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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

S.B. 94  
135<sup>th</sup> General Assembly

## Fiscal Note & Local Impact Statement

[Click here for S.B. 94's Bill Analysis](#)

**Version:** As Introduced

**Primary Sponsors:** Sens. Brenner and Landis

**Local Impact Statement Procedure Required:** Yes

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### Highlights

#### County Recorder Electronic Record Modernization Program

- The bill requires county recorders to make electronic indexes and electronic versions of instruments dating to January 1, 1980, available to the public via the county recorder's website by June 30, 2025. County recorders that do not already provide these documents on their website may incur tens of thousands of dollars in costs to digitize the required records.
- The bill also requires county recorders, county auditors, and county engineers to provide an electronic method of recording instruments related to real estate conveyances by June 30, 2025. This could be achieved by adopting solutions provided by outside vendors that offer this service to counties at little or no cost.
- The bill creates a document preservation surcharge of \$5 to be collected by county recorders and deposited into the county general fund to cover ongoing document preservation and digitization costs.
- The bill extends certain dates that apply to the diversion of recordation fees from the county general fund to the county recorder technology fund. This would provide a supplemental source of revenue for county recorder technology funds.
- The bill also increases the base fee charged for recording the first two pages of instruments related to tangible or intangible personal property from \$28 to \$34, synching these fees with those for most other recorded instruments.
- The costs that counties incur for implementing record digitization and electronic recording could be offset by grants that will be allocated through a new County Recorder

Electronic Record Modernization Program, to be housed under the Treasurer of State and funded in FY 2023 using \$8 million under a new GRF appropriation item 090409, County Recorder Electronic Record Modernization Program, a new line item under the Treasurer's budget.

## **Treasurer of State**

- Requirements related to the County Recorder Electronic Record Modernization Program may increase the Treasurer of State's administrative costs. Any increase in such costs would be paid from one of the following line items: GRF line item 090321, Operating Expenses and dedicated purpose appropriation line items 090603, Securities Lending Income (Fund 4E90) and 090609, Treasurer of State Administrative Fund (Fund 6050).
- The bill creates a new fund in the state treasury, the Treasurer's Information Technology Reserve Fund, consisting of unexpended amounts transferred from either (or both) of: (1) the Securities Lending Program Fund (Fund 4E90), and (2) the account under section 3366.05 of the Revised Code that is in the custody of the Treasurer of State and not part of the state treasury. The proposed transfer of funds from Fund 4E90 to the new fund may decrease GRF funding that may be used for other state programs and purposes.
- The bill's provisions related to the Treasurer's administrative duties and responsibilities associated with the Uniform Depository Act may increase the Treasurer's administrative costs. Any increase in such costs would be paid from one of the line items listed above.

## **Vehicle disposal by university campus police departments and park district police forces**

- University campus police departments and park district police forces may see some efficiencies from the authority granted by the bill to dispose of certain abandoned or forfeited vehicles, including being able to recoup some of their disposal and storage costs by selling these vehicles.

## **Detailed Analysis**

### **County Recorder Electronic Record Modernization Program**

Counties could incur initial costs totaling tens of thousands of dollars to comply with the bill's requirement to provide an electronic method of recording and accessing specified instruments on the county recorder's website by June 30, 2025. These costs could be offset via grant funding of \$8.0 million the bill appropriates in the Treasurer of State's (TOS) budget in FY 2023 under appropriation line item (ALI) 090409, County Recorder Electronic Record Modernization Program.

#### **Indexes and instruments available online**

Counties may incur initial costs totaling tens of thousands of dollars to comply with the bill's requirements to make electronic indexes and electronic versions of instruments available to the public via the county recorder's website. The indexes and instruments must be available not later than June 30, 2025, and must include all instruments recorded on or after January 1, 1980, with certain exceptions. Digitizing these records is a labor intensive process and may require counties to incur additional payroll and overtime or to contract with outside services to meet the bill's requirements. According to the Ohio Recorder's Association, 39 counties have not

fully digitized the required documents. The Association estimates these counties have a combined total of approximately 7 million documents that must be digitized in order to meet the bill's requirements. The costs to fully digitize the remaining documents are estimated to total approximately \$2.8 million, or 40¢ per document.

