneOhio Recovery Foundation, and its employees, officers, or appointed members, from the requirements of other state agencies, executive agencies, public offices, state entities, public employers, or departments, offices, or institutions. Specifically, the bill exempts OneOhio Recovery Foundation from the following:

- The Ohio Ethics Law, including financial disclosure requirements, conflicts of interest, criminal code offenses related to offenses against justice and public administration, and executive agency lobbying laws.[308]
- Ohio's Public Records Law, which requires public records of a public office to be made available for public inspection at all reasonable times during business hours.[309]
- Ohio's Open Meetings Law (see below), which requires meetings of public bodies to be open to the public.[310]
- Ohio's State and Local Government Expenditure database, which includes information about expenditures made in each fiscal year and is available for free to members of the public.[311]
- An audit by the Auditor of State, whose office is permitted to audit the accounts of private institutions, associations, boards, and corporations receiving public money.[312]
- Ohio's antitrust law.[313]
- Collective bargaining law that applies to public employees.[314]

[307] R.C. 1.60, not in the bill.

[308] R.C. 121.41, 121.60, 102.01, and 2921.01, not in the bill.

[309] R.C. 9.28 and 149.011, not in the bill; R.C. 149.43.

[310] R.C. 121.22.

[311] R.C. 113.70, not in the bill.

[312] R.C. 117.01, not in the bill.

[313] R.C. 1331.01, not in the bill.

[314] R.C. 4117.01, not in the bill.

- Laws governing state employee whistleblower protection, civil service, compensation, work hours, leave, and benefits.[315]
- Ohio's Public Employees Retirement System (OPERS).[316]
- Licensing authority prohibitions against a person who is a victim of nonconsensual dissemination of private sexual images.[317]

Although, the bill generally exempts OneOhio Recovery Foundation from Ohio's Open Meetings Law, the bill does require that a meeting of the full board of directors of OneOhio Recovery Foundation be open to the public unless its directors vote to hold an executive session by a majority of the quorum of the board.

Work location for certain state employees

(Section 265.505 and 701.90)

The bill prohibits most state employees from working from their place of residence for more than eight hours per 40 hour workweek during the period beginning October 1, 2023, through June 30, 2025. This prohibition applies to full-time state employees paid by Director of Budget and Management warrant, including employees of the Secretary of State, Auditor of State, Treasurer of State, and Attorney General. It does not apply to either of the following:

- Employees of a court or judicial agency;
- Full-time DEW employees, who instead are prohibited under the bill from working from their place of residence for more than eight hours per week from August 1, 2023, through June 30, 2025.

A state employer may allow a state employee who is not a DEW employee to work from the employee's place of residence for any hours worked over 40 hours in a workweek. No similar exception applies to DEW employees. The bill does not specify how either prohibition is to be enforced.

The bill does not prevent a state employee who is not a DEW employee from being permitted to work from the employee's place of residence for more than eight hours per 40 hour workweek as a reasonable accommodation under the Americans with Disabilities Act of 1990[318] or Ohio's Civil Rights Law.[319] No similar exception applies to DEW employees.

It is possible a collective bargaining agreement covering state employees addresses work from an employee's place of residence. If so, under the Ohio Public Employees Collective

[315] R.C. 124.01, not in the bill.

[316] R.C. 145.012, not in the bill.

[317] R.C. 9.74, not in the bill.

[318] 42 U.S.C. 12111, *et seq*.

[319] R.C. Chapter 4112.

Bargaining Law, if the agreement conflicts with the bill, a state employee covered by the agreement would be subject to the agreement's terms regarding working from the employee's place of residence rather than the bill's prohibition.[320]

Data verification codes – children receiving services from publicly funded programs

(R.C. 3301.0714 and 3301.0723)

The bill authorizes certain agency directors – on behalf of programs that receive public funds and provide services to children younger than compulsory school age – to request child data verification codes for children receiving services from the programs. The directors specified in the bill include the Director of Developmental Disabilities, the ODJFS Director, the Director of OhioMHAS, the Medicaid Director, the Executive Director of the Commission on Minority Health, the Executive Director of Opportunities for Ohioans with Disabilities, and the Superintendent of Public Instruction.

The bill also requires the independent contractor that is under contract with the Department of Education and Workforce to create and maintain student data verification codes for school districts to (1) assign codes to children receiving services from a program and (2) provide the codes to the state agency director who requested them from the contractor on the program's behalf. Existing law already requires this with regard to publicly funded programs administered by a state agency.

After receiving the codes, the agency director must provide them to the program. The bill then requires the program to use the codes for purposes of submitting information about the children to the Department, but only to the extent permitted by federal law.

Month of the Military Child

(R.C. 5.55)

The bill designates April as the Month of the Military Child.

[320] See R.C. 4117.08, not in the bill, and R.C. 4117.10.

NOTES

Effective dates

(Sections 812.10 to 812.30)

Article II, Section 1d of the Ohio Constitution states that "appropriations for the current expenses of 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 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 exceptions to the default provision, some of which provide that specified provisions are not subject to the referendum and go into immediate effect.

Expiration

(Section 809.10)

The bill includes an expiration clause stating 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, 2025, unless its context clearly indicates otherwise.

HISTORY

Action	Date
Introduced	02-15-23
Reported, H. Finance	04-26-23
Passed House (78-19)	04-26-23
Reported, S. Finance	06-14-23
Passed Senate (24-7)	06-15-23

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