Large Filing Separator Sheet

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disabled, the state is required by federal law to have a protection and advocacy system.[327] OLRS administers several federally funded programs to protect and advocate for the rights of persons with mental illness, mental retardation, developmental disabilities, or other disabilities.

OLRS is administered by the Legal Rights Service Commission. The Commission is composed of seven members appointed by the Chief Justice of the Supreme Court, the Speaker of the House of Representatives, and the President of the Senate.

The act requires the Commission to conduct a study on the potential transition of OLRS from a public entity to a nonprofit organization.[328] The study is to include an analysis of all of the following:

(1) The feasibility of a transition to a nonprofit organization;

(2) The potential effects on service delivery, including client service and access to required resources, and any other service delivery advantages or disadvantages that might result from the transition to a nonprofit organization;

(3) Potential organizational effects, including cost savings and non-state funding sources, and any other organizational advantages or disadvantages that might result from the transition to a nonprofit organization;

(4) The approximate amount of time necessary to achieve a transition to nonprofit status.

The Commission must also develop a process plan by which a transition to a nonprofit organization could be implemented by July 1, 2011. The Commission is required, not later than six months after the act's effective date, to provide a written report of the results of the study and a copy of the process plan to the Governor, the Speaker and Minority Leader of the House of Representatives, and the President and Minority Leader of the Senate.

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[327] 42 U.S.C. 15041 *et seq.*; the specific requirement is in 42 U.S.C. 15043.

[328] Federal law provides certain requirements for the redesignation of an agency administering funds for the protection of persons with mental illness, mental retardation, developmental disabilities, or other disabilities. The protection agency may not be redesignated unless (1) there is good cause, (2) the Governor gives the agency 30 days notice of the intention to make the redesignation and an opportunity to respond to the assertion that good cause has been shown, (3) individuals with disabilities or their representatives have timely notice of the redesignation and an opportunity for public comment, and (4) the agency has the opportunity to appeal to the United States Rehabilitation Services Administration Commissioner (29 U.S.C. 732(c)(1)(B)(i) and 42 U.S.C. 15043(a)(4)). Certain programs provide exceptions to these requirements (29 U.S.C. 732(c)(1)(B)(ii)).

LEGISLATIVE SERVICE COMMISSION (LSC)

- Broadens the use of the House and Senate Telephone Usage Fund to include reimbursements and expenditures on account of telephone calls made by the Joint Legislative Ethics Committee and any other legislative agency specified by the 14-member Legislative Service Commission.

Changes in the House and Senate Telephone Usage Fund

(R.C. 103.24; Section 321.10)

Early in 2007 the Controlling Board created the House and Senate Telephone Usage Fund. The Legislative Information Systems Office used the fund to pay the monthly telephone bills it received for calls made from House and Senate telephones and deposited reimbursements the Office received for such calls to the credit of the fund.

The act creates the fund anew in statute, expands its use, and renames it the Legislative Agency Telephone Usage Fund. Money collected for telephone calls made from not only House and Senate telephones, but also those of the Joint Legislative Ethics Committee and any other legislative agency specified by the 14-member Legislative Service Commission, is to be credited to the fund. The fund is to be used to pay the telephone carriers for all such telephone calls.

STATE LIBRARY BOARD (LIB)

- Creates the Bill and Melinda Gates Foundation Grant Fund for use by the State Library Board.

Bill and Melinda Gates Foundation Grant Fund

(R.C. 3375.79)

The act creates in the state treasury the Bill and Melinda Gates Foundation Grant Fund, which consists of grants awarded to the State Library Board by the foundation. The Fund must be used for the improvement of public library services, interlibrary

cooperation, or other library purposes. All investment earnings of the fund must be credited to the fund.

LIQUOR CONTROL COMMISSION (LCO)

- Authorizes a D-5l liquor permit to be issued in a municipal corporation or township in which the number of D-5 permits equals the number of those permits that may be issued in the municipal corporation or township under the population quota restrictions established by law.

- Changes local option elections on Sunday sales of intoxicating liquor allowing sales between 1 p.m. and midnight to instead allow sales between 11 a.m. and midnight.

- Authorizes certain Sunday liquor sales to begin at 11 a.m. even if the sales previously were approved by the voters to commence at 1 p.m., but allows voters to hold an election to revert the time of commencement to 1 p.m. in accordance with certain conditions.

- Makes other changes in the law governing local option elections on Sunday sales of beer and intoxicating liquor at or in election precincts, parts of a precinct, specific locations, and community facilities.

- Requires a D-6 liquor permit to be issued to any of specified liquor permit holders that are authorized to sell intoxicating liquor at retail for on and off premises consumption, rather than only a D-5j liquor permit holder as in former law, for a permit premises that is located in a specified type of community entertainment district to allow sale under the permit between 10 A.M. and midnight on Sunday whether or not that sale has been approved by local option election.

- Would have allowed the serving or consumption of beer or intoxicating liquor in a facility that was owned or leased by the state and that was used by visiting foreign military units for training, provided that such serving or consumption is done according to policies and procedures agreed upon by specified foreign and domestic military personnel (VETOED).

Number of D-5l permits that may be issued in a municipal corporation or township

(R.C. 4303.181)

Continuing law allows the D-5l liquor permit to be issued to the owner or operator of a retail food establishment or a food service operation licensed under state law to sell beer and intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold and to sell beer and intoxicating liquor in the same manner and amounts not for consumption on the premises where sold as may be sold by the holders of D-1 (beer) and D-2 (wine) permits. A D-5l permit holder may exercise the same privileges and must observe the same hours of operation as the holder of a D-5 (night club) permit.

A D-5l permit can be issued only to a premises that (1) has gross annual receipts from the sale of food and meals that constitute not less than 75% of its total gross annual receipts, (2) is located in a revitalization district established by a municipal corporation or township, (3) is located in a municipal corporation or township in which the number of D-5 permits issued *exceeds* the number of those permits that may be issued in a municipal corporation or township under the population quota restrictions established by law, and (4) is located in a county with a population of 125,000 or less according to population estimates certified by the Department of Development for calendar year 2006. The act changes item (3) above to specify that a D-5l permit can only be issued in a municipal corporation or township in which the number of D-5 permits issued *equals or exceeds* the number of those permits that may be issued in the municipal corporation or township under the population quota restrictions established by law.

Overview of law governing Sunday sales of beer, wine and mixed beverages, or intoxicating liquor

(R.C. 4301.22 (not in the act) and 4303.182)

Continuing law generally prohibits the sale of intoxicating liquor on Sunday after 2:30 a.m. by a permit holder unless the sale has been approved in a local option election held in the election precinct in which the premises is located. Questions may be submitted to the voters at a primary or general election to allow the sale of beer, wine and mixed beverages, or intoxicating liquor on Sundays between specified hours as discussed below. The question or questions submitted may govern sales in an election

precinct, in a specific area of an election precinct, at a particular location, or at a community facility.[329]

Changing Sunday sale of intoxicating liquor questions from between 1 p.m. and midnight to between 11 a.m. and midnight

(R.C. 4301.351, 4301.354, 4301.361, 4301.364, 4301.37 (not in the act), and 4303.182; Sections 743.10 and 743.11)

Law generally retained by the act

Under law generally retained by the act, seven questions govern the Sunday sale of intoxicating liquor that may be legally sold in an election precinct or part of an election precinct on days of the week other than Sunday. Four of the questions for election precincts and three of the questions for parts of election precincts pertain to sales between the hours of 1 p.m. and midnight, and three of the questions for both election precincts and their parts pertain to sales between 10 a.m. and midnight. One question from each time period pertains to sales of wine and mixed beverages for off-premises consumption, another question from each time period pertains to sales of intoxicating liquor for on-premises consumption, and a final question from each time period pertains to sales of intoxicating liquor for on-premises consumption at premises where the sale of food and other goods and services exceeds 50% of the total gross receipts of the permit holder at the premises. A seventh question for election precincts pertains to intoxicating liquor sales between the hours of 1 p.m. and midnight for on-premises consumption at an outdoor performing arts center. The latter question may be presented to the voters of a precinct in which an outdoor performing arts center is located only by the legislative authority of the municipal corporation in which, or by the board of trustees of the township in which, the center is located and only within a specified period of time.

Continuing law specifies how the results of local option elections affect the sale of intoxicating liquor at locations wishing to sell intoxicating liquor on Sundays in election precincts or parts of election precincts. If the voters of a precinct or part of a precinct, whichever applies, approve the sale of intoxicating liquor on Sundays,

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[329] "Community facility" means either of the following: (1) any convention, sports, or entertainment facility or complex, or any combination of these, that is used by or accessible to the general public and that is owned or operated in whole or in part by the state, a state agency, or a political subdivision of the state or that is leased from, or located on property owned by or leased from, the state, a state agency, a political subdivision of the state, or a convention facilities authority created under continuing law, or (2) an area designated as a community entertainment district pursuant to continuing law (R.C. 4301.01(B)(19), not in the act).

locations within the precinct or part of a precinct are authorized to sell intoxicating liquor.

Changes made by the act

Certain Sunday sale hours and D-6 permits

Under the act, the questions governing the Sunday sale of intoxicating liquor are substantively the same as those discussed above, except that the act changes the questions governing the hours of Sunday sale of intoxicating liquor between 1 p.m. and midnight to apply to Sunday sale of intoxicating liquor between 11 a.m. and midnight. The act also generally requires that the sale of intoxicating liquor be permitted between the hours of 11 a.m. and midnight on Sunday under a D-6 permit (Sunday liquor sales) if the sale of intoxicating liquor between the hours of 1 p.m. and midnight was approved at a local option election before the act's effective date, except for the exception discussed below. Finally, the act requires that a D-6 permit be issued to the holders of specified liquor permits if Sunday sales are allowed as the result of an election in or at an election precinct, a specific area of a precinct, a particular location, or a community facility during specified hours.

Exception special election

The act allows the electors in a precinct in which the commencement time is changed by its operation to 11 a.m. (see above) to hold an election to revert that time to 1 p.m. The election must be held under the following conditions:

- At the first general election that occurs after the effective date of the act's applicable provisions unless that general election will be held less than 135 days after that date, in which case the election must be held at the immediately following general election;

- Under one of the "11 a.m. to midnight" questions (other than the question pertaining to outdoor performing arts centers), as amended by the act, that seeks approval of Sunday sales of intoxicating liquor in an election precinct or part of an election precinct, as applicable, except that the starting time for sales under the question must be stated as 1 p.m. rather than 11 a.m.;

- In accordance with the applicable requirements and election provisions that govern those questions and that are established under the Liquor Control Law.

Not later than 45 days after the effective date of the act's applicable provisions, the Superintendent of Liquor Control must publish notice of the special election provisions in a newspaper of general circulation in each county of the state.

Permitted hours of sale and effective period of election

The act specifies that locations in a precinct or part of a precinct, whichever applies, generally are only authorized to sell intoxicating liquor on Sunday during the hours specified in the relevant questions--either 10 a.m. to midnight or 11 a.m. to midnight. As under law unchanged by the act, the results of elections on the Sunday liquor sales questions remain in effect until another election is held on the same question for the precinct or part of the precinct, but no election can be held on the same question for the precinct or part of the precinct more than once every four years.

Validity of pending petitions

Under the act, if a petition seeks the holding of an election on Sunday liquor sales on or after the effective date of the act's applicable provisions under the questions seeking approval of Sunday sales for an election precinct, a specific area of a precinct, a specified location, or a community facility (which question formerly generally referred to "1 p.m. to midnight," but the act changes to "11 a.m. to midnight") and the petition contains signatures that were placed on it before that date, the petition is not invalid merely because the question or questions sought to be submitted to the voters and contained in the petition state that Sunday liquor sales will commence beginning at 1 p.m. rather than 11 a.m.

Changes in procedure for local option elections on liquor sales at a particular location

(R.C. 4301.323 (*not in the act*), 4301.333, 4301.355, 4301.365, and 4303.182)

Change in the petition requirements and in the wording of the questions on the ballot

Petition

Law retained by the act allows a local option election to be held in an election precinct on the sale of beer, wine and mixed beverages, or intoxicating liquor at a particular location within the precinct if the petitioner for the election is one of the following: (1) an applicant for the issuance or transfer of a liquor permit at, or to, a particular location within the precinct, (2) the holder of a liquor permit at a particular location within the precinct, (3) a person who operates or seeks to operate a liquor agency store at a particular location within the precinct, or (4) the designated agent for such an applicant, permit holder, or liquor agency store.

The petition for the election described above must contain all of the following: (1) a notice that the petition is for the submission of a question or questions seeking an election on sales of beer, wine and mixed beverages, or intoxicating liquor at a particular location, (2) the name of the applicant for the issuance or transfer, or the holder, of the liquor permit or, if applicable, the name of the liquor agency store, including any trade or fictitious names under which the applicant, holder, or liquor agency store either intends to do or does business at the particular location, and (3) the address and proposed use of the particular location within the election precinct to which the results of the question or questions will apply. The act specifies that a petition that seeks approval of Sunday sales at a particular location also must contain a statement indicating whether the hours of sale sought are between 10 a.m. and midnight or between 11 a.m. and midnight.

Ballot

Under law unchanged by the act, the wording of a Sunday liquor sales question that is placed on the ballot must state whether beer, wine and mixed beverages, or intoxicating liquor is to be sold under the permit sought for, or under the permit issued to, the particular premises, or is to be sold at the liquor agency store, that is the subject of the election. Under the act, the question also must specify that the sale of beer, wine and mixed beverages, or intoxicating liquor on Sunday will be either between the hours of 10 a.m. and midnight or 11 a.m. and midnight.

Effect of election concerning Sunday liquor sales

Continuing law specifies how the results of a local option election concerning Sunday sales at a particular location affect the sale of beer, wine and mixed beverages, or intoxicating liquor at the location. If the voters in a precinct approve the Sunday sale of beer, wine and mixed beverages, or intoxicating liquor at a particular location, the location is allowed to sell whichever was the subject of the election. The act adds that the location specified in a question generally is only authorized to sell beer, wine and mixed beverages, or intoxicating liquor during the hours authorized under the act and approved in the local option election.

Under law revised in part by the act , if a question is submitted to the electors of a precinct proposing to authorize the sale of beer, wine and mixed beverages, or spirituous liquor between the hours of 10 a.m. and midnight at a particular location at which the sale of beer, wine and mixed beverages, spirituous liquor, or intoxicating liquor is already allowed between the hours of 1 p.m. and midnight and the question submitted is defeated, the sale of beer, wine and mixed beverages, spirituous liquor, or intoxicating liquor between the hours of 1 p.m. and midnight must continue at that particular location. Under the act, if the question allowing sales between 10 a.m. and

midnight is defeated and if the particular location is already allowed to sell beer, wine and mixed beverages, spirituous liquor, or intoxicating liquor either between the hours of 11 a.m. and midnight or between the hours of 1 p.m. and midnight, the particular location is allowed to continue to sell beer, wine and mixed beverages, spirituous liquor, or intoxicating liquor between the hours of 11 a.m. and midnight or 1 p.m. and midnight, as applicable.

Changes in procedure for local option elections on liquor sales at a community facility

(R.C. 4301.334, 4301.356, 4301.366, and 4303.182)

Change in the petition requirements and in the wording of the questions on the ballot

Petition

Law revised in part by the act allows a local option election to be held in a municipal corporation or the unincorporated area of a township on the sale of beer and intoxicating liquor at a community facility located within the municipal corporation or unincorporated area if the petitioner for the election presents a petition and other specified information to the board of elections of the county in which the community facility is located. The petition must contain both of the following: (1) a notice that it is for the submission of a question authorizing the sale of beer and intoxicating liquor on all days of the week except Sunday and between the hours of 1 p.m. and midnight on Sunday at a particular community facility, and (2) the name and address of the community facility and, if the community facility is a community entertainment district, the boundaries of the district. The act specifies that the petition also must include a statement indicating whether the hours of Sunday sales sought in the local option election are between 10 a.m. and midnight or between 11 a.m. and midnight.

Ballot

Under law changed in part by the act, the question for a local option election authorizing the Sunday sale of beer and intoxicating liquor at a community facility specifies that the sale can only occur on days of the week other than Sunday and between the hours of 1 p.m. and midnight on Sunday. The act changes the hours of Sunday sale specified on the ballot question from between 1 p.m. and midnight to between 10 a.m. and midnight or between 11 a.m. and midnight, whichever time period is sought.

Effect of election concerning Sunday liquor sales

Under law largely unchanged by the act, if a majority of the voters approve the sale of beer and intoxicating liquor at a community facility, the community facility is authorized to sell beer and intoxicating liquor for the use specified in the question. The act provides that the sale of beer and intoxicating liquor is allowed on Sunday at a community facility generally only during the hours approved by the voters, either between 10 a.m. and midnight or between 11 a.m. and midnight.

Liquor permits in certain community entertainment districts

(R.C. 4303.182)

Under law revised in part by the act, a D-6 liquor permit (Sunday liquor sales) must be issued to a D-5j liquor permit holder (retail food establishment and food service operation in a community entertainment district) for a permit premises that is located in a community entertainment district that was approved by the legislative authority of a municipal corporation between October 1 and October 15, 2005, to allow sale under the permit between 10 A.M. and midnight on Sunday whether or not that sale has been approved by local option election.[330] The act instead requires a D-6 liquor permit to be issued to any liquor permit holder that is authorized to sell intoxicating liquor at retail for on and off premises consumption for a permit premises that is located in such a community entertainment district.

