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## Bill Analysis

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**Primary Sponsor:** Sen. Gavarone

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and other staff

### SUMMARY

#### Authority of the Treasurer of State

- Specifies that custodial funds do not include items held in safekeeping by the Treasurer of State, 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.
- Requires the Treasurer to make available a daily ledger report of state funds, rather than providing such information only upon request by the OBM Director or the Governor.
- 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.
- Expands the Treasurer's rulemaking authority regarding the Pay for Success Contracting Program.
- 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.
- 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**

- 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.

### **Ohio Geographically Referenced Information Program Council**

- Removes the Treasurer of State or the Treasurer's designee from the Ohio Geographically Referenced Information Program Council.

- Transfers the obligations of the Treasurer of State relating to the real property database to the Department of Administrative Services.

## **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 Unclaimed Funds 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**

- Shifts the responsibility, from the Treasurer of State to the Director of Job and Family Services, of retaining collateral in the form of securities in lieu of a surety bond that a nonprofit employer wishing to be a reimbursing employer must deposit under the Unemployment Compensation Law.

## **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 of State's responsibility to hold in trust all surety bonds filed or cash deposited for community schools.
- Requires the Attorney General, instead of the Treasurer of State, 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 of State, 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 Treasurer's involvement with state tax administration.

### **Motor vehicle and watercraft**

- Transfers from the Treasurer of State 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 of State’s involvement in the safekeeping of deposited sureties and instead requiring the relevant ODNR Division Chief to hold the sureties in trust.

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## DETAILED ANALYSIS

### Authority of the Treasurer of State

The bill makes several changes to the law as it relates to the Treasurer of State.

#### Custodial funds

Under existing law, a custodial account is an account that is in the custody of the Treasurer of the State but that is not part of the state treasury and must be kept separately, not commingled, with state treasury assets. The bill specifies that custodial funds do not include items held in safekeeping by the Treasurer, including collateral pledged to a state agency.<sup>1</sup>

Existing 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 officer, regardless of where that order is directed.<sup>2</sup>

#### Warrants

Under existing law, a “warrant” is an order drawn upon the Treasurer of State by the Director of Budget and Management (OBM Director) directing the Treasurer of State to pay a specified amount. The bill expands this definition to include an order drawn by an authorized person at a state entity holding a custodial account and clarifies that warrants may have multiple payees.

Existing 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, and the resulting electronic transfer to or by the ultimate payees. Under the bill, a stored value card is a payment card that may have money loaded and stored on the card and accessed through automated teller machines, point of sale terminals, or other electronic media. The term does not include any payment card linked to, and that can access money in, an external account maintained by a financial institution.<sup>3</sup>

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<sup>1</sup> R.C. 113.05.

<sup>2</sup> R.C. 113.11.

<sup>3</sup> R.C. 131.01 and 4749.01.

Existing 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.<sup>4</sup>

### **Record of payments**

Under existing 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 and must accept the receipt of the OBM Director and hold it as evidence of payment until an audit of the state treasury and the custodial funds is completed.

The bill revises this process in three ways. First, it specifies that the warrant must be a “valid warrant,” which it 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.<sup>5</sup>

### **Account balances**

Under existing law, the Treasurer must have available and, as requested, transmit to the OBM Director and to the Governor information concerning the amount in the inactive account, the amount in the active account, and the amount of cash on hand. The bill instead requires the Treasurer to make available the daily ledger report of state funds addressed to the Governor. The Treasurer must ensure that (1) the report provides the beginning fund balance, revenue, disbursements, and ending fund balance, and that (2) the amount of the active deposits is captioned as total cash and cash equivalents and interim deposits as total investments.<sup>6</sup>

### **Treasurer’s Information Technology Reserve Fund**

The bill creates the Treasurer’s Information Technology Reserve Fund in the state treasury, which will consist of unexpended amounts transferred from either or both of (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 this new fund must be expended only to acquire or maintain hardware, software, or contract services for the efficient operation of the Treasurer of State’s office. Unexpended amounts must be retained in the fund and reserved for future technology needs.<sup>7</sup>

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<sup>4</sup> R.C. 113.11.

<sup>5</sup> R.C. 113.12.

<sup>6</sup> R.C. 113.13.