### **Electronic recording of instruments**

In contrast to the costly nature of digitizing documents for inclusion on the county recorders' websites, compliance with the bill's requirements to provide an electronic method for recording specified instruments, including instruments related to the conveyance of property, may be achieved at little or no cost. This is because software and web-based solutions that use existing county computer systems are available through vendors who provide their services to counties at little or no cost. Rather than charging counties for the services, these vendors receive revenue through fees charged to banks, title agents, and others submitting documents for recording. It is possible that counties may incur a slight uptick in payroll costs for initial set up of these software and web-based solutions. Under the bill, counties must provide an electronic method for recording these instruments not later than June 30, 2025.

### **Grant funding provided by the Treasurer of State**

The costs incurred by counties to meet the bill's electronic recording and document retrieval requirements could be offset by GRF appropriations under the County Recorder Electronic Record Modernization Program established by the bill. The bill houses the program under the Treasurer of State and funds it using \$8 million in FY 2023 under GRF ALI 090409, County Recorder Electronic Record Modernization Program. Any county that receives funding under the program must credit the money into the corresponding county recorder's technology fund at least to the extent necessary to reimburse the fund for money the county recorder had spent to implement the bill's requirements. Counties that meet the bill's requirements on the bill's effective date however, are ineligible for the funding under the program.

### **Document preservation surcharge**

The bill creates a \$5 document preservation surcharge that will be collected by county recorders and deposited into the county general fund. The document preservation surcharge could make up for some or all of the potential loss in recording fees that would happen by electronic recordation of instruments as required under the bill. Recordation fees support county recorder operations and provide revenue for various housing programs under the state's Low- and Moderate-Income Housing Trust Fund (Fund 6460). Under current law, a county recorder charges the following fees for recording and indexing most instruments using a photocopy or similar process: (1) for the first two pages, a base fee of \$17 and a state Housing Trust Fund fee of \$17, and (2) for each subsequent page, a base fee of \$4 and a Housing Trust Fund fee of \$4.

### **Other recording fee changes**

The bill makes other fee changes that may to some degree offset costs and revenue losses as a result of the adoption of electronic recording methods. Specifically, the bill increases the minimum amount a county recorder charges for recording living wills and health care powers of attorney. Under current law, a recorder charges a base fee of between \$14 and \$20 and a state Housing Trust Fund fee (for deposit into Fund 6460) of between \$14 and \$20. The bill changes these fees to between \$17 and \$20. The bill also increases the fee for recording and indexing the

first two pages of various documents related to personal property that are specified in continuing law from \$28 to \$34. The bill maintains the current law requirement that this fee be deposited to the county general fund or, if a county has established a county recorder's technology fund, that the fee be split evenly between the county recorder's technology fund and the county general fund. Note that the new document preservation surcharge would not be applied when these documents are recorded. The bill makes additional changes to other fees collected by county recorders including: fees for certifying previously recorded records, indexing any reference by a separate recorded instrument, and fees for transmitting recorded instruments. Although the bill does not change the amount of the fees, the bill does provide for collection of these fees when dealing with electronic records. Please see the LSC bill analysis for additional details.

### **Extending approved funding requests for county recorder technology funds**

To cover the cost of planned information technology (IT) improvements in county recorders' offices, current law allows county recorders to request that some portion of recordation fee revenue that would ordinarily go into the county general fund to instead go into the county recorder's technology fund. These requests may be for up to five years. By extending certain provision dates, the bill diverts an additional uncertain amount of fee revenue from certain county general funds to the corresponding county recorder's technology fund. It allows county recorders whose IT improvement plans have been approved by county commissioners to place up to \$8 of total base recording fees in the county recorder's technology fund. Under the bill, the duration of approved proposals is extended from January 1, 2025, to January 1, 2030, unless otherwise limited in an approved proposal. Additionally, the provision extends the period during which a county recorder may submit a second proposal for additional funds from October 1, 2023, to October 1, 2028, similarly enabling a diversion of fee revenue for the same purpose.

### **Uniform Depository Act changes**

The bill expands the ways TOS is authorized to invest inactive or interim deposits in the state treasury (i.e., public funds not needed to meet current demands), and modifies corresponding reporting requirements. The bill also makes changes to eligibility of financial institutions that may hold warrant clearance accounts with active deposits (i.e., public funds needed to meet current demands), as well as corresponding reporting requirements.

The bill requires the State Board of Deposit, whenever the Board views that the actual amount of active deposits is insufficient to meet the anticipated demands on such active deposits, to direct TOS to sell investments or to redeem negotiated deposits in an amount sufficient to meet such demands. The bill provides that the Treasurer has the discretion in selecting the instruments to be sold or redeemed.