Serving or consumption of alcohol on state property (VETOED)

(R.C. 4301.85)

The Governor vetoed a provision that would have allowed the serving or consumption of beer or intoxicating liquor in a facility that was owned or leased by the state and that was used by visiting foreign military units for training, provided that such serving or consumption of beer or intoxicating liquor was done according to the policies and procedures agreed upon by the commanding officers of the foreign military

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[330] "Community entertainment district" means a bounded area that includes or will include a combination of entertainment, retail, educational, sporting, social, cultural, or arts establishments within close proximity to some or all of the following types of establishments within the district, or other types of establishments similar to these: (1) hotels, (2) restaurants, (3) retail sales establishments, (4) enclosed shopping centers, (5) museums, (6) performing arts theaters, (7) motion picture theaters, (8) night clubs, (9) convention facilities, (10) sports facilities, (11) entertainment facilities or complexes, and (12) any combination of the establishments described above that provide similar services to the community (R.C. 4303.182(J) by reference to R.C. 4301.80(A), not in the act).

units, the Adjutant General, and the United States Department of Defense liaisons or their designated representatives to the foreign military units.[331]

LOCAL GOVERNMENT (LOC)

- Modifies the makeup of a financial planning and supervision commission and the qualifications of commission members.
- Specifies the number of commission members necessary to constitute a quorum and to constitute an affirmative vote.
- Requires that a member of the board of county commissioners be a member of the county board of revision, and removes the requirement that the president of the board of county commissioners be a member.
- Reduces, from fifteen to ten, the minimum number of days for bidding when a nonchartered municipal corporation sells personal property by Internet auction.
- Authorizes a certain nonprofit corporation to create a special improvement district governed by the corporation's existing board.
- Authorizes a board of county commissioners for a sewer district, and a board of trustees for a regional water and sewer district, to offer discounts or reductions on water and sewer rates, rentals, or charges to certain persons 65 years of age or older who are eligible for the homestead exemption or qualify as low-and moderate-income persons.
- Extends the time from October 15, 2009, to October 15, 2010, during which local governments may enter enterprise zone agreements.
- Authorizes the formation of a County Land Reutilization Corporation (CLRC) at any time, rather than on or before April 7, 2010.

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[331] "Beer" includes all beverages brewed or fermented wholly or in part from malt products and containing 0.5% or more, but not more than 12%, of alcohol by volume (R.C. 4301.85(B) by reference to R.C. 4301.01(B)(2), not in the act). "Intoxicating liquor" and "liquor" include all liquids and compounds, other than beer, containing 0.5% or more of alcohol by volume which are fit to use for beverage purposes, from whatever source and by whatever process produced, by whatever name called, and whether they are medicated, proprietary, or patented. "Intoxicating liquor" and "liquor" include wine even if it contains less than 4% of alcohol by volume, mixed beverages even if they contain less than 4% of alcohol by volume, cider, alcohol, and all solids and confections which contain any alcohol. (R.C. 4301.85(B) by reference to R.C. 4301.01(A)(1), not in the act.)

- Eliminates the restriction prohibiting a CLRC from acquiring real property and tax certificates more than two years after a CLRC is formed.

- Authorizes the county treasurer in a county that has formed a CLRC to charge interest on delinquent taxes at a rate of 12% per year or 1% per month.

- Expressly authorizes a convention facilities authority to acquire or construct hotels as part of the auxiliary facilities of a convention, entertainment, or sports facility.

- Increases the amount of each fee that a clerk of a court of common pleas retains for issuing a certificate of title for a watercraft or outboard motor, motor vehicle, off-highway motorcycle, or all-purpose vehicle when there is no lien or security interest noted on the certificate.

- Prohibits the state and political subdivisions from using Internet reverse auctions to purchase supplies or services if the contract concerns the design, construction, alteration, repair, reconstruction, or demolition of a building, highway, road, street, alley, drainage system, water system, waterworks, ditch, sewer, sewage disposal plant, or any other structure or works of any kind.

- Increases certain fees that a sheriff charges for the service and return of certain writs and orders and for transporting convicted felons to state correctional institutions.

- Requires a charge of $4 for accident reports, and permits a local law enforcement agency to charge a higher fee for accident reports or photographs or any other "electronic format" related to accident reports if, in the future, the State Highway Patrol is authorized to charge a fee in excess of $4 for any of these items and the board of county commissioners of the county in which the local law enforcement agency is located approves that same higher fee.

- Would have required a definitive charge of $4 for photographs or any other "electronic format" related to an accident report (VETOED).

- Would have specified that, for purposes of statutes and regulations requiring counties to make second and later publications of a notice, advertisement, list, or other information in a newspaper of general circulation, the second and later publication requirement would have been satisfied by complying with specified Internet posting requirements (VETOED).

- Would have required a board of county commissioners of a county with a population between 800,000 and 900,000 to conduct a pilot project authorizing commercial advertising on a county web site, and would have specified the

information that must be included in the resolution authorizing the advertising (VETOED).

- Authorizes a county appointing authority to establish a mandatory cost savings program for its employees who are not subject to a collective bargaining agreement that includes a loss of pay or loss of holiday pay of not more than 80 hours during each of state fiscal years 2010 and 2011.

- Authorizes a county appointing authority to establish a mandatory cost savings program for such employees after June 30, 2011, in the event of a fiscal emergency.

- Provides that mandatory cost savings days for these county employees is not a modification or reduction in pay that can be appealed to the State Personnel Board of Review.

- Authorizes a special improvement district to undertake special energy improvement projects to create a solar photo voltaic project or solar thermal energy project.

- Authorizes a municipal corporation to establish a program to make low-cost loans to residents of the municipal corporation so that they can install solar panels in their residences.

- Specifies that port authorities are required to prepare a plan for future development, construction, and improvement only for maritime facilities; limits the effect of the plan on port authority financial instruments and contracts; and revises notification requirements.

- Includes townships among the current entities authorized to commence a civil action to abate a public nuisance.

- Changes the definition of "small wind farm" within the county zoning law to conform to definitions of small wind farm in township and municipal zoning laws.

- Adds that the Ohio Commission on Local Government Reform and Collaboration, in developing its recommendations, must consider making annual financial reporting across local governments consistent for ease of comparison and aligning regional planning units across state agencies.

Financial planning and supervision commissions

(R.C. 118.05; Section 701.20)

Upon the occurrence and determination of a fiscal emergency in any municipal corporation, county, or township, a financial planning and supervision commission for the municipal corporation, county, or township is established. Such a commission consists of the following seven voting members: four ex officio members[332] or their designees and three members nominated by the municipal corporation, county, or township and appointed by the Governor with the advice and consent of the Senate.

The act makes a distinction in the number of commission members depending upon the population of the municipal corporation, county, or township involved in the fiscal emergency. If the municipal corporation, county, or township has a population of at least 1,000, the commission must have seven members as described above. If, however, the municipal corporation, county, or township has a population of less than 1,000, the commission must have five members, four being the ex officio members and one being nominated by the municipal corporation, county, or township and appointed by the Governor with the advice and consent of the Senate as follows:

The mayor and presiding officer of the legislative authority of the municipal corporation, the board of county commissioners, or the board of township trustees must, within ten days after the determination of the fiscal emergency by the Auditor of State, submit in writing to the Governor the nomination of three persons agreed to by them and meeting the necessary qualifications for appointment. If the Governor is not satisfied that at least one of the nominees is well qualified, the Governor must notify the mayor and presiding officer, or the board of county commissioners, or the board of township trustees to submit in writing, within five days, additional nominees agreed upon by them, not exceeding three. The Governor must appoint one member from all the submitted, agreed-upon nominees or must fill the position by appointment of any other person meeting the qualifications for appointment. The appointed member serves during the life of the commission, but is subject to removal by the Governor for misfeasance, nonfeasance, or malfeasance in office. In the event of the death, resignation, incapacity, removal, or ineligibility to serve of the appointed member, the Governor, pursuant to the process for original appointment, must appoint a successor.

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[332] Two of the four ex officio members of a financial planning and supervision commission are the Treasurer of State and the Director of Budget and Management. The other two ex officio members are, if a municipal corporation is involved, the mayor and presiding officer of the legislative authority of the municipal corporation; if a county is involved, the president of the board of county commissioners and the county auditor; or if a township is involved, a member of the board of township trustees and the county auditor.

To qualify to be appointed as a member of a financial planning and supervision commission, an individual must:

(1) Have knowledge and experience in financial matters, financial management, or business organization or operations, including at least five years of experience in the private sector in the management of business or financial enterprise or in management consulting, public accounting, or other professional activity;

(2) Have residence, an office, or a principal place of professional or business activity situated within the municipal corporation, county, or township;

(3) Have not, at any time during the five years preceding the date of appointment, held any elected public office. An appointed member of a financial planning and supervision commission must not become a candidate for elected public office while serving as a member of the commission.

The act removes the specific experience requirement and the restriction on previous election from the qualifications. In other words, a member of a financial planning and supervision commission no longer will have to have had at least five years experience in the private sector in the management of a business or financial enterprise or in a management consulting, public accounting, or other professional activity. And a member will no longer be disqualified if the member was elected to a public office during the five years preceding the member's appointment to the commission. The act, however, retains the rule disqualifying a member who becomes a candidate for elected public office while serving as a member of a commission.

Under prior law, five members of the commission constituted a quorum and the affirmative vote of five members was necessary for any action taken by vote of the commission. Under the act, for a commission for a municipal corporation, county, or township with a population of at least 1,000, four members constitute a quorum of the commission and the affirmative vote of a majority of the members is necessary for any action taken by vote of the commission. For a commission for a municipal corporation, county, or township with a population of less than 1,000, three members constitute a quorum of the commission and the affirmative vote of a majority of the members is necessary for any action taken by vote of the commission. The act also specifies for any commission established before the act's general effective date, four members constitute a quorum and the affirmative vote of a majority of the members is necessary for any action taken by vote of the commission.

County board of revision

(R.C. 5715.02)

Prior law required the President of a board of county commissioners to be a member of the county board of revision. The act removes this requirement and requires a member of the board of county commissioners, selected by the board of county commissioners, to be a member of the county board of revision.

Minimum bidding period for certain sales of personal property by Internet auction

(R.C. 721.15)

A nonchartered municipal corporation is authorized to sell personal property that is unneeded, obsolete, or unfit for use by a variety of means, including a sale by Internet auction. The legislative authority must adopt a resolution on an annual basis expressing its intent to sell the property in this manner. Under prior law, the property must be available on the Internet for bidding for at least 15 days, including Saturdays, Sundays, and legal holidays.

The act reduces, from fifteen to ten, the minimum number of days for bidding when a municipal corporation sells personal property by Internet auction.

Special improvement districts

(R.C. 1710.01, 1710.02, 1710.03, 1710.04, 1710.06, 1710.10, and 1710.13)

The act authorizes the creation of a special improvement district by a certain preexisting nonprofit corporation, and provides for the governance of the district by the corporation's governing board instead of the creation of a new board. Under continuing law, special improvement districts may be created by property owners to provide public improvements or services funded by local government bonds and special assessments levied on property in the district. The improvements that the district may provide are those for which a municipal corporation may levy special assessments, and the services are those that a municipal corporation may provide or for which special assessments may be levied under the general law governing special assessments (R.C. Chapter 727.).

To create a special improvement district (SID) under the act, a nonprofit corporation must exist before the district is created, must have certain specified purposes, and must have created a police department under law authorizing the establishment of a police department by certain nonprofit corporations (R.C. 1702.80). The specified purposes include: the acquisition of real property within a specified area

for the subsequent transfer to its members exclusively for charitable, scientific, literary, or educational purposes, or holding and maintaining and leasing such property; planning for and assisting in the development of its members; providing for the relief of the poor and distressed or underprivileged in the area and adjacent areas; combating community deterioration and lessening the burdens of government; providing or assisting others in providing housing for low- or moderate-income persons; and assisting its members by the provision of public safety and security services, parking facilities, transit service, landscaping, and parks.

Under continuing law governing special improvement districts (R.C. Chapter 1710.), a SID is created by property owners within a contiguous area. A nonprofit corporation must be created specifically for the purpose of the SID, and the corporation's board of trustees is the governing board of the SID. Before a SID may be created, the corporation's articles of incorporation must be filed for approval by the township or municipal corporation where the district would be located. The articles must be accompanied by a petition signed by the owners of either 75% of the area to be in the SID or 60% of the front footage in the SID (in either case excluding churches and governments that do not specifically request inclusion). If the township or municipal corporation approves the petition and articles, the district is created, all owners of property in the district become members of the district, and their property becomes subject to any assessment that may be levied, except for the state or federal government, and except for any local government or church that does not specifically request to be a member. The SID board of directors is composed of at least five members, including the municipal corporation's chief executive (or designee) if the SID is in a municipal corporation, and an appointee by the legislative body of the township or municipal corporation where the SID is located. The remaining directors are elected by a majority vote of the members of the SID.

If a preexisting nonprofit corporation creates a SID under the act's new authority, the corporation need only file a copy of its existing articles of incorporation for approval by the township or municipal corporation. The corporation need not file a petition signed by property owners. If the articles are approved by the township or municipal corporation, the membership is composed of all property owners except those excepted from SIDs under continuing law, but any church that is a member of the preexisting nonprofit corporation is a member of the SID. The preexisting corporation's board of trustees would be the SID board of directors. The election of directors otherwise required by ongoing law would not be required, and the requirement that a municipal executive and appointees of the legislative authorities be members of the district's board of directors may be satisfied by the membership on the corporation's board of representatives of the municipal corporation or township; or, the requirement may be waived if approved by the municipal corporation or township. Several governance and

procedural provisions of ongoing law applicable to SID boards do not apply to the preexisting nonprofit corporation's board to the extent they are not consistent with its regulations, including the appointment of proxies or designees, notices of meetings, the election of officers, and annual reporting. In the case of inconsistency, the preexisting corporation's regulations govern.

Prior SID law required that any law enforcement or fire protection services to be provided by the SID be provided only by contract with the township or municipal corporation. Under the act, a SID created by a preexisting nonprofit corporation may provide its own law enforcement service without such a contract, in view of the fact that a preexisting nonprofit corporation qualified to create a SID under the act is qualified under ongoing law to establish its own police department.

Continuing law provides procedures for the dissolution of a SID and the disposition of its assets and liabilities. This provision does not apply to a SID created by a preexisting nonprofit corporation under the act's authority.

Authority of special improvement districts to undertake special energy improvement projects

(R.C. 1710.01, 1710.02, 1710.06, and 1710.07)

Continuing law authorizes a special improvement district to be created within the boundaries of any one municipal corporation or township, or any combination of contiguous municipal corporations and townships, for the purpose of developing and implementing plans for public improvements and public services that benefit the district. Continuing law defines "public improvement" to mean the planning, design, construction, reconstruction, enlargement, or alteration of any facility or improvement, including the acquisition of land, for which a special assessment may be levied under the Municipal Special Assessments Act.

The act defines "public improvement" also to include any special energy improvement project. A "special energy improvement project" is any property, device, structure, or equipment necessary for the acquisition, installation, equipping, and improvement of any real or personal property used for the purpose of creating a solar photo voltaic project or solar thermal energy project, whether the real or personal property is publicly or privately owned.

Continuing law generally requires that all territory in a special improvement district be contiguous. The act, however, allows territory in a special improvement district to be noncontiguous if at least one special energy improvement project is designated for each parcel of real property included within the district. Additional territory may be added to the district for the purpose of developing and implementing

plans for special energy improvement projects if at least one special energy improvement project is designated for each parcel of real property included within the additional territory and the addition of territory is authorized by the initial plan for public services or public improvements in the district or by a plan adopted by the board of directors of the district.

Continuing law generally requires that the articles of incorporation for a nonprofit corporation governing a special improvement district be accompanied by a petition signed by the owners of either at least 60% or 75% of the front footage of all real property in the proposed district, depending on whether publicly-owned or church-owned property is to be included in the district. Under the act, if a special improvement district is being created to develop and implement plans for special energy improvement projects, the petition must be signed by 100% of the owners of all real property located within the proposed district and at least one special energy improvement project must be designated for each parcel of property within the district.[333] The district may include any number of parcels of real property as determined by the legislative authority of each participating political subdivision in which the proposed district is to be located. The act specifies that the acquisition, installation, equipping, and improvement of a special energy improvement project does not supersede any local zoning, environmental, or similar law or regulation.

Continuing law provides that after the initial plan for a special improvement district is approved by all municipal corporations and townships to which it is submitted for approval and the district is created, each participating subdivision must levy a special assessment within its boundaries to pay for the cost of the initial plan. The levy must be for not more than ten years from the date of the approval of the initial plan. The act provides, however, that if the proceeds of the levy are to be used to pay the costs of a special energy improvement project, the levy of a special assessment must be for not more than 25 years from the date of approval of the initial plan. If additional

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[333] When a petition is for the purpose of developing and implementing plans for special energy improvement projects, the act deems the petition to be in furtherance of the purposes stated in Ohio Constitution, art. VIII, § 2o. Art. VII, § 2o states that conservation and revitalization are proper public purposes of the state and local governments. "Conservation" means conservation and preservation of natural areas, open spaces, and farmlands and other lands devoted to agriculture, provision of state and local park and recreation facilities, and other actions that permit and enhance the availability, public use, and enjoyment of natural areas and open spaces, and land, forest, water, and other natural resource management projects. "Revitalization" means providing for and enabling the environmentally safe and productive development and use or reuse of publicly or privately owned lands, including lands in urban areas, by the remediation or clean up of contamination, or addressing, by clearance, land acquisition or assembly, infrastructure, or otherwise, contamination or other property conditions or circumstances that may be deleterious to the public health and safety and the environment and water and other natural resources, or that preclude or inhibit environmentally sound or economic use or reuse of the lands.

territory is added to the district, the special assessment to be levied with respect to the additional territory must commence not later than the date the territory is added and must be for not more than 25 years from that date.