<sup>7</sup> R.C. 113.22, 135.47, and 3366.05.

## **Requests for proposals on financial transaction devices**

Existing 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 of State 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.<sup>8</sup>

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.<sup>9</sup>

## **Pay for Success Contracting Program**

The Pay for Success Contracting Program allows the Treasurer of State to contract with service intermediaries for delivery of specified services that benefit the state, a political subdivision, or a group of political subdivisions, such as programs addressing education, public health, criminal justice, or natural resource management. Under the existing program, the upfront costs for projects are funded by private investors, rather than the government. Government repayment only occurs if verifiable results are achieved during a project or by its conclusion.

The law authorizes the Treasurer to adopt rules to administer the program. The rules may include the procedure for a state agency, political subdivision, or group of them to request the Treasurer and, in some cases, the Director of Administrative Services to enter into a contract and to deposit the cost of the contract with the Treasurer. The rules also may address the types of services that are appropriate for a service intermediary to provide under a pay for success contract. The bill adds that the Treasurer may adopt any other rules necessary for the implementation and administration of the program.

The bill eliminates the requirement that the Treasurer adopt a rule that requires at least 75% of the contracts under the Pay For Success Contracting Program specify performance targets that, based on available regional or national data, require the improvement in the status of Ohio or the relevant area, with respect to the issue the contract addresses, to exceed the average improvement in other geographical areas during the period of the contract. The bill

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<sup>8</sup> R.C. 113.40(C).

<sup>9</sup> R.C. 113.40(J).



also eliminates the requirement that the Treasurer adopt by rule a process to ensure that any regional or national data used to determine whether a service provider has met its performance targets are scientifically valid.<sup>10</sup>

### **Contract with financial institutions for the collection of taxes**

Under existing law, the Treasurer may enter into a contract with a financial institution under which the financial institution receives tax and fee payments at a post office box, opens the mail delivered to that box, processes the checks and other payments and deposits them into the Treasurer of State's account, and provides the Treasurer a daily receipt information with the payments that were received. The bill eliminates the law authorizing such a contract.<sup>11</sup>

### **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**

Existing law requires that whenever, during a period of designation, the Treasurer of State classifies public moneys as interim moneys, the Treasurer must notify the State Board of Deposit within 30 days of the classification. The bill instead requires that on or before the 10<sup>th</sup> day of each month, the Treasurer must notify the Board that the following reports pertaining to the immediately 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.<sup>12</sup>

Existing 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 of State. The bill instead requires that the chairperson provide a notification to the Board that the reports described above have been posted on the website.<sup>13</sup>

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<sup>10</sup> R.C. 113.60(C) and (D); [Results Ohio](https://www.tos.ohio.gov/), which is available on the Treasurer of State's website: <https://www.tos.ohio.gov/>.

<sup>11</sup> R.C. 113.07, with conforming changes in R.C. 113.05.

<sup>12</sup> R.C. 135.143(B).

<sup>13</sup> R.C. 135.02.

## **State money classifications**

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 Uniform Depository Act interim funds investment provisions. It also eliminates references to inactive deposits in the context of state moneys throughout the Uniform Depository Act. For example, under existing law, public depositories, i.e., financial institutions 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 the public depositories from holding inactive deposits of the state. In other words, under the bill, it seems that state money will only have two classifications: active deposits and interim deposits. The subdivisions of the state will retain the three classifications: active, inactive, and interim deposits.<sup>14</sup>

## **Active deposits and warrant clearing accounts**

Under existing law, to facilitate payments from the state treasury, the Treasurer of State 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 existing 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.<sup>15</sup>

The bill also expands the purposes of the 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.<sup>16</sup>

## **Designating public depositories**

The bill changes the timeline and processes for designating public depositories of state funds but retains existing law as it applies to the funds of local governments, school districts, and other subdivisions. Existing 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

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<sup>14</sup> R.C. 135.01, 135.04, 135.05, and 135.06.

<sup>15</sup> R.C. 135.04.

<sup>16</sup> R.C. 131.01(R) and 135.01(H).