The bill makes various changes to deadlines and to reporting requirements related to a financial institution applying to be a public depository. Among the more notable changes, the bill requires the Board, beginning in 2025, to designate public depositories every four years, rather than every two years as under current law, and it removes the Board's newspaper publication requirement that is currently a part of the process of a political subdivision designating public depositories. And it modifies certain requirements related to the Board's required reports.

The bill makes various changes to definitions related to the above provisions. Among those provisions is one that updates the Treasurer's operations and administration associated with warrants drawn on the state treasury and statements and reports related to state funds, including requiring the Treasurer to provide certain electronic records and reports to the Director of Budget and Management. The bill also authorizes the Treasurer of State to use a variety of payment instruments, including stored value cards in disbursing funds to certain payees, upon an authorization from the Director of Budget and Management or an authorized person at a state entity holding a custodial account.

Some provisions related to TOS operations and administrative duties may increase the Treasurer's administrative costs, and some may decrease them. Any increase in such costs would be paid from the following line items: GRF line item 090321, Operating Expenses and dedicated purpose line items 090603, Securities Lending Income (Fund 4E90) and 090609, Treasurer of State Administrative Fund (Fund 6050). The provisions related to the Treasurer's investment authority may increase or decrease the state's investment income by an undetermined amount, and may affect the risk profile of the state's investments.

## **Reporting requirements**

Under current law, TOS is required to provide to the Governor and the Director of Budget and Management, upon request, the amount of funds available in inactive accounts, active accounts, and the amount of cash on hand. The bill requires TOS to make electronically available a daily ledger report of state funds.

The bill specifies that prior to sending any financial institution, issuer, or processor a copy of any bid request, the Treasurer of State must advertise its intent to request proposals for two consecutive weeks by electronic publication on a state agency website made available to the general public, instead of in a newspaper of general circulation in the state.

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

The bill creates a new fund in the state treasury, the Treasurer's Information Technology Reserve Fund (TITRF). The bill specifies that the fund must consist of unexpended amounts transferred from either (or both) of: (1) the Securities Lending Program Fund created under section 135.47 of the Revised Code and (2) the account created under section 3366.05 of the Revised Code that is in the custody of TOS and not part of the state treasury. Under existing law, the account is created for the "issuing authority" (i.e., TOS), while acting as an eligible not-for-profit servicer of certain student loans owned by the federal government, to use for paying administrative costs of the authority. The bill specifies that moneys credited to the TITRF must be used only to acquire or maintain hardware, software, or contract services for the efficient operation of the Treasurer's Office. Any unexpended amounts are to be retained in the fund and reserved for future technology needs.

Currently, net income generated from the securities lending program, not to exceed a rate of one-quarter of 1% of the total average daily par value of assets in the securities lending program, is deposited into the Securities Lending Program Fund (Fund 4E90), and used for the operations of the Office of the Treasurer. All other such income from the program is credited to the state GRF. Transfers from Fund 4E90 to TITRF may reduce money that could otherwise go to the state GRF. The Ohio Administrative Knowledge System (OAKS) shows that the cash balance in Fund 4E90 grew from \$22.36 million at the end of FY 2020 to \$24.42 million at the end of

FY 2021 and \$27.45 million at the end of FY 2022. Unexpended amounts that were initially credited to the account that is created for an issuing authority are deposited in the state treasury and credited to the Treasurer's Administrative Fund (Fund 6050), a dedicated purpose fund in the Treasurer's budget. The bill specifies that the unexpended amounts that must be deposited to Fund 6050 or the TITRF will be determined by the Treasurer.

## **Petroleum Underground Storage Tank Release Compensation Board**

The bill authorizes the Petroleum Underground Storage Tank Release Compensation Board (PUSTRCB) to allow the Treasurer to invest its surplus funds pursuant to the Uniform Depository Act. The authorization may minimally decrease the PUSTRCB's administrative costs and it may also increase or decrease PUSTRCB's future investment income. Currently, PUSTRCB receives no GRF funding; personal services costs are paid from line item 810632, Petroleum Underground Storage Tank Release Compensation Board – Operating. The line item receives cash transfers from the Petroleum Underground Storage Tank Financial Assurance Fund, an account in the custody of the Treasurer of State, but not part of the state treasury.

## **Vehicle disposal by university campus police departments and park district police forces**

The bill generally allows university campus police departments and park district police forces to dispose of and, in certain circumstances, take title to motor vehicles abandoned on public or private property within their jurisdiction in the same manner that county, municipal, township, and port authority law enforcement officials are authorized to do so under current law. This may create certain efficiencies for university campus and park district police forces. To the extent that such vehicles may be auctioned, some costs for disposal could be recouped.