Under the act, the board of directors of a special improvement district, acting as agent and on behalf of a participating political subdivision, may sell, transfer, lease, or convey any special energy improvement project owned by the participating political subdivision upon a determination by its legislative authority that the project is not required to be owned exclusively by the participating political subdivision for its purposes, for uses determined by the legislative authority as those that will promote welfare of the people of the participating political subdivision; to improve the quality of life and general and economic well-being of the people of the participating political subdivision; to better ensure the public health, safety, and welfare; to protect water and other natural resources; to provide for the conservation and preservation of natural and open areas and farmlands, including by making urban areas more desirable or suitable for development and revitalization; to control, prevent, minimize, clean up, or mediate certain contamination of or pollution from lands in the state and water contamination or pollution; or to provide for safe and natural areas and resources. The legislative authority of each participating political subdivision must specify the consideration for, and any other terms of, the sale, transfer, lease, or conveyance. Any determinations made by the legislative authority of a participating political subdivision are conclusive.

Any sale, transfer, lease, or conveyance of a special energy improvement project by a participating political subdivision or board of directors of a special improvement district may be made without advertising, receipt of bids, or other competitive bidding procedures applicable to the participating political subdivision or district under the state Public Works Act, the Municipal Public Service Act, the law governing the award of contracts by special improvement districts, or other representative provisions of the Revised Code.

Under the act, plans for public improvements or public services of a special improvement district may include provisions for, and may include the costs associated with, the sale, lease, lease with an option to purchase, conveyance of other interests in, or other contracts for the acquisition, construction, maintenance, repair, furnishing, equipping, operation, or improvement of any special energy improvement project by the special improvement district, between a participating political subdivision and the district, or between the district and any owner of real property in the district on which a special energy improvement project has been acquired, installed, equipped, or improved.

Discounts or reductions on water and sewer service for certain persons 65 years of age or older

(R.C. 6103.01, 6103.02, 6117.01, 6117.02, 6119.011, and 6119.091)

A board of county commissioners is authorized to create a sewer district and provide water and sewer services in the district. Similarly, the board of trustees of a regional water and sewer district may provide water and sewer services in the district under the Regional Water and Sewer Districts Law. The board of county commissioners is required to fix reasonable water and sewer rates and other charges. The board of trustees of a regional water and sewer district is authorized to charge rentals and other charges for water and sewer services.

The act authorizes such a board of county commissioners and board of trustees to establish discounted rates, rentals, or charges, or to establish another mechanism for providing a reduction in rates, rentals, or charges, for persons who are 65 years of age or older and meet additional eligibility requirements. A board is required to establish eligibility requirements for a discounted or reduced rate, rental, or charge in addition to the recipients being 65 years of age or older. One of those requirements must be that a recipient qualify as a low- and moderate-income person under guidelines adopted by the Housing Finance Agency or that a recipient be eligible for the homestead exemption, which provides real property tax reductions to elderly persons who own real property.

Enterprise zone agreements

(R.C. 5709.62, 5709.63, and 5709.632)

Counties and municipal corporations may designate areas within the county or municipal corporation as "enterprise zones." After designating an area as an enterprise zone, the county or municipal corporation must petition the Director of Development for certification of the designated enterprise zone. If the Director certifies a designated enterprise zone, the county or municipal corporation may then enter into an enterprise zone agreement with a business for the purpose of fostering economic development in the enterprise zone. Under an enterprise zone agreement, the business agrees to establish or expand within the enterprise zone, or to relocate its operations to the zone, in exchange for tax relief and other incentives.

Prior law authorized local governments to enter into enterprise zone agreements through October 15, 2009. The act extends the time during which local governments may enter these agreements to October 15, 2010.

County land reutilization corporations

(R.C. 323.121, 323.73, 323.74, 323.77, 323.78, 1724.02, 1724.04, 5721.32, 5721.33, 5722.02, 5722.04, 5722.21, and 5723.04)

Sub. S.B. 353 of the 127th General Assembly authorized the creation of a type of "community improvement corporation" known as a "county land reutilization corporation" (CLRC) under R.C. 1724.04 in counties with a population of greater than 1.2 million. The purpose of CLRCs is to assist other entities in assembling, clearing, and clearing title of property in a coordinated manner and to promote economic and housing development in the county or region. (For more information regarding what authority is granted to CLRCs, see the LSC final analysis for Sub. S.B. 353.)

Prior law prohibited the formation of a County Land Reutilization Corporation (CLRC) after April 7, 2010, which is one year after the effective date of Sub. S.B. 353 of the 127th General Assembly, which originally authorized creation of CLRCs. Prior law also prohibited a CLRC from acquiring real property and tax certificates more than two years after the CLRC was formed.

The act authorizes CLRCs to form and to acquire real property and tax certificates at any time.

Prior law required the county treasurer in a county that formed a CLRC to charge interest on delinquent taxes at a rate of 1% per month.

The act authorizes the treasurer of such a county to charge interest at a rate of 12% per year or 1% per month.

Convention facilities authority

(R.C. 351.01)

Continuing law authorizes counties to create convention facilities authorities with the authority to administer convention, entertainment, or sports facilities, including "parking facilities, walkways, and other auxiliary facilities," located within their respective territories.

The act expressly authorizes convention facilities authorities to acquire or construct hotels as part of the auxiliary facilities of a convention, entertainment, or sports facility.

Clerk of courts titling fees

(R.C. 1548.10, 4505.09, and 4519.59)

Am. Sub. H.B. 2 of the 128th General Assembly generally increased the fee that a clerk of a court of common pleas charges for issuing a certificate of title for a watercraft or outboard motor, motor vehicle, off-highway motorcycle, or all-purpose vehicle from $5 to $15. The act revises the amount of the fee that the clerk retains when there is no lien or security interest noted on the certificate of title, as follows: (1) $12 for each watercraft or outboard motor, rather than $10.50 as under Am. Sub. H.B. 2 and (2) $12.25 for each motor vehicle, off-highway motorcycle, or all-purpose vehicle, rather than $11.50 as under Am. Sub. H.B. 2.

As a result of the clerk keeping these additional funds: (1) the Chief of the Division of Watercraft will receive $3 rather than $4.50 as under Am. Sub. H.B. 2 for each watercraft or outboard motor certificate of title when there is no lien or security interest noted on the certificate and (2) the Registrar of Motor Vehicles will receive $2.75, rather than $3.50 as under Am. Sub. H.B. 2 for each motor vehicle, off-highway motorcycle, or all-purpose vehicle certificate of title when there is no lien or security interest noted on the certificate. For the Registrar, the reduction in fees per certificate of title with no lien or security interest notation results in the Registrar distributing $.75 less for each such certificate to the State Bureau of Motor Vehicles Fund.

Limitation on state and political subdivision use of Internet reverse auctions

(R.C. 9.314 and 9.317)

Whenever any political subdivision[334] determines that the use of a reverse auction[335] is advantageous to the political subdivision, the political subdivision, in accordance with this Ohio law and the political subdivision's rules, can purchase supplies or services by reverse auction. Also, whenever the Director of Administrative Services determines that the use of a reverse auction is advantageous to the state, the Director, in accordance with rules the Director adopts, can purchase supplies or services by reverse auction. The Director also can authorize a state agency that is authorized to purchase supplies or services directly to purchase them by reverse auction. (R.C. 125.072, not in the act.)

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[334] "Political subdivision" means a municipal corporation, township, county, school district, or other body corporate and politic responsible for governmental activities only in geographic areas smaller than Ohio and also includes a contracting authority.

[335] "Reverse auction" means a purchasing process in which offerors submit proposals in competing to sell supplies or services in an open environment via the Internet.

The act prohibits a political subdivision and a state agency[336] from purchasing supplies or services by reverse auction if the contract concerns the design, construction, alteration, repair, reconstruction, or demolition of a building, highway, road, street, alley, drainage system, water system, waterworks, ditch, sewer, sewage disposal plant, or any other structure or works of any kind.

Changes in certain fees charged by a sheriff and by a law enforcement agency for accident reports

(R.C. 311.17, 2949.17, and 5502.12)

Sheriff's fees

The sheriff is required to charge various fees for the service and return of specified writs and orders. The act increases from $20 to $30 the fee charged for a writ or order of execution when money is paid without levy or when no property is found. The act also increases from $10 to $20 the fee charged for an arrest warrant, for each person named in the warrant. And the act increases from $6 to $10 the fee charged for a subpoena, for each person named in the subpoena in either a civil or criminal case.

The sheriff formerly was required to charge for serving each summons, writ, order, or notice a fee of $1 per mile for the first mile, and 50¢ per mile for each additional mile, going and returning, with the actual mileage to be charged on each additional name. The act increases these amounts from $1 to $2 and from 50¢ to $1.

When the sheriff transports indigent convicted felons to a state correctional institution, the county formerly was entitled to reimbursement in an amount equal to (1) 10¢ a mile from the county seat to the state correctional institution and return for the sheriff and each of the guards involved and (2) 5¢ a mile from the county seat to the state correctional institution for each prisoner. The act changes the amount of this reimbursement to not less than $1 a mile from the county seat to the state correctional institution and return for each prisoner.

Accident report fees (PARTIALLY VETOED)

Continuing law requires law enforcement agencies to submit motor vehicle accident reports to the Director of Public Safety for purposes of statistical, safety, and other studies. Under continuing law, the law enforcement agency that submits such a report must furnish a copy of the report and associated documents to any person claiming an interest arising out of a motor vehicle accident or to the person's attorney.

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[336] "State agency" means any organized body, office, agency, institution, or other entity established by the laws of Ohio for the exercise of any function of state government (R.C. 9.23, not in the act).

Prior law set the report cost at a nonrefundable fee that could not exceed $4. The act sets the amount of this fee at $4.

Continuing law further provides that the cost of photographs is in addition to the nonrefundable $4 fee for the accident report. The Governor vetoed a provision that would have set the cost of photographs or any other "electronic format" at $4, in addition to the nonrefundable $4 fee for the accident report, whether the report was submitted by the State Highway Patrol or another law enforcement agency.

The act provides that if, after the act's general effective date, the State Highway Patrol is authorized to charge a fee in excess of $4 for an accident report relating to an accident investigated by the State Highway Patrol and all related reports and statements or a fee in excess of $4 for photographs or other electronic formats related to an accident report, a local law enforcement agency may charge that same fee for an accident report relating to an accident investigated by that law enforcement agency and all related reports and statements or for photographs or other electronic formats related to an accident report investigated by that law enforcement agency upon approval of the board of county commissioners of the county in which that law enforcement agency is located.

Satisfaction of multiple publication requirements through Internet postings (VETOED)

(R.C. 305.20)

Many sections of statutory law, for a variety of purposes, require counties and other political subdivisions to give notice by publication in a newspaper of general circulation in the county or other political subdivision. Often multiple publications may be required.

The Governor vetoed a section of law that would have specified, for purposes of any such statute or regulation pertaining to a county, the second and subsequent publications were satisfied by posting the notice, advertisement, list, or other information on the county's Internet web site if the newspaper publication stated that the notice, advertisement, list, or other information is posted on the county's web site, provided the county's Internet address on the worldwide web, and included instructions for accessing the notice, advertisement, list, or other information on the county's web site. The Internet web site posting would have been required to provide the same information as is otherwise required for the newspaper publication.[337] If a

[337] The information in the newspaper notice about accessing the county's web site does not have to be included.

county did not operate and maintain, or ceased to operate and maintain, an Internet web site, it would not have been authorized to use this authority and would have been required to comply with the statutory publication requirements that otherwise applied to the notice, advertisement, list, or other information.

The act would have defined "county" to mean a board of county commissioners, a county elected official, or any contracting authority. Contracting authorities would have included any board, department, commission, authority, trustee, official, administrator, agent, or individual that had authority to contract for or on behalf of the county or any agency, department, authority, commission, office, or board of the county.

Commercial advertisements on county web sites (VETOED)

(Section 703.10)

The Governor vetoed a section of law that would have required a board of county commissioners of a county with a population of not less than 800,000 and not more than 900,000, as determined by the most recent federal decennial census, to conduct a pilot project authorizing commercial advertisements to be placed on county web sites.[338] Only "internet advertising," including banners and icons that could have contained links to commercial Internet web sites, would have been allowed. Spyware, malware, or any viruses or programs considered to be malicious would not have been allowed.

The majority of the board of county commissioners would have initiated the pilot project by adopting a resolution. The resolution would have been required to include all the following:

(1) A statement authorizing county officials[339] to place commercial advertisements on web sites of county offices under those county officials;

(2) Requirements and procedures for making requests for proposals to place commercial advertising on county web sites; and

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[338] A "county web site" would have meant any web site, internet page, or web page of a county office, with respective internet addresses or subdomains, that was intended to provide to the public information about services offered by a county office, including relevant forms and searchable data.

[339] The county officials who would have received such an authorization would have included the County Auditor, County Treasurer, County Engineer, County Recorder, County Prosecuting Attorney, County Sheriff, County Coroner, Board of County Commissioners, Clerk of the Probate Court, Clerk of the Juvenile Court, Clerk of Court for all divisions of the Court of Common Pleas, Clerk of a county-operated Municipal Court, and Clerk of a County Court.

(3) Any other requirements or limitations necessary to authorize commercial advertising on county web sites.

The board of county commissioners would have been required to send a copy of the resolution to each county official. After receiving the resolution, the county official would have been required to determine if the official intended to implement the resolution.

A county official who determined to implement the resolution would have been authorized to make requests for proposals in the manner specified by the resolution for the purpose of identifying advertisers who, and whose advertisements would, meet any criteria specified in the request for proposals and any requirements and limitations specified in the resolution. The county official would have been authorized to enter into a contract with such an advertiser whereby the advertiser places an advertisement on the office's web site and pays a fee in consideration to the county general fund. Any such contract would have been required to be concluded not later than December 31, 2011.

A county web site on which commercial advertising was placed would have been limited to one used exclusively to provide information from a county office to the public. A county web site on which commercial advertising was placed could not have been used as a public forum.

The pilot program would have concluded on December 31, 2011. Not later than 30 days after conclusion of the pilot project, the board of county commissioners would have been required to submit a report to the Governor, the Speaker and Minority Leader of the House, and the President and Minority Leader of the Senate regarding the operation of the pilot project, including the board's recommendations on whether commercial advertising on county web sites should be continued and expanded to other counties.

Mandatory cost savings program for county exempt employees

(R.C. 124.393)

The act authorizes a county appointing authority to establish a mandatory cost savings program applicable to its county exempt employees. A "county exempt employee" is a permanent full-time or permanent part-time county employee who is not subject to a collective bargaining agreement between a public employer and an exclusive representative.

Each county exempt employee must participate in the program of mandatory cost savings for not more than 80 hours, as determined by the employee's appointing

authority, in each of state fiscal years 2010 and 2011. The program may include, but is not limited to, a loss of pay or loss of holiday pay. The program may be administered differently among employees based on their classifications, appointment categories, or other relevant distinctions.

The act specifies that cost savings days are not a modification or reduction in pay that can be appealed to the State Personnel Board of Review if an employee affected thereby is in the classified civil service.

After June 30, 2011, a county appointing authority may implement mandatory cost savings days as described above that apply to its county exempt employees in the event of a fiscal emergency. A "fiscal emergency" is any of the following: (1) a fiscal emergency declared by the Governor under the act, (2) a lack of funds as defined in the Layoff Law, or (3) reasons of economy as described in the Layoff Law.

A county appointing authority must issue guidelines concerning how the appointing authority will implement the mandatory cost savings program.

Authority for municipal corporations to make loans to their residents so that they can install solar panels in their homes

(R.C. 717.25)

The act authorizes the legislative authority of a municipal corporation to establish a low-cost solar panel revolving loan program to assist residents of the municipal corporation to install solar panels at their residences. If the legislative authority decides to establish such a program, the legislative authority must adopt an ordinance that provides for all the following:

(1) Creation in the municipal treasury of a residential solar panel revolving loan fund;

(2) A source of money, such as gifts, bond issues, real property assessments, or federal subsidies, to seed the fund;

(3) Facilities for making loans from the fund, including an explanation of how municipal residents may qualify for loans from the fund, a description of the solar panels and related equipment for which a loan can be made from the fund, authorization of a municipal agency to process applications for loans and otherwise to administer the low-cost solar panel revolving loan program, a procedure whereby loans can be applied for, criteria for reviewing and accepting or denying applications for loans, criteria for determining the appropriate amount of a loan, the interest rate to be

charged, the repayment schedule, and other terms and conditions of a loan, and procedures for collecting loans that are not repaid according to the repayment schedule;

(4) A specification that repayments of loans from the fund may be made in installments and, at the option of the resident repaying the loan, the installments may be paid and collected as if they were special assessments paid and collected in the manner specified in the Municipal Special Assessments Act and as specified in the ordinance;

(5) A specification that repayments of loans from the fund are to be credited to the fund, that the money in the fund is to be invested pending its being lent out, and that investment earnings on the money in the fund is to be credited to the fund; and

(6) Other matters necessary and proper for efficient operation of the program as a means of encouraging use of renewable energy.

The interest rate charged on a loan from the fund must be below prevailing market rates. The legislative authority may specify the interest rate in the ordinance or may, after establishing a standard in the ordinance whereby the interest rate can be specified, delegate authority to specify the interest rate to the administrator of loans from the fund.

The fund must be seeded with sufficient money to enable loans to be made until the fund accumulates sufficient reserves through investment and repayment of loans for revolving operation.

Port authority plan for future development

(R.C. 4582.07, 4582.08, 4582.32, and 4582.33; Section 745.50)

Chapter 4582. regulates port authorities. Sections 4582.01 to 4582.20 apply exclusively to a port authority in existence on July 9, 1982. Sections 4582.21 to 4582.59 apply exclusively to a port authority created after July 9, 1982, and to a port authority in existence on that date if all subdivisions that created the port authority elect to operate under those sections. The act affects both parts of the law governing port authorities in the same way.