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 requirements but retains the requirement for other governing boards.<sup>17</sup>

Also, under existing 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.<sup>18</sup> The bill allows eligible institutions to apply to the State Board of Deposit earlier; not more than 120 days prior to the selection date.<sup>19</sup>

Under existing 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.<sup>20</sup>

### **Investment of interim funds**

Existing law authorizes the Treasurer of State 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

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<sup>17</sup> R.C. 135.05.

<sup>18</sup> R.C. 135.06.

<sup>19</sup> R.C. 135.08 and 135.10.

<sup>20</sup> R.C. 135.12(A), (F), and (G); Section 4.

determined by the Treasurer to have adequate capital and liquidity. The bill specifies that, for purposes of repurchase agreement investments: (1) the Treasurer of State may only buy or sell securities that consist of debt interests currently authorized under the law, (2) the securities must be issued by entities organized under the laws of Ohio, any other state, or the U.S., and (3) the investment is subject to the existing 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, including linked deposits, agricultural linked deposits, business linked deposits, adoption linked deposits, and housing linked deposits. The bill expands this category to include savings accounts and deposit accounts. It also explicitly references eligible institutions applying for interim money in the form of adoption linked deposits.<sup>21</sup>

A third type of permissible investment under existing law is investment in obligations issued by the state, any political subdivision thereof, or by or on behalf of 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 (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.<sup>22</sup>

### **Transferring funds from one classification to another**

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 the anticipated demands on such active deposits, it must direct the Treasurer of State to sell interim money investments or transfer from inactive deposits to active deposits an amount sufficient to meet the 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.<sup>23</sup>

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<sup>21</sup> R.C. 135.143(A); see also, [Repurchase Agreement \(Repo\): Definition, Examples, and Risks](#), Nathan Reiff, June 18, 2022, which is available on Investopedia's website: [Investopedia.com](https://www.investopedia.com).

<sup>22</sup> R.C. 135.143(A)(14) and (K).

<sup>23</sup> R.C. 135.15.

## Ohio Pooled Collateral Program

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.<sup>24</sup>

## Investment of the Petroleum Underground Storage Tank Release Compensation Board funds

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. Existing 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.<sup>25</sup>

## Social Security for employees of political subdivisions

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 systems.<sup>26</sup> This agreement is known as Ohio's "Section 218 Agreement."

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

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<sup>24</sup> R.C. 135.182(A)(3); Ohio Administrative Code (O.A.C.) 135-3-01, not in the bill.

<sup>25</sup> R.C. 3737.945.

<sup>26</sup> 42 United States Code (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](https://www.irs.gov).

- 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.<sup>27</sup>

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.<sup>28</sup> 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.<sup>29</sup>

### **Ohio Geographically Referenced Information Program Council**

The bill removes the Treasurer of State or the Treasurer of State's designee from the Ohio Geographically Referenced Information Program (OGRIP) Council. The OGRIP Council is a 15-member Governor appointed organization that serves as the geographic information systems coordinating body for the state. Under the bill, the council will consist of 14 members.

Additionally, under existing law, the Treasurer of State is responsible for developing and maintaining a comprehensive and descriptive database of all real property under the custody and control of the state. For purposes of this database, the OGRIP is required to provide the Treasurer the location, acreage, and use of the state-owned property. The bill moves responsibility for the real property database to the Department of Administrative Services (DAS). Furthermore, instead of the OGRIP providing information on the property, the bill requires each land-holding state agency to collect and maintain a geographic information systems database of its respective land holdings. The bill requires the DAS database to adequately describe the location boundary, acreage, use of the property, name of the property, managing agency name, and contact information. Each land-holding agency must provide access to its property database to the OGRIP Council.<sup>30</sup>

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

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.<sup>31</sup> The bill also eliminates many

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<sup>27</sup> R.C. Chapter 144, repealed.

<sup>28</sup> Ohio Section 218 agreement.

<sup>29</sup> See Ohio Atty.Gen.Ops. No. 72-019.

<sup>30</sup> R.C. 125.901 and 125.91.

<sup>31</sup> R.C. 126.06 and 127.14; R.C. 129.72, 129.73, and 129.76, repealed.

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.<sup>32</sup>

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;
- 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;

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<sup>32</sup> R.C. 129.06 and 129.09.