All port authorities are required to prepare a plan for future development, construction, and improvement of the port and its facilities. The plan must include maps, profiles, and other data and descriptions as necessary to describe the location and character of the work to be undertaken. Plans and proposed plans by a port authority also must contain a description of any and all financing under bonds, leases, or otherwise, and a description of any and all related tax abatements, tax credits, tax

increment financing, emoluments, subsidies, grants, loans, and financial participation. When the plan is completed, the port authority board of directors must give specified notice in each county in which there is a political subdivision participating in the creation of the port authority, and must serve notice upon any owners of the uplands contiguous to any submerged lands affected by the plan. The board must permit the inspection of the plan at its office by all interested persons. The notice must fix the time and place for a hearing of all objections to the plan, which must be not less than 30 nor more than 60 days after the last publication of the notice and after service of notice upon the owners of any uplands. Any interested person may file written objections to the plan.

The board of directors, from time to time after the adoption of an official plan, may modify, amend, or extend the plan, but the board must give notice and conduct a hearing. Additionally, the board may consider, implement, modify, amend, or extend any proposal for any type of financing related to the plan as described above, but the board must give notice and conduct a hearing on any proposal. The plan and any change to the plan, when adopted by the board of directors after notice and hearing, is final and conclusive and its validity must be conclusively presumed.

The act requires a plan only for any future development, construction, and improvement of the "maritime facilities" of a port authority, which the act defines as "docks, wharves, warehouses, piers, and other terminal and transportation buildings or structures used in connection with the transport, storage, or distribution of commercial goods on, over, or across the waterways or shorelines of this state, or buildings or structures for the construction, rehabilitation, maintenance, or repair of commercial vessels used for such purposes, which facilities are or are expected to be owned or leased by a port authority, operated by or on behalf of a port authority, or publicly owned and financed by a port authority."

A plan for future maritime facilities must include a then-current good faith estimate of the cost of the proposed facilities and must contain the port authority's proposal for payment of the cost of maritime facilities, including revenues, grants, subsidies, loans, and financing, rather than the plan containing a description of any and all financing.

The act specifies that the plan and any payment proposal do not affect the legality, validity, or enforceability of any of the following: (1) bonds, notes, leases, certificates, or other financing instruments, (2) any real estate, (3) operating or management contracts or instruments, or (4) any taxes, tax abatements or exemptions, tax credits, tax increment financing, assessments, or other financial participation related to maritime facilities or the plan.

Upon completing a plan for maritime facilities, the act requires the board of directors to give notice by publication as to each county in which there is a political subdivision that participated in the creation of the port authority and removes a requirement for notice to be served upon the owners of the uplands contiguous to any affected submerged lands. The act defines "notice by publication" as publication once in a newspaper of general circulation in the county or counties where such publication is required and the posting of the notice on the web site, if any, of the port authority and specifies that notice is complete on the later of the date of posting or the date of newspaper publication. The hearing of comments on the plan must be held not less than 30 nor more than 60 days after completion of the publication. Under the act, the hearing must allow for comments on the plan, rather than hearing objections to the plan.

In regard to the power to modify, amend, or extend a plan for maritime facilities, the act requires notice by publication and a hearing prior to making a change to the plan. Boards have the power to modify, amend, or supplement any proposal for any type of financing related to the plan and must change the plan prior to undertaking any financing not identified in the plan; however, the board must give the prescribed notice and conduct a hearing on the that proposal. As with the original plan, changes or proposed changes to the plan expressly do not affect the legality, validity, or enforceability of financing instruments, any real estate, operating or management contracts or instruments, or any taxes, tax abatements or exemptions, tax credits, tax increment financing, assessments, or other financial participation related to maritime facilities, the plan, or the proposal.

The act specifies that it does not require a port authority to amend a plan, publish a notice, or hold a public hearing except to add or delete maritime facilities to the plan, to describe changes or deletions in the location or character of the maritime facilities covered by the plan, or to add, change, or delete financings not previously identified in the plan or cost projection changes not previously identified in the plan.

In an uncodified provision, the act states that all those changes are intended to eliminate unintended effects that unintentionally burdened the process by which Ohio port authorities promote their authorized purposes, including activities that enhance, foster, aid, provide, or promote transportation, economic development, housing, recreation, education, governmental operation, culture, or research, and the creation and preservation of jobs and employment opportunities. Therefore, the act continues, the changes apply to work commenced or to be commenced, and to proceedings occurring after the effective date of the changes. Moreover, insofar as the changes are applicable to, support, or facilitate any financing proceedings that are pending, in progress, or completed on that effective date, the changes apply to those financing

proceedings. Any such financing proceeding is deemed to have been taken, and any securities authorized or issued pursuant to those financing proceedings are deemed to have been authorized, sold, issued, delivered, and validated, in conformity with the changes insofar as they are applicable.

Township authority to initiate a civil action to abate a public nuisance

(R.C. 3767.41)

The Public Nuisance Act, R.C. Chapter 3767., authorizes specified entities to initiate a civil action to abate a public nuisance. A public nuisance action may be initiated by a municipal corporation, neighbor, tenant, or nonprofit corporation. The action may be commenced in specified courts to enforce any local building, housing, air pollution, sanitation, health, fire, zoning, or safety code, ordinance, or regulation applicable to buildings. The act includes a township among the entities allowed to initiate a public nuisance action to enforce its resolutions applicable to buildings. If a property is a public nuisance, the judge may issue an injunction ordering the owner to abate the nuisance, appoint a receiver, or order the sale of the property.

The act provides that nothing in the provision of law authorizing a civil action to abate a public nuisance is to be construed to limit or prohibit a municipal corporation or township that has adopted an ordinance or resolution to participate in the fire loss claims program[340] from receiving insurance proceeds under that program. Under the fire loss claims program, a portion of fire insurance proceeds are deposited with a municipal corporation or township to cover the cost of removing, repairing, or securing structures.

County zoning of small wind farms

(R.C. 303.213)

County, township, and municipal zoning laws may address the location, erection, construction, reconstruction, change, alteration, maintenance, removal, use, or enlargement of a small wind farm.[341] "Small wind farm" means a wind farm designed for, or capable of, operation at an aggregate capacity of less than five megawatts. In township and municipal zoning law definitions unchanged by the act, "small wind farm" refers to wind turbines and associated facilities "with a single interconnection to the electrical grid." The county zoning law formerly defined small wind farm differently as wind turbines and associated facilities that are "interconnected with a

[340] R.C. 3929.86--not in the act.

[341] See also R.C. 519.213 and 713.081 (not in the act).

medium voltage power collection system and communications network." The act changes the county zoning law definition of "small wind farm" to conform with the township and municipal zoning law so that it refers to wind turbines and associated facilities with a single interconnection to the electrical grid.

Ohio Commission on Local Government Reform and Collaboration

(Section 610.30)

Am. Sub. H.B. 562 of the 127th General Assembly (Section 701.20) created the Ohio Commission on Local Government Reform and Collaboration to develop recommendations on ways to increase the efficiency and effectiveness of local government operations, to achieve cost savings for taxpayers, and to facilitate economic development in Ohio. The commission must issue a report of its findings and recommendations to the President of the Senate, the Speaker of the House of Representatives, and the Governor not later than July 1, 2010. In developing the recommendations, the commission must consider, but is not limited to, the following:

(1) Restructuring and streamlining local government offices to achieve efficiencies and cost savings for taxpayers and to facilitate local economic development;

(2) Restructuring and streamlining special taxing districts and local government authorities authorized by the Ohio Constitution or Ohio laws to levy a tax of any kind or to have a tax of any kind levied on its behalf, and of local government units, including schools and libraries, to reduce overhead and administrative expenses;

(3) Restructuring, streamlining, and finding ways to collaborate on the delivery of services, functions, or authorities of local government to achieve cost savings for taxpayers;

(4) Examining the relationship of services provided by the state to services provided by local government and the possible realignment of state and local services to increase efficiency and improve accountability; and

(5) Ways of reforming or restructuring constitutional, statutory, and administrative laws to facilitate collaboration for local economic development, to increase the efficiency and effectiveness of local government operations, to identify duplication of services, and to achieve costs savings for taxpayers.

The act requires the commission also to consider the following:

(1) Making annual financial reporting across local governments consistent for ease of comparison; and

(2) Aligning regional planning units across state agencies.

STATE LOTTERY COMMISSION (LOT)

- Specifically authorizes the State Lottery Commission to operate video lottery terminal games and to adopt rules the Commission determines necessary for the operation of these games, including the establishment of any fees, fines, or payment schedules and the level of minimum investments that must be made in the buildings and grounds in which video lottery terminals will be located.

- Prohibits any license or excise tax or fee not in effect on the video lottery terminal provisions' effective date from being assessed upon or collected from a video lottery terminal licensee by any political subdivision that has authority to assess or collect a tax or fee, by reason of video lottery related conduct, except for municipal income taxes and horse racing taxes.

- Grants the Ohio Supreme Court exclusive, original jurisdiction over any claim that the act's provisions dealing with video lottery terminal games, or rules adopted under those provisions, are unconstitutional.

- Authorizes the transfer of a horse-racing permit to another location under specified conditions.

- States that it is the General Assembly's intent to address political contribution issues by the end of the 128th General Assembly.

Authority of State Lottery Commission to conduct video lottery terminal games

(R.C. 3770.03 and 3770.21)

Continuing law requires the State Lottery Commission to promulgate rules under which a statewide lottery may be conducted. These rules must be promulgated pursuant to the state Administrative Procedure Act, except that instant game rules must be promulgated pursuant to the abbreviated rule-making procedure that does not require notice or a public hearing.

The act specifies that the rules under which a statewide lottery may be conducted include, and since the original enactment of the Commission's authority to adopt these rules has included, the authority for the Commission to operate video lottery terminal

games.[342] The act further specifies that any reference in the State Lottery Act to "tickets" must not be construed in any way to limit the Commission's authority to operate video lottery games and that nothing in the State Lottery Act restricts the authority of the Commission to promulgate rules related to the operation of games utilizing video lottery terminals.

The act also authorizes the Commission, in exercising its rule-making authority, to deal with any subjects the Commission determines are necessary for the operation of video lottery terminal games, including the establishment of any fees, fines, or payment schedules and the level of minimum investments that video lottery terminal licensees must make in the buildings and grounds at the facilities, including temporary facilities, in which the terminals will be located, along with any standards and timetables for these investments. The act provides that the State Anti-Gambling Act does not apply to, affect, or prohibit lotteries conducted under the State Lottery Act.

Under the act, no license or excise tax or fee that is not in effect on the video lottery terminal provisions' effective date can be assessed upon or collected from a video lottery terminal licensee by any county, township, municipal corporation, school district, or other political subdivision of the state that has authority to assess or collect a fee or tax by reason of the video lottery terminal related conduct the act authorizes, except that the act does not prohibit the imposition of municipal income taxes or horse-racing taxes.

The act specifies that the Ohio Supreme Court has exclusive, original jurisdiction over any claim asserting that (1) the act's provisions dealing with video lottery terminal games, or any portion of those provisions, or any rule adopted under those provisions, violates any provision of the Ohio Constitution, (2) any action taken by the Governor or the State Lottery Commission pursuant to those provisions violates any provision of the Ohio Constitution or the Revised Code, or (3) any portion of newly enacted R.C. 3770.21 (video lottery terminals) violates any provision of the Ohio Constitution. If any claim over which the Supreme Court is granted this exclusive, original jurisdiction is filed in any lower court, the claim must be dismissed by the court on the ground that the court lacks jurisdiction to review it.

The act provides that should any portion of the provisions authorizing video lottery terminal games be found to be unenforceable or invalid, that portion must be severed and the remaining portions remain in full force and effect.

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[342] "Video lottery terminal" means any electronic device approved by the State Lottery Commission that provides immediate prize determinations for participants on an electronic display (R.C. 3770.21(A)).

Transfer of a horse-racing permit

(Section 737.10)

The act provides that, notwithstanding any other provision to the contrary in the Horse Racing Act, for a period of two years after the provision's effective date, any person holding a permit to conduct live horse-racing meetings at a facility owned by a political subdivision may apply for, and the State Racing Commission may grant, a permit to conduct horse-racing meetings at a location at which such meetings have not previously been conducted, if the permit application is accompanied by a resolution adopted by the board of county commissioners of the county of the proposed location, and of the local legislative authority, whether a municipal corporation or township, of the proposed location, requesting that the Commission grant the permit. The Commission may only grant such an application if the proposed location is in the same or a contiguous county and is within 50 miles of the current location associated with the permit, but is not in the same county as another location at which live horse-racing meetings are conducted.

Political contribution issues

(Section 735.10)

The act states that it is the General Assembly's intent to address political contribution issues by the end of the 128th General Assembly.

MANUFACTURED HOMES COMMISSION (MHC)

- Transfers the licensing and regulatory authority of manufactured housing brokers, dealers, and salespersons from the Registrar of Motor Vehicles to the Manufactured Homes Commission, effective July 1, 2010.

- Transfers the inspection authority for manufactured homes located in manufactured home parks from the Department of Health to the Manufactured Homes Commission, effective January 1, 2010.

- Makes changes to the law regarding application for certificate of title for manufactured and mobile homes.

Manufactured housing dealers, brokers, and salespersons

Licensure

(R.C. 4505.062, 4505.20, 4517.01, 4517.02, 4517.03, 4517.052, 4517.27, 4517.30, 4517.33, 4517.43, 4781.01, 4781.02, 4781.05, 4781.16, 4781.17, 4781.18, 4781.19, 4781.20, 4781.21, and 4781.23; Sections 745.20, 745.30, 745.40, and 812.10)

Effective July 1, 2010, the act transfers the authority of and responsibility for licensure of manufactured housing dealers, brokers, and salespersons from the Registrar of Motor Vehicles to the Manufactured Homes Commission and specifically allows the Executive Director of the Commission to review applications for manufactured housing licensure. Except as provided below, the act maintains continuing law's licensure requirements and processes, including license renewal and maintenance requirements, confidentiality requirements, and grounds for refusal to issue or renew, suspension, and revocation of a license:

(1) The act adds to the definition of a salesperson any person employed by a manufactured home broker in addition to a person employed by a dealer.

(2) The act's licensure requirements eliminate the possibility that a person licensed as a motor vehicle dealer or salesperson could do the business of a manufactured housing dealer or salesperson without separate licensure to do so.

(3) The act removes the requirement that applicants for a manufactured housing broker license submit a separate application for each location at which the business is to be conducted and, instead requires them to submit a separate application for each county as is required for dealer licenses.

(4) The act removes a reference to applicants for initial licensure submitting an application "annually."

(5) Under former law, when a manufactured housing salesperson applied to have his or her license reinstated, transferred, or registered under a new dealer, the person had to pay a $2 fee. Rather than specifying the fee, the act requires the Commission to establish the fee for the reinstatement or transfer of those licenses.

(6) Under continuing law, all appeals resulting from the Registrar's refusal to issue any license upon proper application must be taken within 30 days from the date of the order, or the order is final and conclusive. The act applies that 30-day time limit to requests for adjudication hearings for any person whose manufactured housing dealer, broker, or salesperson's license is revoked, suspended, denied, or not renewed by the Commission.

Regulation

(R.C. 4781.04, 4781.05, 4781.16, 4781.22, 4781.24, 4781.25, and 4781.99; Sections 745.10 and 812.10)

Effective July 1, 2010, the act also transfers the authority of and responsibility for regulation of manufactured housing dealers, brokers, and salespersons from the Registrar of Motor Vehicles to the Manufactured Homes Commission. In addition to the Commission's responsibilities under continuing law regarding manufactured housing installers, the act requires the Commission to adopt rules governing the training, experience, and education requirements for manufactured housing dealers, brokers, or salespersons; to govern the investigation of and investigate complaints concerning any violation of manufactured homes law or complaints involving the conduct of any licensed manufactured housing dealer, broker, or salesperson; and conduct audits and inquiries for manufactured housing dealers and brokers. Under the act, the Executive Director of the Commission is responsible for notifying manufactured housing dealers, brokers, and salespersons of any changes in the laws and regulations that govern them.

The act maintains continuing law's regulation in all of the following areas:

(1) Prohibited acts for manufactured housing dealers including soliciting the sale of a manufactured home or mobile home person other than a licensed salesperson in the employ of the dealer; paying any commission or compensation in connection with the sale of a manufactured home or mobile home except a salesperson in the employ of the dealer; and failing to immediately notify the Commission upon termination of the employment of a licensed salesperson;

(2) Written contracts for every retail sale of a manufactured home or mobile home;

(3) Bonds for manufactured housing brokers;

(4) Penalties for violation of the laws governing manufactured housing dealers, brokers, and salespersons.

Former law regulating motor vehicle dealers, which included manufactured housing dealers, prohibited signing contracts, taking deposits, or completing sales at the location of a motor vehicle show. Before July 1, 2010, when the authority for licensure of manufactured housing dealers transfers from the Registrar to the Commission, the act expressly allows dealers to sign contracts, take deposits, and complete sales at the location of a motor vehicle show if the motor vehicles are new manufactured homes.

On and after July 1, 2010, the act's proposed regulation of manufactured housing dealers is silent on the point.

Additionally, law largely unchanged by the act prohibits a motor vehicle dealer, including a manufactured home dealer, from selling, displaying, offering for sale, or dealing in motor vehicles (including manufactured or mobile homes) at any place except an established place of business that is used exclusively for the purpose of selling, displaying, offering for sale, or dealing in motor vehicles (including manufactured or mobile homes). Manufactured housing brokers are prohibited also from engaging in the business of brokering manufactured or mobile homes at any place except an established place of business that is used exclusively for the purpose of brokering manufactured or mobile homes.

The act clarifies those prohibitions as they apply to manufactured housing dealers and brokers. Under the act, a place of business used for the brokering or sale of manufactured or mobile homes is considered to be used exclusively for brokering, selling, displaying, offering for sale, or dealing in manufactured or mobile homes (or motor vehicles, including manufactured or mobile homes, prior to July 1, 2010) even though industrialized units are brokered, sold, displayed, offered for sale, or dealt at the same place of business. Effective July 1, 2010, the act also adds places of business used for dealing in manufactured or mobile homes to the above clarification.

Under the act, if a licensed new or used motor vehicle dealer, before July 1, 2010, or a licensed manufactured housing dealer, on or after that date, also is a licensed manufactured home park operator, all of the following apply:

(1) An established place of business that is located in the operator's manufactured home park and that is used for selling, leasing, and renting manufactured homes and mobile homes in that manufactured home park is considered to be used exclusively for that purpose even though rent and other activities related to the operation of the manufactured home park take place at the same location or office as the sales and leasing activities.

(2) The dealer's established place of business in the manufactured home park must be staffed by someone licensed and regulated under the law governing manufactured housing dealers, brokers, and salespersons who could reasonably assist any retail customer with or without an appointment, but such established place of business need not satisfy office size, display lot size, and physical barrier requirements applicable to other used motor vehicle dealers.

(3) The manufactured and mobile homes being offered for sale, lease, or rental by the dealer may be located on individual rental lots inside the operator's manufactured home park.

Compliance with installation and other standards

(R.C. 3733.02, 4781.04, 4781.06, and 4781.07)

Continuing law requires the Manufactured Homes Commission to adopt rules that govern the inspection of the installation of manufactured housing and the design, construction, installation, approval, and inspection of foundations and the base support systems for manufactured housing located in manufactured home parks. However, under former law, those inspections were completed by the Department of Health or a licensor, as determined by the Department. Effective January 1, 2010, the act transfers the authority for inspections to the Commission or to any building department or personnel or any department, any licensor or personnel of any licensor, or any third party that is certified by the Commission.

Application for certificate of title of a manufactured or mobile home

(R.C. 4505.01, 4505.06, 4505.111, and 4505.181)

Except as provided below, the act maintains continuing law in regards to titling manufactured and mobile homes:

First, under former law, every motor vehicle that was assembled from component parts by a person other than the manufacturer had to be inspected by the State Highway Patrol prior to the issuance of title to the motor vehicle. The act exempts manufactured homes and mobile homes from that requirement.

Second, under continuing law, manufactured and mobile homes must have certificates of title through the Registrar of Motor Vehicles, and those applications for certificate of title must be filed in the same way as an application for certificate of title of a motor vehicle is filed within 30 days after the delivery of the manufactured or mobile home. The act clarifies the deadlines by which a motor vehicle or manufactured housing dealer must file for a certificate of title for a new or used manufactured or mobile home. Under the act, the delivery date for a manufactured or mobile home is the date on which an occupancy permit for the manufactured or mobile home is delivered to the purchaser. Additionally, if a certificate of title for a used manufactured or mobile home was issued to the dealer, the same 30-day requirement applies. If the dealer does not have a certificate of title because the dealer is displaying the home on behalf of a secured party and the dealer complies with the requirements below, the application for certificate of title must be filed within 30 days after the dealer obtains the

certificate of title from the secured party or within the normal 30-day period beginning on the date on which an occupancy permit for the manufactured or mobile home is delivered to the purchaser, whichever is later.

Third, former law allowed a motor vehicle or manufactured housing dealer to display, offer for sale, or sell a used motor vehicle, used manufactured home, or used mobile home without first obtaining a certificate of title in the name of the dealer if the dealer satisfied specified requirements including possessing a bill of sale and posting a bond or a deposit in a sum based upon the number of years that the dealer has been licensed. The act specifies that a motor vehicle dealer has this authority with respect to used motor vehicles while a manufactured housing dealer has this authority with respect to used manufactured homes and used mobile homes. The act adds the requirement that the bill of sale be available for inspection by the Manufactured Homes Commission and, in addition to the Attorney General and the Registrar, the dealer notify the Manufactured Homes Commission when the dealer cancels the required bond.

Fourth, under continuing law, if a retail purchaser purchases a motor vehicle or a manufactured or mobile home from a dealer that did not have a certificate of title as described above and the dealer does one of the following, the purchaser may rescind the transaction and receive a full refund: (1) the dealer does not obtain the title within 40 days after the sale, (2) the dealer did not disclose that the vehicle is a rebuilt salvage vehicle, or (3) the dealer makes an inaccurate odometer disclosure. The act adds the following to that list: (4) if the motor vehicle is a used manufactured home or used mobile home that has been repossessed, but a certificate of title for the repossessed home has not yet been transferred by the repossessing party to the dealer on the date the retail purchaser purchases the used (repossessed) manufactured home or used mobile home from the dealer, and the dealer fails to obtain a certificate of title on or before 40 days after the dealer obtains the certificate of title for the home from the repossessing party or the date on which an occupancy permit for the home is delivered to the purchaser by the appropriate legal authority, whichever occurs later.

MEDICAL BOARD (MED)

- Requires the State Medical Board to provide verification of licensure in Ohio, rather than certify an application, for persons applying to practice in another state.
- Requires the Board to issue duplicate certificates of registration for a $35 fee.
- Permits Board vouchers to be approved by any person the Board authorizes, rather than only the Board's president or executive secretary.

Licensure verification

(R.C. 4731.10)

Under former law, the State Medical Board was required to certify an application for licensure in another state on the request of a person licensed to practice medicine and surgery, osteopathic medicine and surgery, podiatry, massage therapy, cosmetic therapy, naprapathy, or mechanotherapy. The fee for certification was $50. The act instead requires the Board to provide verification of a certificate to practice in Ohio on the request of a certificate holder seeking licensure in another state. The fee for verification is $50.

Certificate duplication

(R.C. 4731.26)

Continuing law requires the Board to issue a duplicate certificate to practice as a physician, osteopath, podiatrist, massage therapist, cosmetic therapist, naprapath, or mechanotherapist, upon application, to replace one that is missing or damaged, to reflect a name change, or for any other reasonable cause. The fee for the duplication is $35. The act specifies that the fee for duplication applies not only to the duplicate certificate (evidence of being licensed by the Board) but also when the Board issues a duplicate certificate of registration (evidence of biennial licensure renewal).

Voucher approval

(R.C. 4731.38)

Under continuing law, all Board vouchers must be approved by either the Board president or the executive secretary, or both, as authorized by the Board. Under the act, the president retains the authority to approve the vouchers. However, the act also allows the executive director (rather than the executive secretary), or another person authorized by the Board, to approve the vouchers.

MEDICAL TRANSPORTATION BOARD (AMB)

- Exempts from requirements pertaining to ambulette services an entity that is not certified by the Department of Aging but provides ambulette services under a contract or grant agreement with the Department.

Ambulette licensure

(R.C. 4766.09; R.C. 4766.01, 4766.03, and 4766.14 (not in the act))

Continuing law requires the Ohio Medical Transportation Board to adopt rules specifying requirements relating to the licensure and operation of ambulettes. Ambulettes are generally defined as motor vehicles specifically designed, equipped, and intended to be used for transporting persons who require wheelchairs. The Board must specify requirements for a nonemergency medical service organization to qualify for (1) a permit for an ambulette and (2) a license for an ambulette service. The Board also must specify requirements relating to inspections of ambulettes, equipment that must be carried by ambulettes, eligibility requirements for ambulette drivers, the level of care that each type of nonemergency medical service organization may provide, and other requirements that the Board determines appropriate.

Continuing law exempts from these requirements an entity certified to provide community-based long-term care services under a program administered by the Department of Aging, or a vehicle owned by an entity that is so certified. To qualify for the exemption, the entity or vehicle must not provide ambulette services that are reimbursed under the state Medicaid plan, and the entity must meet four basic requirements: (1) provide all of its ambulette drivers with a means of two-way communication, (2) equip every ambulette with an isolation and biohazard disposal kit, (3) obtain certain required information from potential ambulette drivers, and (4) not employ an ambulette driver with six or more points on the driver's driving record.

The act expands the exemption to (1) an entity that provides community-based long-term care services *under a contract or grant agreement* with the Department of Aging and (2) a vehicle owned by an entity that provides community-based long-term care services *under a contract or grant agreement* with the Department. To qualify for the exemption, these entities and vehicles must meet the same requirements as entities certified by the Department and vehicles owned by entities certified by the Department, including the requirement of not providing ambulette services that are reimbursed under the state Medicaid plan.

DEPARTMENT OF MENTAL HEALTH (DMH)

- Permits, rather than requires, the Ohio Department of Mental Health (ODMH) to provide certain goods and services, including drugs and services related to them, to certain state departments and other state, county, and municipal agencies, and eliminates the specific process a director of a state department or managing officer of

a state, county, or municipal agency that receives goods and services through ODMH must use to attempt to resolve unsatisfactory service.

- Requires each board of alcohol, drug addiction, and mental health services (ADAMHS board) to submit annual reports to ODMH specifying how the board used state and federal funds allocated to it for administrative functions in the year preceding each report's submission.

- Expressly authorizes ODMH to develop and operate more than one community mental health system (rather than one system), and expressly authorizes the Ohio Department of Alcohol and Drug Addiction Services (ODADAS), in consultation with ODMH, to establish and maintain more than one information system (rather than one system) to aid in formulating a comprehensive statewide alcohol and drug addiction services plan and determining the effectiveness and results of alcohol and drug addiction services.

- Changes the prohibition on the collection of information by ODMH and ODADAS from ADAMHS boards to specify that the prohibition is on the collection of personal information except as permitted or required (rather than just required) by state or federal law and adds that it must be for purposes relating to payment, health care operations, program and service evaluation, reporting activities, research, system administration, and oversight.

- Requires the ODMH Director, ODADAS Director, and ODJFS Director to convene a group to develop recommendations regarding the amount, duration, and scope of publicly funded community behavioral health services that should be available through Ohio's community behavioral health system.

- Permits a care coordination agency to provide certain information to the Ohio Family and Children First Cabinet Council regarding care coordination for at-risk individuals, and permits the Council to give incentives to encourage care coordination agencies to provide the information to the Council and to use the information to help improve care coordination for at-risk individuals throughout Ohio.

- Specifies that the prohibition against disclosing, without patient consent, certain documents related to a patient's hospitalization for a psychiatric condition or criminal trial when the patient is alleged to be insane does not apply when the exchange is between (1) ODMH hospitals, institutions, or facilities, or community mental health agencies, and (2) other providers of treatment and health services for a patient.

ODMH purchasing program

(R.C. 5119.16 and 5120.09)

Former law required the Ohio Department of Mental Health (ODMH) to provide certain goods and services for the following state departments and other state, county, and municipal agencies when ODMH determined it was in the public interest and advisable: ODMH, the Department of Mental Retardation and Developmental Disabilities, the Department of Rehabilitation and Correction, and the Department of Youth Services. The goods and services ODMH was designated to provide included procurement, storage, processing, and distribution of food and professional consultation on food operations; procurement, storage, and distribution of medical and laboratory supplies, dental supplies, medical records, forms, optical supplies, and sundries; procurement, storage, repackaging, distribution, and dispensing of drugs, provision of professional pharmacy consultation and drug information services; and other goods and services. If the goods and services were not satisfactorily provided by ODMH to a department or agency, prior law required the director or managing officer of the department or agency to follow a specific process to attempt to resolve the unsatisfactory service.

The act permits, rather than requires, ODMH to provide the goods and services specified above and eliminates the specific process that had to be used under prior law to attempt to resolve unsatisfactory service.

Annual reports on use of state and federal funds for administrative functions

(R.C. 5119.621)

Continuing law requires each board of alcohol, drug addiction, and mental health services (ADAMHS board)[343] to establish an annual community mental health plan (R.C. 340.03, not in the act). The plan lists the district's community mental health needs and the institutional and community mental health services that are or will be in operation in the district to meet those needs. Each board's plan is subject to the ODMH Director's approval.

On the ODMH Director's approval of the community mental health plan of an ADAMHS board, law unchanged by the act requires the Director to authorize the payment of funds to the board from funds appropriated for such purpose by the General Assembly (R.C. 5119.62, not in the act). The funds must be distributed to the

[343] References to ADAMHS boards also refer to community mental health boards.

board consistent with continuing law governing payments to the boards, other Ohio statutes and administrative rules, federal statutes and regulations, and the approved community mental health plan. The Director is required to develop and review annually a methodology for distributing and allocating funds to boards, including a formula for allocating to the boards appropriations from the state General Revenue Fund for the purpose of local management of mental health services.

The act requires each ADAMHS board to submit annual reports to ODMH specifying how the board used state and federal funds allocated to it (according to the formula developed by the ODMH Director) for administrative functions[344] in the year preceding each report's submission. The act requires the Director to establish the date by which the report must be submitted each year.

Information systems maintained by ODMH and ODADAS

(R.C. 5119.61 (primary), 340.033, and 3793.04)

Under prior law, ODMH was required to develop and operate a single community mental health information system. Similarly, the Ohio Department of Alcohol and Drug Addiction Services (ODADAS) had to establish and maintain a single information system to aid it in formulating a comprehensive statewide alcohol and drug addiction services plan. ADAMHS boards[345] were required to provide certain information for these systems, but ODMH and ODADAS were prohibited from collecting from the ADAMHS boards any information for the purpose of identifying by name any person who received a service through a board, except when the collection was required by state or federal law to validate appropriate reimbursement.

The act expressly authorizes ODMH to develop and operate more than one community mental health information system (rather than just one system). The act also expressly authorizes ODADAS, in consultation with ODMH, to establish more than one information system (rather than just one system).

The act specifies that the prohibition on the collection of information by ODMH and ODADAS from ADAMHS boards is on the collection of *personal information* about persons who receive ADAMHS board services, except when personal information

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[344] The act defines an "administrative function" as a function related to one or more of the following: continuous quality improvement, utilization review, resource development, fiscal administration, general administration, and any other function related to administration that is required by the laws governing ADAMHS boards.

[345] References to ADAMHS boards also refer to community mental health boards and alcohol and drug addiction services boards.

collection is *permitted or* required (rather than just required) by state or federal law. The act adds that the collection of personal information by ODMH and ODADAS must be for purposes relating to payment, health care operations, program and service evaluation, reporting activities, research, system administration, and oversight.[346]

Community behavioral health services study

(Section 751.13)

The act requires the ODMH Director, ODADAS Director, and ODJFS Director to convene a group to develop recommendations regarding the amount, duration, and scope of publicly funded community behavioral health services that should be available through Ohio's community behavioral health system. The recommendations are to include recommendations regarding the conditions under which the services should be available.

The group is to consist of representatives of all of the following:

(1) ODMH, ODADAS, and ODJFS;

(2) ADAMHS boards;[347]

(3) Providers of community behavioral health services;

(4) Consumers of community behavioral health services and advocates of such consumers.

Members of the group are to serve without compensation, except to the extent that serving on the group is considered part of their regular employment duties.

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[346] Regulations regarding health information privacy promulgated under the federal Health Insurance Portability and Accountability Act (HIPAA) permit a covered entity that is a health oversight agency (such as ODMH and ODADAS) to use and disclose protected health information for treatment, payment, health care operations, health oversight activities, and research activities, as long as the use and disclosure otherwise comports with HIPAA regulations. For example, if use or disclosure is made for research purposes, HIPAA requires the covered entity, if it does not want to obtain patient authorization for the use or disclosure, to seek permission from an Institutional Review Board (IRB) or privacy board composed of members specified in the regulations to alter the form of authorization or to waive the authorization requirement. (45 C.F.R. 164.512.)

[347] The reference to ADAMHS boards also refers to community mental health boards and alcohol and drug addiction services boards.

The group is required to prepare a report with its recommendations and submit the report to the Governor and General Assembly not later than June 30, 2011.[348] The group is to cease to exist on submission of the report.

Care coordination agency information

(R.C. 121.375)

The act permits a care coordination agency to provide certain information to the Ohio Family and Children First Cabinet Council regarding at-risk individuals.[349] Specifically, a care coordination agency may provide the following information:

(1) The types of individuals the agency identifies as being at-risk individuals;

(2) The total per-individual cost to the agency for care coordination services provided to at-risk individuals;

(3) The administrative cost per individual for care coordination services provided to at-risk individuals;

(4) The specific work products the agency purchased to provide care coordination services to at-risk individuals;

(5) The strategies the agency uses to help at-risk individuals access available health and social services;

(6) The agency's success in helping at-risk individuals access health and social services;

(7) The mechanisms the agency uses to identify and eliminate duplicate care coordination services.

The act authorizes the Council to give incentives to encourage care coordination agencies to provide information to the Council. The Council is also permitted to use the

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[348] In submitting the report to the General Assembly, the group is to provide it to the Senate President, Senate Minority Leader, Speaker of the House of Representatives, House Minority Leader, and the Director of the Legislative Service Commission (R.C. 101.68(B)).

[349] The act defines "care coordination agency" as an individual, private entity, or government entity that assists at-risk individuals access available health and social services the at-risk individuals need. An "at-risk individual" is defined as an individual at great risk of not being able to access available health and social services due to barriers such as poverty, inadequate transportation, culture, and priorities of basic survival.

information from care coordination agencies to help improve care coordination for at-risk individuals throughout Ohio.

Disclosure of hospital psychiatric records

(R.C. 5122.31)

All certificates, applications, records, and reports made for purposes of continuing law governing the hospitalization of the mentally ill and criminal trials of persons alleged to be insane that identify a patient or former patient, or a person whose hospitalization for mental illness has been sought under the law governing hospitalization of the mentally ill, must be kept confidential and not be disclosed by any person unless the patient has consented to the disclosure. A number of exceptions to this confidentiality requirement exist, however, including one that permits hospitals, ADAMHS boards, and community mental health agencies to release necessary medical information to insurers to obtain payment for goods and services furnished to a patient and one that permits ODMH hospitals, institutions, and facilities to exchange certain psychiatric records and information with (1) other ODMH hospitals, institutions, and facilities, and (2) community mental health agencies and ADAMHS boards with which ODMH has a current agreement for patient care or services.

The act expands the list of exceptions to this confidentiality requirement by permitting ODMH hospitals, institutions, and facilities and community mental health agencies to exchange psychiatric records and other pertinent information regarding a patient with other providers of treatment and health services. The act specifies that the purpose of the exchange must be to facilitate the patient's continuity of care. The act requires, however, that the custodian of records of an ODMH hospital, institution, or facility, or of a community mental health agency, attempt to obtain patient consent before a document is disclosed.