- Modification of tax levies for public improvement and other obligations.<sup>33</sup>

### **Ohio coupon bond and unclaimed funds**

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 of State 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 of State 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 Unclaimed Funds 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

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<sup>33</sup> R.C. 129.02, 129.03, 129.08, 129.10, 129.11, 129.12, 129.13, 129.14, 129.15, 129.16, 129.18, 129.19, 129.20, 129.72, 129.73, 129.74, 129.75, and 129.76, repealed.



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.<sup>34</sup>

## **Trust companies and family trust companies**

Under existing 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 of State 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 of State 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 of State must permit the trust company or family trust company to collect interest on paid securities. The bill eliminates the Treasurer of State's role in these processes and instead requires the Superintendent to permit substitution, withdrawal, and collection of interest on such securities.<sup>35</sup>

## **Insurance companies**

### **Title guarantee and trust companies**

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 of State \$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.<sup>36</sup>

### **Insurance company securities**

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 of State, and the Treasurer cannot deliver the securities or coupons, except with the written order of the Superintendent. The bill removes the Treasurer of State's obligations and gives the Superintendent full responsibility to take the security

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<sup>34</sup> R.C. 169.053; R.C. 169.051.

<sup>35</sup> R.C. 1111.04 and 1112.12.

<sup>36</sup> R.C. 1735.03.

deposits.<sup>37</sup> Also, when an accident insurance company wants to do business in another state, it must make a deposit of securities with the Treasurer of State and the Treasurer must issue a certificate to the Superintendent. The bill removes the Treasurer of State and instead requires the securities to be placed with the Superintendent.<sup>38</sup>

### **License fees for resident and nonresident surplus lines brokers**

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 of State. The bill instead requires both the initial license fee and renewal fee be paid to the Superintendent.<sup>39</sup>

### **Collateral from certain reimbursing employers**

Continuing 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 shifts the responsibility of retaining collateral in the form of securities in lieu of a surety bond from the Treasurer of State to the Director of Job and Family Services.<sup>40</sup>

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."<sup>41</sup>

The bill also eliminates obsolete language related to the maximum amount of collateral that the Director may require a nonprofit employer wishing to be a reimbursing employer to deposit.<sup>42</sup>

### **Community school closing audit bonds and guarantees**

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 of State \$50,000 cash as a guarantee of payment. The bond or cash guarantee must be used, in the event the school

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<sup>37</sup> R.C. 3903.73.

<sup>38</sup> R.C. 3925.26.

<sup>39</sup> R.C. 3905.32.

<sup>40</sup> R.C. 4141.241(C)(2).

<sup>41</sup> R.C. 4141.01(L), not in the bill.

<sup>42</sup> R.C. 4141.241(C)(2).

closes, to pay the Auditor of State any moneys owed by the school for the costs of any audits conducted by the Auditor of State 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 of State deliver the bond to the Treasurer of State, and (2) the Treasurer of State must hold it in trust. The bill also removes the Treasurer of State's responsibility to safekeep all surety bonds filed or cash deposited.

Finally, the bill requires the Attorney General, instead of the Treasurer of State, to assess the bond of the costs of a closing audit. Under continuing law, when the Auditor of State finds that a community school has closed and cannot pay for the costs of audits, the Auditor of State must declare the surety bond or cash deposit forfeited. The Auditor of State must certify the amount of forfeiture to the Treasurer of State, who must pay money from the named surety or from the school's cash deposit as needed to reimburse the Auditor of State or public accountant for costs incurred in conducting audits of the school.<sup>43</sup>

## **Administration of state taxes**

### **Electronic tax payments**

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 of State, while payments for other taxes are sent to the Tax Commissioner. The bill modifies this protocol, so that nearly all state tax payments – electronic and nonelectronic – will be made to the Tax Commissioner.<sup>44</sup>

Current law also generally requires that, when a taxpayer is required to pay a state tax electronically, the payment must be sent by “electronic funds transfer.” The bill instead

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<sup>43</sup> R.C. 3314.50.