DEPARTMENT OF DEVELOPMENTAL DISABILITIES (DMR)

- Permits the Ohio Department of Developmental Disabilities (ODODD) and the Ohio Department of Job and Family Services (ODJFS) to use money in their respective administration and oversight funds for Medicaid administrative costs in general, rather than just the administrative and oversight costs of Medicaid case management services and ODODD-administered home and community-based Medicaid waiver services.

- Establishes conditions under which a nursing home seeking licensure as a residential facility for up to 25 persons with mental retardation and developmental disabilities is not required to obtain approval of a development plan.

- Provides that neither an applicant for an initial license for a residential facility for persons with mental retardation and developmental disabilities nor an applicant for a modification of an existing license is required to obtain approval of a development plan if (1) the facility or modification of the facility is to serve individuals with diagnoses or special care needs for which a special Medicaid reimbursement rate is set, (2) the ODJFS and ODODD Directors determine that there is a need under the Medicaid program for the facility or modification and that approving the application is fiscally prudent for the Medicaid program, and (3) the OBM Director agrees with the ODJFS and ODODD Directors' determination.

- Provides that an intermediate care facility for the mentally retarded (ICF/MR) is not required to have received approval of a development plan to be eligible for Medicaid payments if, under the act, the ICF/MR obtains licensure as a residential facility without having to obtain approval of a development plan.

- Provides that ODODD is not responsible for the state share of a Medicaid claim for ICF/MR services even though the ICF/MR receives initial certification as an ICF/MR after June 1, 2003, if the ICF/MR, pursuant to the act, obtains licensure as a residential facility without having to obtain approval of a development plan.

- Revises the law governing the rules ODODD must adopt regarding the failure of a county property tax levy for services for individuals with mental retardation and developmental disabilities.

- Specifies that the prohibition against disclosure of the identity of a person who is eligible for or requests programs or services from a county board of developmental disabilities (county DD board), or an entity under contract with a county DD board, does not apply if disclosure is needed for the treatment of or payment for services provided to an eligible person.

- Eliminates the requirement that a county DD board, or entity under contract with a county DD board, that either discloses the identity of a person who requests board programs or services or discloses a record or report regarding an eligible person maintain a record of when and to whom the disclosure or release was made.

- Revises the conditions by which a county DD board may satisfy the requirement to have a business manager and Medicaid services manager.

- Requires a county DD board to include with each individualized service plan a summary page, agreed to by the board, provider, and individual, clearly outlining the amount, duration, and scope of service to be provided under the plan.

- Requires the ODODD Director to submit a plan to the ODJFS Director with recommendations for actions to be taken addressing the fiscal sustainability of home and community-based services provided under Medicaid waiver programs that ODODD administers.

- Requires the ODODD Director to establish a methodology to be used in fiscal years 2010 and 2011 to estimate the quarterly amount each county DD board is to pay of the nonfederal share of the Medicaid expenditures for which the board is responsible.

- Authorizes the ODODD Director to withhold from a county DD board that fails to make the full payment by the time it is due money the Director would otherwise provide the board under one or more state subsidies.

- Permits a developmental center to provide services to persons with mental retardation or other developmental disability who live in the community or to providers of services to such persons.

References to the Department and county boards

Sub. S.B. 79 of the 128th General Assembly renamed the Department of Mental Retardation and Developmental Disabilities and county boards of mental retardation and developmental disabilities. The new names are, respectively, the Department of Developmental Disabilities and county boards of developmental disabilities. Sub. S.B. 79 was signed by the Governor on July 7, 2009, with an effective date of October 6, 2009.

Because Am. Sub. H.B. 1 was enacted at nearly the same time as S.B. 79, H.B. 1 contains provisions of preexisting law that continue to identify the Department and the county boards by their former names. The provisions of H.B. 1 consisting of new law, however, reflect the new names.

For purposes of this analysis, the Department and county boards are both described by using the names established under S.B. 79, regardless of whether the description pertains to provisions of preexisting law or new law. Specifically, the analysis uses the following names and acronyms: the Ohio Department of Developmental Disabilities (ODODD) and county boards of developmental disabilities (county DD boards).

ODODD and ODJFS Administration and Oversight Funds

(R.C. 5123.0412)

Continuing law requires ODODD to charge each county DD board an annual fee on Medicaid paid claims for ODODD-administered home and community-based Medicaid waiver services provided to individuals eligible for services from the county DD boards. The fees are to be deposited into two funds: the ODODD Administration and Oversight Fund and the Ohio Department of Job and Family Services (ODJFS) Administration and Oversight Fund. ODODD and ODJFS are required to enter into an interagency agreement regarding how to divide the fees among the two funds.

Continuing law specifies the purposes for which the money in the ODODD and ODJFS Administration and Oversight Funds is to be used. Prior law provided that one of the purposes is the administrative and oversight costs of Medicaid case management services and ODODD-administered home and community-based Medicaid waiver services. The act expands this purpose to Medicaid administrative costs in general, rather than just administrative and oversight costs.

Residential facility exemption from development approval

(R.C. 5123.193 (primary), 5111.21, 5111.211, 5123.19, and 5123.197; Section 337.40.30)

Licensure issues

Continuing law prohibits a private or governmental entity from operating a residential facility that serves individuals with mental retardation or a developmental disability unless the facility is licensed by ODODD.[350] An applicant for a residential facility license must provide ODODD a copy of a development plan for the proposed residential facility that has been approved by a county DD board.

The act creates two exceptions to the requirement for a residential facility license applicant to provide ODODD a copy of an approved development plan. Under the first exception, a license applicant is not required to obtain a county DD board's approval for the proposed facility if all of the following apply:

(1) The facility for which the license is sought is licensed as a nursing home on the effective date of this provision of the act and the nursing home license authorizes the facility to have 50 nursing home beds.

[350] R.C. 5123.20.

(2) The facility was previously certified as an intermediate care facility for the mentally retarded (ICF/MR) before July 1, 1992.

(3) The facility is operated as a nonprofit organization exempt from federal income taxation.

(4) The facility's governing board has passed a resolution to close the facility unless a residential facility is obtained for the facility.

(5) The license application seeks authorization to operate a residential facility with not more than 25 beds on the same site where the nursing home is located.

(6) The applicant applies to the Director of Health to have the facility certified as an ICF/MR.

(7) The applicant agrees to have the facility's licensed capacity as a nursing home reduced to not more than 25 nursing home beds effective on the date ODODD issues the residential facility license and agrees to surrender the nursing home license, ending the applicant's right to have any nursing home beds in the facility, effective on the date the Director of Health certifies the facility as an ICF/MR.

(8) The applicant provides ODODD assurances that the applicant will cooperate with ODJFS in having each resident of the facility who needs a greater or lesser level of care than ICFs/MR provide relocated to another facility or residence that is authorized to provide the level of care the resident needs and is willing to accept the resident's placement in the facility or residence.

(9) The applicant submits the application for the residential facility license to ODODD not later than 120 days after the effective date of this provision of the act.

Under the second exception, which applies to an applicant for an initial residential facility license and an applicant for a modification of an existing residential facility license, a license applicant is not required to obtain a county DD board's approval for the proposed or modified residential facility if all of the following apply:

(1) The new residential facility or modification to the existing residential facility is to serve individuals who have diagnoses or special care needs for which a special Medicaid reimbursement rate is set;[351]

[351] Continuing law requires the ODJFS Director to adopt rules that establish a methodology for calculating prospective rates for ICFs/MR, and discrete units of ICFs/MR, that serve residents who have diagnoses or special care needs that require direct care resources that are not measured adequately by the

(2) The ODJFS Director and ODODD Director determine that there is a need under the Medicaid program for the proposed new residential facility or modification to the existing residential facility and that approving the application is fiscally prudent for the Medicaid program;

(3) The Director of Budget and Management notifies the ODJFS Director and ODODD Director that the Director agrees with their determination.

Medicaid issues

An ICF/MR must meet certain conditions to be eligible for Medicaid payments. One of the conditions is that the ICF/MR must comply with all applicable state and federal laws and rules. The act provides that an ICF/MR is eligible for Medicaid payments even though the ICF/MR does not meet a state rule that requires an ICF/MR to have obtained a county DD board's approval of a development plan if the ICF/MR meets either of the act's conditions for obtaining a residential facility license without having to obtain a county DD board's approval of a development plan.

ODODD is required to pay the nonfederal share of claims for Medicaid-covered services provided by an ICF/MR initially certified as an ICF/MR on or after June 1, 2003. The act provides that this requirement does not apply to claims submitted by an ICF/MR that, under the act, obtains a residential facility license without having to obtain a county DD board's approval of a development plan.

County DD board levy failure

(R.C. 5123.0413 (primary), 5123.049, 5126.0512, and 5126.19)

Prior law required ODODD to adopt rules establishing a method of paying for extraordinary costs, including extraordinary costs for services to individuals with mental retardation or other developmental disability, and ensure the availability of adequate funds in the event a county property tax levy for services for those individuals failed. The rules could provide for using and managing the State MR/DD Risk Fund, the State Insurance Against MR/DD Risk Fund, or both. ODJFS was prohibited from requesting federal approval to increase the number of slots for ODODD-administered home and community-based services until the rules were in effect.

The act replaces this provision of law with a provision that requires ODODD to adopt rules to establish both of the following in the event a county property tax levy for services for individuals with mental retardation or other developmental disability fails:

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applicable assessment instrument used in setting the regular Medicaid reimbursement rates (R.C. 5111.258).

(1) A method of paying for ODODD-administered home and community-based services;

(2) A method of reducing the number of individuals a county DD board would otherwise be required to ensure are enrolled in a Medicaid waiver program under which ODODD-administered home and community-based services are provided.[352]

As was required when adopting the rules under prior law, ODODD is required to adopt the rules required by the act in consultation with ODJFS, the Office of Budget and Management, and county DD boards.

The act abolishes the State MR/DD Risk Fund and the State Insurance Against MR/DD Risk Fund. Prior law required that government providers of ODODD-administered home and community-based services be paid the federal share of the Medicaid allowable payment, less (1) the amount withheld as a fee the state charges county DD boards for Medicaid paid claims for such services provided to individuals eligible for county DD board services and (2) any amount that may be required by ODODD rules regarding county property tax failures to be deposited into the State MR/DD Risk Fund. With the abolishment of the State MR/DD Risk Fund, a government provider is to be paid the federal share less only the amount withheld as the fee. Continuing law authorizes the ODODD Director to grant temporary funding from the Community MR/DD Trust Fund[353] based on allocations to county DD boards. Because of the abolishment of the State MR/DD Risk Fund and the State Insurance Against MR/DD Risk Fund, the act eliminates law that permitted the ODODD Director to use money available in the Community MR/DD Trust Fund for the same purposes that ODODD rules provided for money in the two abolished funds to be used.

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[352] Each county DD board is required to ensure, for each Medicaid waiver program under which ODODD-administered home and community-based services are provided, that the number of individuals eligible for county DD board services who are enrolled in such a Medicaid waiver program is no less than the sum of (1) the number of individuals eligible for county DD board services who are enrolled in such a Medicaid waiver program on June 30, 2007, and (2) the number of slots for such Medicaid waiver programs the county DD board requested before July 1, 2007, that were assigned to the county DD board before that date but in which no individual was enrolled before that date. Under the act, a county DD board's responsibility under this requirement is to be reduced in accordance with the ODODD rules regarding county property tax levy failures

[353] Sub. S.B. 79 of the 128th General Assembly renames the Community MR/DD Trust Fund the Community Developmental Disabilities Trust Fund effective October 6, 2009.

Identity disclosure--county DD programs

(R.C. 5126.044)

In general, continuing law prohibits the disclosure of the identity of, or release of a record or report regarding, a person who is eligible for or requests programs or services from a county DD board or an entity under contract with a county DD board. This prohibition does not apply, however, when (1) disclosure of the individual's identity or release of the record or report is at the request, or with the approval, of the person or person's guardian or parent or (2) disclosure is needed for approval of a direct services contract or to ascertain that the board's waiting lists for programs or services are being maintained in accordance with ongoing law.

The act adds another exception to the prohibition against identity disclosure. Specifically, the act provides that the prohibition does not apply when disclosure is needed for treatment of, or payment for services provided to, an eligible person. The act defines "treatment" as the provision, coordination, or management of services provided to an eligible person. An "eligible person" is a person eligible to receive services from a county DD board or from an entity under contract with a county DD board. The act defines "payment" as activities undertaken by a service provider or governmental entity to obtain or provide reimbursement for services to an eligible person.

The act eliminates the requirement that a county DD board, or an entity under contract with a county DD board, that discloses an individual's identity or releases a record or report regarding an eligible person maintain a record of when and to whom the disclosure or release was made.

County DD board business and Medicaid services managers

(R.C. 5126.054)

Continuing law requires each county DD board to develop a three-calendar year plan that includes three components. One of the components is to provide for the implementation of Medicaid case management services and ODODD-administered home and community-based services for individuals who begin to receive the services on or after the date the county DD board's plan is approved by ODODD. This component must include assurances that the county DD board makes regarding a business manager and a Medicaid services manager.

Under prior law, a county DD board had to assure that it would (1) employ a business manager who was either a new employee who had earned at least a bachelor's degree in business administration or a current employee who had the equivalent

experience of a bachelor's degree in business administration and (2) employ or contract with a Medicaid services manager who was either a new employee who had earned at least a bachelor's degree or a current employee who had the equivalent experience of a bachelor's degree. If a county DD board was to employ a new employee as the business manager or Medicaid services manager, the board had to include in the component of the plan a timeline for employing the employee. Two or three county DD boards with a combined total enrollment in county DD board services not exceeding 1,000 individuals could satisfy the requirement to have a Medicaid services manager by sharing the services of a Medicaid services manager or by using the services of a Medicaid services manager employed by or under contract with a regional council of county DD boards.

The act revises the conditions by which a county DD board may satisfy the requirement to have a business manager and Medicaid services manager. Under the act, a county DD board may satisfy the requirement by employing or contracting with a business manager or Medicaid services manager, as appropriate, or entering into an agreement with another county DD board that employs or contracts with a business manager or Medicaid services manager to have the business manager or Medicaid services manager, as appropriate, serve both counties. A county DD board is prohibited by the act from having the board's superintendent serve as the business manager or Medicaid services manager. The act eliminates provisions specifying the minimum education or equivalent experience requirements that had to be met to serve in either position.

Individual service plan summary page

(R.C. 5126.055)

Under continuing law, county DD boards are given Medicaid local administrative authority to perform certain tasks for individuals seeking or receiving ODODD-administered home and community-based services. Included in these tasks is the requirement to develop, with the individual receiving services and the provider of the individual's services, an individualized service plan that includes coordination of services.

The act requires that each individualized service plan include a summary page, agreed to by the county DD board, provider of services, and individual receiving services, that clearly outlines the amount, duration, and scope of services to be provided under the plan.

Fiscal plan for home and community-based Medicaid waiver services

(Section 337.30.40)

The act requires the ODODD Director to submit a plan to the ODJFS Director with recommendations for actions to be taken addressing the fiscal sustainability of home and community-based services provided under Medicaid waiver programs that ODODD administers. The deadline for the plan is December 31, 2009. The plan may include recommendations for all of the following:

(1) Changing the ranges in the amount the Medicaid program will pay per individual for the services;

(2) Establishing one or more maximum amounts that the Medicaid program will pay per individual for the services;

(3) Modifying the methodology used in establishing payment rates for providers, including the methodology's components that reflect (a) wages and benefits for persons providing direct care and (b) training and direct supervision of those persons.

County share of Medicaid home and community-based services

(Section 337.30.60)

With certain exceptions, continuing law requires a county DD board to pay the nonfederal share of Medicaid expenditures for the following home and community-based services provided to an individual with mental retardation or other developmental disability who the board determines is eligible for board services:

(1) Home and community-based services provided by the county DD board to such an individual;

(2) Home and community-based services provided by a provider other than the county DD board to such an individual who is enrolled as of June 30, 2007, in the Medicaid waiver program under which the services are provided;

(3) Home and community-based services provided by a provider other than the county DD board to such an individual who, pursuant to a request the board makes, enrolls in the Medicaid waiver program under which the services are provided after June 30, 2007;

(4) Home and community-based services provided by a provider other than the county DD board to such an individual for whom there is in effect an agreement between the board and the ODODD Director.[354]

The act requires the ODODD Director to establish a methodology to be used in fiscal years 2010 and 2011 to estimate the quarterly amount each county DD board is to pay of the nonfederal share of the Medicaid expenditures for which the board is responsible. 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.

The act authorizes the ODODD Director to withhold money from a county DD board that fails to make the full payment by the time it is due. The Director may withhold the amount the board fails to pay from one or more state subsidies that ODODD would otherwise provide to the board.

Developmental center services

(Section 337.31.20)

The act permits a residential center for persons with mental retardation or other developmental disability operated by ODODD (i.e., a developmental center) to provide services to persons with mental retardation or developmental disabilities who live in the community or to providers of services to such persons. ODODD is permitted to develop a method for recovery of all costs associated with the provision of the services.

COMMISSION ON MINORITY HEALTH (MIH)

- Adds the Director of Alcohol and Drug Addiction Services, or the Director's designee, and two representatives of the Lupus Awareness and Education Program to the Commission on Minority Health.

Commission membership

(R.C. 3701.78)

The Commission on Minority Health is required to promote health and the prevention of disease among members of minority groups and to distribute grants to

[354] R.C. 5126.0510.

community-based health groups for that purpose.[355] The Commission has the following 18 members:

(1) Nine members appointed by the Governor from among health researchers, health planners, and health professionals;

(2) Two members of the House of Representatives appointed by the House Speaker;

(3) Two members of the Senate appointed by the Senate President; and

(4) The following five executive agency heads or their designees: the Director of Health, Director of Mental Health, Director of Mental Retardation and Developmental Disabilities, Director of Job and Family Services, and the Superintendent of Public Instruction.