<sup>44</sup> The change applies to the following taxes, when required to be paid electronically: the public utility excise tax (R.C. 5727.31, 5727.311, 5727.42, 5727.47, and 5727.53), natural gas distribution tax and kilowatt hour tax (R.C. 5727.81, 5727.811, 5727.82, and 5727.83), motor fuel tax (R.C. 5735.062), cigarette tax (R.C. 5743.05 and 5743.051), municipal electric company tax (R.C. 5745.03, 5745.04, and 5745.041), employer income tax withholding (R.C. 5747.07 and 5747.072), and pass-through entity income withholding tax (R.C. 5747.059, 5747.44, and 5747.451). It also applies to the electronic and nonelectronic payments of the sales tax by direct payment permit holders (R.C. 5739.031, 5739.032, and 5739.07), and to the corporation franchise tax, although that tax has been repealed (R.C. 5733.022).

requires that taxpayers make such payments “electronically.”<sup>45</sup> 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.<sup>46</sup> The term “electronically” is not defined, but likely encompasses a broader range of payments.

### **Related tax changes**

The bill also makes the following changes to the Treasurer’s involvement with 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.<sup>47</sup>
- 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.<sup>48</sup>
- 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.<sup>49</sup>
- Makes changes to the administration of the domestic insurance company premiums tax.<sup>50</sup>
- Repeals obsolete provisions.<sup>51</sup>

## **Motor vehicles and watercraft**

### **Certificate of title taxes**

The bill transfers from the Treasurer of State 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

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<sup>45</sup> R.C. 5727.25, 5727.311, 5727.42, 5727.81, 5727.82, 5727.83, 5733.022, 5739.031, 5739.032, 5743.051, 5745.03, 5745.04, 5745.041, 5747.07, 5747.072, 5747.42, and 5747.44.

<sup>46</sup> R.C. 131.01.

<sup>47</sup> R.C. 5727.311, 5727.83, 5733.022, 5739.032, 5747.072, and 5747.44.

<sup>48</sup> R.C. 5743.15.

<sup>49</sup> R.C. 5735.03.

<sup>50</sup> R.C. 5725.22.

<sup>51</sup> R.C. 125.30, 718.01, 5725.17, 5725.22, 5727.25, 5727.81, 5727.811, 5727.82, 5733.022, and 5745.04.

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.<sup>52</sup>

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.<sup>53</sup>

### **Cash in lieu of proof of financial responsibility**

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.<sup>54</sup>

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).<sup>55</sup>

### **ODNR surety requirements**

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

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<sup>52</sup> R.C. 4505.06.

<sup>53</sup> R.C. 1548.06(G).

<sup>54</sup> R.C. 4509.62 and 4509.63.

<sup>55</sup> R.C. 4509.65 and 4509.67.

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.<sup>56</sup>

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 S.B. 74
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. <sup>57</sup>	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 of State (TOS).	Requires any cash surety to be credited to the Performance Cash Bond Refunds Fund. Also requires the Director of Natural Resources (ODNR Director) to receive deposits of cash or certificates of deposits from those lessees instead of the TOS.
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. <sup>58</sup>	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 TOS 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 TOS.

<sup>56</sup> R.C. 1501.04.

<sup>57</sup> R.C. 1501.10.

<sup>58</sup> R.C. 1503.05.

ODNR surety changes		
Person or entity to deposit surety	Surety allowed under current law in lieu of bond	Surety changes under S.B. 74
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. <sup>59</sup>	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 TOS 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 TOS.
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. <sup>60</sup>	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 TOS 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 TOS.
An applicant for a surface or in-stream mining permit must file surety with the Chief of the Division of Mineral Resources Management. <sup>61</sup>	Cash, irrevocable letter of credit, or certificates of deposit, all of which are given to the Chief who delivers them to the TOS 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 TOS.  Accordingly, requires the Chief, instead of the TOS, to release the surety when mining reclamation is completed.

<sup>59</sup> R.C. 1509.07.

<sup>60</sup> R.C. 1509.225.

<sup>61</sup> R.C. 1514.04 and 1514.05.

ODNR surety changes		
Person or entity to deposit surety	Surety allowed under current law in lieu of bond	Surety changes under S.B. 74
An applicant for a permit to construct a dam or levee must file surety with the Chief of the Division of Water Resources. <sup>62</sup>	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 TOS 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 TOS.

## HISTORY

Action	Date
Introduced	02-28-23

ANSB0074IN-135/ks

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<sup>62</sup> R.C. 1521.061.