The act provides for the Commission to have 21 members by adding the Director of Alcohol and Drug Addiction Services or the Director's designee, and two representatives of the Lupus Awareness and Education Program.

DEPARTMENT OF NATURAL RESOURCES (DNR)

- Renames the Division of Soil and Water Conservation as the Division of Soil and Water Resources, and transfers most of the duties and responsibilities of the Division of Water, which is abolished by the act (see below), to the renamed Division, including the administration of the Water Management Fund, responsibility for well construction logs and well sealing reports, issuance of construction permits for dams and levees, inspection of dams, dikes, and levees, floodplain management activities, and responsibility for water resource inventories.

- Abolishes the Division of Water, transfers most of its duties and responsibilities to the renamed Division of Soil and Water Resources as discussed above, and transfers to the Division of Parks and Recreation its authority, duties, and responsibilities concerning canals, canal lands, and canal reservoirs owned by the state.

- Abolishes the Division of Real Estate and Land Management, transfers its duties and responsibilities concerning the geographic information system needs of the Department of Natural Resources to the Director of Natural Resources, transfers to

[355] "Minority group" is defined as any of the following economically disadvantaged groups: Blacks, American Indians, Hispanics, and Orientals.

the Division of Engineering its duties concerning the coordination and conduct of all real estate functions for the Department, the duties to assist the Department and its Divisions in comprehensive planning, capital improvements planning, and other similar planning, and other duties and responsibilities, and transfers to the Division of Parks and Recreation its duties and responsibilities concerning the statewide recreational trails system.

- Revises the authority, duties, and responsibilities of the Director to reflect the abolishment and transfer of duties and responsibilities of the Division of Real Estate and Land Management under the act.

- Revises the authority, duties, and responsibilities of the Chief Engineer of the Division of Engineering to reflect the changes discussed above, and requires the Chief Engineer to carry out all of the Chief Engineer's duties with the approval of the Director.

- Makes other changes to facilitate the renaming of the Division of Soil and Water Conservation, the abolishment of the Divisions of Water and of Real Estate and Land Management, and the transfers of authority, duties, and responsibilities.

- Transfers the administration of state programs governing wild, scenic, and recreational river areas from the Division of Natural Areas and Preserves to the Division of Watercraft, authorizes the Chief of the Division of Watercraft to adopt rules for the administration of those areas, and generally retains the statutory requirements and procedures governing the programs.

- Authorizes the Chief to adopt rules establishing fees and charges for the conducting of stream impact reviews of planned or proposed development for purposes of those state programs.

- By operation of law, requires money in the Waterways Safety Fund that is used for the purposes of the Watercraft and Waterways Law to be used to administer the state programs for wild, scenic, and recreational river areas rather than the Natural Areas and Preserves Fund as in former law.

- Revises the purposes for which money in the Scenic Rivers Protection Fund must be used by requiring the money to be used to help finance specified activities regarding wild, scenic, and recreational river areas rather than activities only related to scenic rivers as in former law, and authorizes the Chief of the Division of Watercraft to expend money in the Fund for the acquisition of wild, scenic, and recreational river areas and for other specified purposes concerning those areas.

- By operation of law, requires law enforcement officers of the Division of Watercraft to enforce the laws and rules governing the state programs for wild, scenic, and recreational river areas rather than preserve officers as in former law.

- Expands the authority of the Waterways Safety Council by adding that it may advise and make recommendations to the Chief of the Division of Watercraft regarding wild, scenic, and recreational river areas.

- Expands the duties of the Division of Watercraft by requiring the Division to provide wild, scenic, and recreational river area conservation education and provide for specified projects in those areas, and requires the Division to provide for and assist in the development, maintenance, and operation of marine docks, harbors, and recreational and launching facilities for the benefit of public navigation, recreation, or commerce if the Chief of the Division determines that they are in the best interests of the state.

- Imposes a waterways conservation assessment fee on watercraft that are not powercraft.

- Requires a person constructing a potable water well for use in a private or public water system to pay a well log filing fee of $20 or an amount established in rules, whichever is applicable; requires the Chief of the Division of Soil and Water Resources to adopt rules governing the payment and collection of the fee; and requires boards of health and the Environmental Protection Agency to collect the fee on behalf of the Division and submit the proceeds of the fee to the Division quarterly.

- Amends the statutory fee schedule with respect to the annual fee that generally is required to be paid by the owner of a dam that is required to be inspected by increasing most of the fee amounts and by requiring that the fee be based not only on the height of a class I, class II, or class III dam, but also on the linear foot length of the dam and the per-acre foot of volume of water impounded by the dam, and establishes fee amounts using the new criteria.

- Requires rules adopted by the Chief of the Division of Soil and Water Resources regarding the annual fees to be subject to the prior approval of the Director.

- Establishes a compliant dam discount program that allows for certain discounts of the annual fee if the owner of a dam is in compliance with specified safety and maintenance requirements and has developed an emergency action plan.

- Requires the Division of Wildlife, if the Division establishes a system for the electronic submission of information regarding deer or wild turkey that are taken, to

allow the owner and the children of the owner of lands in this state to use the owner's name or address for purposes of submitting that information electronically via that system.

- Creates the "Ohio Nature Preserves" license plate, and requires the Department of Natural Resources to use contributions that persons pay when obtaining the license plate to help finance nature preserve education, nature preserve clean-up projects, and nature preserve maintenance, protection, and restoration.

- Requires the Director of Natural Resources and the organization Farmers and Hunters Feeding the Hungry to enter into a memorandum of understanding that prescribes a method by which the organization may donate venison to Ohio's food banks and methods that encourage private persons to make matching donations in money or food to Ohio's food banks that are equal or greater in value to the donated venison.

- Requires the Director to enter into a memorandum of understanding with the Southeastern Ohio Port Authority to develop the former Marietta State Nursery property, and establishes provisions that must be included in the memorandum.

Reorganization of certain divisions

(R.C. 121.04, 307.79, 504.21, 903.082, 903.11, 903.25, 1501.01, 1501.05, 1501.07, 1501.30, 1504.01 (repealed), 1504.02 (repealed), 1504.03 (repealed), 1504.04 (repealed), 1506.01, 1507.01, 1511.01, 1511.02, 1511.021, 1511.022, 1511.03, 1511.04, 1511.05, 1511.06, 1511.07, 1511.071, 1511.08, 1514.08, 1514.13, 1515.08, 1515.183, 1519.03, 1520.02, 1520.03, 1521.02 (repealed), 1521.03, 1521.031, 1521.04, 1521.05, 1521.06, 1521.061, 1521.062, 1521.063, 1521.064, 1521.07, 1521.10, 1521.11, 1521.12, 1521.13, 1521.14, 1521.15, 1521.16, 1521.18, 1521.19, 1523.01, 1523.02, 1523.03, 1523.04, 1523.05, 1523.06, 1523.07, 1523.08, 1523.09, 1523.10, 1523.11, 1523.12, 1523.13, 1523.14, 1523.15, 1523.16, 1523.17, 1523.18, 1523.19, 1523.20, 1541.03, 3701.344, 3718.03, 6109.21, and 6111.044; Sections 515.30, 515.40, and 515.50)

General organization

Continuing law creates in the Department of Natural Resources various Divisions to administer the Department's programs and establishes the authority of each Division and its duties and responsibilities. Under former law, those Divisions included the Division of Water, the Division of Soil and Water Conservation, and the Division of Real Estate and Land Management. Under continuing law, the Divisions include the Division of Parks and Recreation and the Division of Engineering.

Renaming of the Division of Soil and Water Conservation; transfer of duties to renamed Division

The act renames the Division of Soil and Water Conservation as the Division of Soil and Water Resources and retains its duties and responsibilities established in continuing law. In addition, the act transfers to the Division most of the duties and responsibilities of the Division of Water, which is abolished by the act (see below). The transferred duties and responsibilities include the administration of the Water Management Fund, responsibility for well construction logs and well sealing reports, issuance of construction permits for dams and levees, inspection of dams, dikes, and levees, floodplain management activities, and responsibility for water resource inventories.

Abolishment of the Division of Water and transfer of its duties

As discussed above, the act abolishes the Division of Water and transfers most of its duties and responsibilities to the renamed Division of Soil and Water Resources. However, the act transfers the Division of Water's authority, duties, and responsibilities concerning canals, canal lands, and canal reservoirs owned by the state to the Division of Parks and Recreation.

Abolishment of the Division of Real Estate and Land Management and transfer of its duties

The act abolishes the Division of Real Estate and Land Management and transfers its duties and responsibilities concerning the geographic information system needs of the Department of Natural Resources to the Director of Natural Resources. In addition, the act transfers to the Division of Engineering the Division of Real Estate and Land Management's duties concerning the coordination and conduct of all real estate functions for the Department, the duties to assist the Department and its Divisions in comprehensive planning, capital improvements planning, and other similar planning, and other duties and responsibilities. Finally, the act transfers to the Division of Parks and Recreation the Division of Real Estate and Land Management's duties and responsibilities concerning the statewide recreational trails system.

Duties of the Director of Natural Resources

The act revises the authority, duties, and responsibilities of the Director of Natural Resources to reflect the abolishment and transfer of the duties and responsibilities of the Division of Real Estate and Land Management as discussed above.

Duties of the Chief Engineer

The act revises the authority, duties, and responsibilities of the Chief Engineer of the Division of Engineering to reflect the changes discussed above. In addition, the act requires the Chief Engineer to carry out all of the Chief Engineer's duties with the approval of the Director of Natural Resources. The act also revises the qualification requirements for the Chief Engineer by specifying that if the Chief Engineer is a professional architect who is certified under the Architects Law, the Chief Engineer also must be registered under that Law.

Miscellaneous

The act makes other statutory changes to facilitate the renaming of the Division of Soil and Water Conservation, the abolishment of the Divisions of Water and of Real Estate and Land Management, and the transfers of authority, duties, and responsibilities under the act. In addition, the act provides for the necessary transfer of assets and liabilities and provides that legal actions initiated under former law by a renamed or abolished Division are to be continued by the appropriate Division as specified by the act.

Transfer of state programs for wild, scenic, and recreational river areas

Administration of wild, scenic, and recreational river areas

(R.C. 505.82, 1514.10, 1517.02, 1517.14 (1547.81), 1517.15 (repealed), 1517.16 (1547.82), 1517.17 (1547.83), 1547.01, 1547.02, 1547.52, 1547.86, 1547.87, and 3714.03)

Former law

Former law required the Chief of the Division of Natural Areas and Preserves in the Department of Natural Resources to administer wild, scenic, and recreational river areas.[356] In addition, the Chief was authorized to supervise, operate, protect, and maintain such areas as designated by the Director of Natural Resources. The Chief was authorized to cooperate with federal agencies administering any federal program concerning wild, scenic, or recreational river areas. The Chief was required to adopt

[356] Continuing law defines "wild river areas" to include those rivers or sections of rivers that are free of impoundments and generally inaccessible except by trail, with watersheds or shorelines essentially primitive and waters unpolluted, representing vestiges of primitive America. "Scenic river areas" include those rivers or sections of rivers that are free of impoundments, with shorelines or watersheds still largely primitive and shorelines largely undeveloped, but accessible in places by roads. "Recreational river areas" include those rivers or sections of rivers that are readily accessible by road or railroad, that may have some development along their shorelines, and that may have undergone some impoundment or diversion in the past. (R.C. 1547.01.)

rules for the use, visitation, and protection of lands that were owned or managed and administered by the Division and that were within or adjacent to any wild, scenic, or recreational river area. Finally, the Chief or the Chief's representative was authorized to participate in watershed-wide planning with federal, state, and local agencies in order to protect the values of wild, scenic, and recreational river areas.

Former law also authorized the Chief to administer federal financial assistance programs for wild, scenic, and recreational river areas. The Chief was authorized to expend funds for the acquisition, protection, construction, maintenance, and administration of real property and public use facilities in wild, scenic, and recreational river areas when the funds were appropriated by the General Assembly. The Chief could condition the expenditures, acquisition of land or easements, or construction of facilities within a wild, scenic, or recreational river area upon adoption and enforcement of adequate floodplain zoning rules.

As a result of the transfer described below, the act revises the Chief's authority by authorizing the Chief to participate in watershed planning activities with other states or federal agencies.

The act

The act retains the state programs governing wild, scenic, and recreational river areas, but transfers their administration from the Chief of the Division of Natural Areas and Preserves to the Chief of the Division of Watercraft. To effectuate the transfer, the act requires the Chief of the Division of Watercraft to administer the state programs for such areas. The Chief may cooperate with federal agencies administering any federal program concerning wild, scenic, or recreational river areas and may participate in watershed-wide planning with federal, state, and local agencies in order to protect the values of such areas. In accordance with the Administrative Procedure Act, the Chief may adopt rules governing the use, visitation, protection, and administration of such areas.

The act also authorizes the Chief to adopt rules, in accordance with the Administrative Procedure Act and subject to the prior approval of the Director, establishing fees and charges for the conducting of stream impact reviews of any planned or proposed construction, modification, renovation, or development project that may potentially impact a watercourse within a designated wild, scenic, or recreational river area.

The act authorizes the Chief of the Division of Watercraft to accept and administer state and federal financial assistance for the maintenance, protection, and administration of wild, scenic, and recreational river areas and for construction of

facilities within those areas. The Chief, with the approval of the Director, may expend for the purpose of administering the state programs for wild, scenic, and recreational river areas money that is appropriated by the General Assembly for that purpose, money that is in the ongoing Scenic Rivers Protection Fund (see "**Scenic Rivers Protection Fund**," below), and money that is in the Waterways Safety Fund (see "**Natural Areas and Preserves Fund; Waterways Safety Fund**," below) as determined to be necessary by the Division of Watercraft not to exceed $650,000 per fiscal year. The Chief may condition any expenditures, maintenance activities, or construction of facilities on the adoption and enforcement of adequate floodplain zoning or land use rules.

The act states that any action taken by the Chief under the act's provisions concerning wild, scenic, and recreational river areas cannot be deemed in conflict with certain powers and duties conferred on and delegated to federal agencies and to municipal corporations under the Constitution's home rule provisions or under certain provisions of the Sale or Lease of Property Law.[357]

In addition, the act authorizes the Division, in carrying out the act's provisions concerning wild, scenic, and recreational river areas, to accept, receive, and expend gifts, devises, or bequests of money, lands, or other properties in accordance with continuing law.

The act makes other conforming and technical changes necessary to effectuate the transfer of the state program for wild, scenic, and recreational river areas to the Division of Watercraft, including the relocation of statutory language.

Declaration of wild, scenic, and recreational river areas

(R.C. 1517.14 (1547.81); Section 715.10)

Under continuing law, the Director of Natural Resources or the Director's authorized representative is authorized to make a declaration to create a wild, scenic, or recreational river area. Ongoing law establishes procedures and requirements that the Director must follow in making such declarations. The act retains the authority, procedures, and requirements concerning the Director's declaration of an area as a wild, scenic, or recreational river area, but relocates the applicable statutes to the Division of Watercraft Law. The act also states that a wild, scenic, or recreational river area that was declared as such by the Director prior to the effective date of the act's applicable provisions retains its declaration as a wild, scenic, or recreational river area.

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[357] Section 7 of Article XVIII, Ohio Constitution.

Natural Areas and Preserves Fund; Waterways Safety Fund

(R.C. 1517.11 and 1547.75 (not in the act))

Former law required money in the Natural Areas and Preserves Fund to be used for specified purposes such as the acquisition of new or expanded wild, scenic, and recreational river areas; facility development in wild, scenic, and recreational areas; and special projects related to such areas. The act eliminates the requirement that money in the Fund be used for wild, scenic, and recreational river area purposes. Instead, by operation of law as a result of the transfer of the wild, scenic, and recreational river area programs to the Division of Watercraft, money in the Waterways Safety Fund, which must be used for the purposes of the Watercraft and Waterways Law, is required to be used to administer the state programs for wild, scenic, and recreational river areas.

Scenic Rivers Protection Fund

(R.C. 4501.24)

Law revised in part by the act creates the Scenic Rivers Protection Fund that consists of money paid to the Registrar of Motor Vehicles for scenic rivers license plates. The money in the Fund must be used by the Department of Natural Resources to help finance scenic river conservation education, scenic river corridor protection and restoration, scenic river habitat enhancement, and clean-up projects along scenic rivers. The act revises how money in the Fund must be used by requiring the Department to use the money to help finance wild, scenic, and recreational river areas conservation, education, corridor protection, restoration, and habitat enhancement and clean-up projects along rivers in those areas. In addition, the act adds that the Chief of the Division of Watercraft may expend money in the Fund for the acquisition of wild, scenic, and recreational river areas, for the maintenance, protection, and administration of such areas, and for construction of facilities within those areas.

Watercraft officers to enforce laws governing wild, scenic, and recreational river areas

(R.C. 1517.10 and 1547.521 (not in the act))

Former law authorized a preserve officer to enforce all laws and rules governing land and waters on lands that were owned or administered by the Division of Natural Areas and Preserves and that were within or adjacent to any wild, scenic, or recreational river area. The act eliminates the authority of preserve officers to enforce such laws and rules in a wild, scenic, or recreational river area. Instead, by operation of law as a result of the transfer of the wild, scenic, and recreational river area program to the Division of Watercraft, law enforcement officers of the Division of Watercraft must

enforce the laws and rules governing the state programs for wild, scenic, and recreational river areas.

Wild, scenic, and recreational river area advisory councils

(R.C. 1517.18 (1547.84); Section 715.10)

Law largely unchanged by the act requires the Director of Natural Resources to appoint an advisory council for each wild, scenic, or recreational river area. Each council must advise the Chief on the acquisition of lands and easements and on the lands and waters that should be included in a wild, scenic, or recreational river area and other specified issues. A council must be composed of not more than ten persons who are representative of local government and local organizations and interests in the vicinity of the wild, scenic, or recreational river area. The Chief or the Chief's representative must serve as an ex officio member of each council. The act retains the advisory councils and the duties of the councils, but replaces the Chief of the Division of Natural Areas and Preserves as an ex officio member of each council with the Chief of the Division of Watercraft. In addition, the act states that an advisory council for a wild, scenic, or recreational river area that was appointed by the Director prior to the effective date of the act's applicable provisions continues as the advisory council for the applicable river area.

Waterways Safety Council

(R.C. 1547.73)

Ongoing law creates a Waterways Safety Council in the Division of Watercraft composed of five members appointed by the Governor. The Council is authorized to advise the Chief and make recommendations on specified topics. The act adds that the Council may advise with and recommend to the Chief as to plans and programs for the acquisition, protection, construction, maintenance, and administration of wild river areas, scenic river areas, and recreational river areas.

Participation in federal programs for protection of certain selected rivers and regarding certain other waters

(R.C. 1547.85)

The act authorizes the Director of Natural Resources to participate in the federal program for the protection of certain selected rivers that are located within the boundaries of the state as provided in the federal Wild and Scenic Rivers Act. In addition, the Director may authorize the Chief of the Division of Watercraft to participate in any other federal program established for the purpose of protecting,

conserving, or developing recreational access to waters in Ohio that possess outstanding scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values.

Duties of Division of Watercraft

(R.C. 1547.51)

Law largely retained by the act requires the Division of Watercraft to administer and enforce all laws relative to the identification, numbering, registration, titling, use, and operation of vessels operated on the waters in this state and, with the approval of the Director of Natural Resources, educate and inform the citizens of the state about, and promote, conservation, navigation, safety practices, and the benefits of recreational boating. The act eliminates the requirement that the Division obtain the Director's approval for educating and informing the citizens about and promoting recreational boating. In addition, the act adds that the Division also must do both of the following: (1) provide wild, scenic, and recreational river area conservation education and provide for corridor protection, restoration, habitat enhancement, and clean-up projects in wild river areas, scenic river areas, and recreational river areas, and (2) provide for and assist in the development, maintenance, and operation of marine recreational facilities, docks, launching facilities, and harbors for the benefit of public navigation, recreation, or commerce if the Chief of the Division of Watercraft determines that they are in the best interests of the state.

Fees for watercraft and livery registrations

(R.C. 1547.531, 1547.54, 1547.542, and 1547.99)

Ongoing law establishes fees for the issuance of triennial watercraft registration certificates and issuing agents' fees. The act also imposes on watercraft that are not powercraft a waterways conservation assessment fee of $5.[358] The fee must be collected at the time of the issuance of a triennial watercraft registration under continuing law and deposited in the state treasury and credited to a distinct account in the Waterways Safety Fund.

Under continuing law, when the ownership of a watercraft changes and a new certificate of registration is issued by the Chief of the Division of Watercraft, the issuance fee (writing fee under the act) is $3. Former law did not specify where the fee was to be deposited. The act specifies that the fee is to be deposited to the credit of the Fund as is the case in continuing law for other issuance (writing) fees paid to the Chief.

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[358] Continuing law defines "powercraft" as any vessel propelled by machinery, fuel, rockets, or similar device (R.C. 1547.01(B)(4)).

Continuing law also establishes fees for the issuance of annual livery registration certificates and issuing agents' fees. The fee for each watercraft that is included in an annual livery registration is one-third of the triennial watercraft registration fee for individual watercraft. The act imposes on watercraft that are included in a livery that are not powercraft a waterways conservation assessment fee. The fee must be collected at the time of the issuance of an annual livery registration and is $1.50 for each watercraft included in the registration. The fee must be deposited in the state treasury and credited to a distinct account in the Fund.

Well log filing fees

(R.C. 1521.05, 3701.344, and 6109.21)

Law largely retained by the act requires any person that constructs a water well to keep a careful and accurate log of the construction of the well and to file the log with the Division of Water (Division of Soil and Water Resources under the act--see above). The log must be filed within 30 days after the completion of the construction of the well on forms prescribed and prepared by the Division.

The act requires a person or entity that constructs a well for the purpose of extracting potable water as part of a private water system or a public water system to pay a well log filing fee. Under continuing law, private water systems are regulated by boards of health, and public water systems are regulated by the EPA. The well log filing fee must be paid in accordance with rules adopted under the act. The act requires the fee to be levied at a rate of $20 per well log filed or, if the Chief of the Division of Soil and Water Resources has adopted an alternative fee amount in rules (see below), the fee amount established in rules. A board of health or the EPA, as applicable, must collect well log filing fees on behalf of the Division of Soil and Water Resources. After collection, the fees must be transferred quarterly to the Division in accordance with rules. Proceeds of well log filing fees must be used by the Division for the purposes of acquiring, maintaining, and dispensing digital and paper records of well logs that are filed with the Division.

The act requires the Chief to adopt rules establishing procedures and requirements governing the payment and collection of water well log filing fees. The rules must establish the amount of any filing fee to be imposed as an alternative to the $20 filing fee established by the act and establish procedures for the quarterly transfer of filing fees by boards of health and the EPA.

Annual dam inspection fee and compliant dam discount program

(R.C. 1521.063)

Law retained in part by the act specifies that, except for the federal government, the owner of any dam that is required to be inspected must pay to the Division of Water (Division of Soil and Water Resources under the act--see above) an annual fee that is based on the height of the dam. The fee is due on or before June 30 of each year, and the amount of the fee is prescribed in a statutorily established fee schedule. However, the Chief of the Division is required to adopt rules in accordance with the Administrative Procedure Act that establish an annual fee schedule in lieu of the statutorily established fee schedule. The statutorily established fee schedule in former law was as follows:

(1) For any dam classified as a class I dam under rules adopted by the Chief, $30 plus $10 per foot of height of dam;

(2) For any dam classified as a class II dam under those rules, $30 plus $1 per foot of height of dam; and

(3) For any dam classified as a class III dam under those rules, $30.

The act applies the fee requirement to the owner of a dam that is classified as a class I, class II, or class III dam under rules adopted by the Chief of the Division of Soil and Water Resources. It then amends the statutory fee schedule that establishes the annual fee by increasing most of the fee amounts and by requiring that the fee be based not only on the height of a dam, but also on the linear foot length of the dam and the per-acre foot of volume of water impounded by the dam. Thus, the new fee schedule established in the act is as follows:

(1) For any dam classified as a class I dam, $300 plus $10 per foot of height of dam, 5¢ per foot of length of the dam, and 5¢ per acre foot of water impounded by the dam;

(2) For any dam classified as a class II dam, $90 plus $6 per foot of height of dam, 5¢ per foot of length of the dam, and 5¢ per acre foot of water impounded by the dam; and

(3) For any dam classified as a class III dam, $90 plus $4 per foot of height of the dam, 5¢ per foot of length of the dam, and 5¢ per acre foot of volume of water impounded by the dam.

The act retains the requirement that the Chief adopt rules for the establishment of an annual fee schedule in lieu of the fee schedule established in statute. However, it provides that the adoption of those rules is subject to the prior approval of the Director of Natural Resources.

The act then establishes a compliant dam discount program to be administered by the Chief of the Division of Soil and Water Resources. Under the program, the Chief may reduce the amount of the annual fee that an owner of a dam is required to pay under the statutorily established fee schedule if the owner is in compliance with specified statutorily required safety and maintenance requirements and has developed an emergency action plan pursuant to standards established in rules adopted by the Chief. The Chief is not permitted to discount an annual fee by more than 25% of the total annual fee that is due. In addition, the Chief cannot discount the annual fee that is due from the owner of a dam who has been assessed a penalty for failure to pay the annual fee.

Deer and wild turkey hunting

(R.C. 1533.11)

Continuing law prohibits anyone from hunting deer or wild turkey on lands of another without obtaining an annual deer or wild turkey permit, as applicable. It specifically allows the owner and the children of the owner of lands in this state to hunt deer or wild turkey on them without such a permit and allows the tenant and children of the tenant to hunt deer or wild turkey on lands where they reside without such a permit. The act requires the Division of Wildlife, if the Division establishes a system for the electronic submission of information regarding deer or wild turkey that are taken, to allow the owner and the children of the owner of lands in this state to use the owner's name or address for purposes of submitting that information electronically via that system.

"Ohio Nature Preserves" license plate and the Ohio Nature Preserves Fund

(R.C. 4501.243 and 4503.563)

Under the act, the owner or lessee of any passenger car, noncommercial motor vehicle, recreational vehicle, or other vehicle of a class approved by the Registrar of Motor Vehicles may apply to the Registrar for the registration of the vehicle and issuance of "Ohio Nature Preserves" license plates. The application for "Ohio Nature Preserves" license plates may be combined with a request for a special reserved license plate provided in continuing law. Upon receipt of the completed application and compliance with the act's requirements, the Registrar is required to issue to the applicant the appropriate vehicle registration and a set of "Ohio Nature Preserves"

license plates with a validation sticker or a validation sticker alone when required by continuing law.

In addition to the letters and numbers ordinarily inscribed on license plates, "Ohio Nature Preserves" license plates must be inscribed with identifying words or markings designed by the Department of Natural Resources and approved by the Registrar. "Ohio Nature Preserves" license plates must bear county identification stickers that identify the county of registration by name or number.

"Ohio Nature Preserves" license plates and validation stickers are issued upon payment of a contribution (see below), the regular taxes prescribed in ongoing law, any applicable local motor vehicle tax, a Bureau of Motor Vehicles (BMV) administrative fee of $10, and the applicant's compliance with all other applicable laws relating to the registration of motor vehicles. If the application for "Ohio Nature Preserves" license plates is combined with a request for a special reserved license plate provided in continuing law, the applicant must also pay the applicable additional special reserved license plate fee.

For each application for registration and registration renewal received under the act, the Registrar is required to collect a contribution in an amount not to exceed $40, as determined by the Department. The Registrar must transmit the contribution to the Treasurer of State for deposit into the Ohio Nature Preserves Fund, which the act creates. The Fund consists of the contributions that are paid by persons who obtain "Ohio Nature Preserves" license plates. The act requires the Department to use that money to help finance nature preserve education, nature preserve clean-up projects, and nature preserve maintenance, protection, and restoration. All investment earnings of the Fund must be credited to the Fund. The act requires the Registrar to deposit the $10 BMV administrative fee, the purpose of which is to compensate the BMV for additional services required in issuing "Ohio Nature Preserves" license plates, into the State Bureau of Motor Vehicles Fund.

Donations of venison by Farmers and Hunters Feeding the Hungry

(Section 751.40)

The act requires the Director of Natural Resources to enter into a memorandum of understanding with the organization Farmers and Hunters Feeding the Hungry. The memorandum must prescribe a method by which, during the period from July 1, 2009, through June 30, 2011, Farmers and Hunters Feeding the Hungry may donate venison to Ohio's food banks. The memorandum also must prescribe methods that encourage private persons to make matching donations in money or food to Ohio's food banks that

are equal or greater in value to the venison that is donated by Farmers and Hunters Feeding the Hungry.

Sale of Marietta State Nursery land

(Section 753.10)

The act requires the Director of Natural Resources to enter into a memorandum of understanding with the Southeastern Ohio Port Authority to develop the future use of the property that formerly comprised the Marietta State Nursery. The memorandum must provide for the sale of the property for highest and best use, sale and usage of the property that is compatible with neighboring properties, maximum financial return for the Department, and expeditious sale of parcels of the property.

Additionally, the memorandum must require contracted professional engineering services to provide both of the following:

(1) A phase 1 environmental site assessment; and

(2) A master plan for property development, including an inventory of site features and assets; collection of public input through a meeting and comment period; identification of site usage areas; lot lines and parcel sizes in concept; means of ingress and egress from State Route 7 and interior site access that are delineated in concept; identification of utility services, locations, and capacities; plans for compliance with subdivision regulations; recommendations for possible deed restrictions; an evaluation of permits that must be obtained and other regulatory requirements that must be satisfied for purposes of the development of the property; and any necessary maps.

The memorandum must require the Port Authority to do all of the following: (1) manage the formulation of the master plan, (2) create a master plan brochure and sales brochures, (3) market the property by mail, signage, and the web sites *www.pioneerspirit.us* and *www.Ohiosites.com*, (4) respond to sales leads, (5) screen inquiries regarding the property, (6) negotiate sales based on pricing guidelines established by the Department, and (7) present qualified purchase offers to the Department.

Under the act, the memorandum must specify that the Department owns the property, that it may sell the property in lots to the Port Authority, and that the Port Authority then may sell the lots to individual private buyers. The memorandum also must specify that the Department is responsible for paying for the environmental, engineering, graphic design, signage, and printing costs as invoices for those costs are received. The act requires the Department and the Port Authority to agree to a cap for each of those invoices. Finally, the memorandum must specify that as parcels of the

property are transferred to private buyers, the Port Authority retains 5% of the sale price of each parcel as a fee for services provided by the Port Authority.

STATE BOARD OF PHARMACY (PRX)

- Requires the drug repository program established by the State Board of Pharmacy to (1) accept donations of orally administered cancer drugs that are not controlled substances and do not require refrigeration, freezing, or storage at a special temperature, regardless of whether the drugs are in original sealed and tamper-evident unit dose packaging, and (2) dispense the cancer drugs to persons who are eligible to receive them.

- Requires the Board to adopt rules regarding standards and procedures a drug repository site must use to determine, based on a basic visual inspection, that orally administered cancer drugs that are not in original sealed and tamper-evident unit dose packaging appear to be unadulterated, safe, and suitable for dispensing.

- Extends the timeframes established by Sub. S.B. 203 of the 127th General Assembly for compliance with its requirements to become a qualified pharmacy technician.

- Specifies that any examination materials the Board requires a person that develops or administers a pharmacy technician examination to submit to the Board for approval are not public records.

- Corrects erroneous cross-references in provisions regarding the distribution of results of criminal records checks conducted of persons wishing to become a qualified pharmacy technician.

Drug repository program–acceptance of certain cancer drugs

(R.C. 3715.87, 3715.871, and 3715.873; R.C. 3715.872 (not in the act))

Background

Law unchanged by the act requires the State Board of Pharmacy to establish a drug repository program for the collection and redistribution of drugs donated by drug manufacturers, health care facilities, and others to Ohio residents who meet eligibility standards established by the Board in rules. Drugs that may be donated and dispensed under the program must meet the following requirements: (1) they must be in their original sealed and tamper-evident unit dose packaging, (2) the packaging must be

unopened (except that drugs packaged in single unit doses may be accepted and dispensed when the outside packaging is opened, provided that the single unit dose packaging is undisturbed), (3) there can be no reason to believe that the drugs are adulterated, and (4) the drugs cannot bear an expiration date that is less than six months from the date the drugs are donated.[359] In the absence of bad faith, the Board, drug donors, and drug repository sites (pharmacies, hospitals, and nonprofit clinics that have elected to participate in the program and meet eligibility requirements established by the Board) are immune from criminal and civil liability as well as professional disciplinary action for matters related to the acceptance or dispensing of the donated drugs.

The Board is required to adopt rules governing the drug repository program. In adopting the rules, the Board must establish standards and procedures for drug repository sites to inspect donated drugs to determine that the original unit dose packaging is sealed and tamper-evident and that the drugs are unadulterated, safe, and suitable for dispensing. For drugs donated or given to the program by individuals or health care facilities, the rules must include lists of drugs, arranged either by category or by individual drug, that the program will accept and will not accept from individuals and health care facilities.

Cancer drugs

Subject to rules adopted by the Board, the act creates an exception to the drug donation and dispensing requirements discussed above. That is, the act permits the drug repository program to accept and dispense orally administered cancer drugs, regardless of whether they are in original sealed and tamper-evident unit dose packaging, as long as the drugs are not controlled substances and do not require refrigeration, freezing, or storage at a special temperature. The act requires the Board to adopt rules establishing standards and procedures for drug repository sites to determine, based on a basic visual inspection, that orally administered cancer drugs that are not in original sealed and tamper-evident unit dose packaging appear to be unadulterated, safe, and suitable for dispensing. The act specifies that the Board's rules establishing lists of drugs that will and will not be accepted under the program must comply with the act's provisions regarding acceptance of orally administered cancer drugs.

[359] Additional requirements regarding eligible drugs are specified in O.A.C. 4729-35-04, including requirements for storage, packaging, and removal of confidential patient information.

Qualified pharmacy technicians

(R.C. 4729.42)

Timeframes to meet qualified technician criteria

Sub. S.B. 203 of the 127th General Assembly established, among other things, criteria to be met for an individual to be considered a "qualified pharmacy technician." Sub. S.B. 203 also specified timeframes in which these criteria had to be met.

The act extends these timeframes as follows:

Topic	Prior Law	The Act
Individuals employed as pharmacy technicians on the effective date of Sub. S.B. 203 (April 1, 2009)	Not later than April 1, 2010	Not later than October 1, 2010
Individuals employed as pharmacy technicians after April 1, 2009	Not later than 210 days after initial employment	Not later than one year after initial employment
Individuals who complete a pharmacy technician program operated by a vocational school	Not later than 210 days after completing the program	Not later than one year after completing the program

Examination materials

Under Ohio's Public Records Law (R.C. 149.43), a "public record" is a record kept by any public office, including state, county, city, village, township, and school district units. On request and within a reasonable period of time, a public office or person responsible for public records generally must make copies available at cost.

The act specifies that if, pursuant to the Board's rulemaking authority under continuing law (R.C. 4729.26), the Board requires a person that develops or administers a pharmacy technician examination to submit examination materials to the Board for approval, such materials are not public records.

Pharmacy technician--cross-reference corrections

(R.C. 4729.99 and 4776.02)

The act corrects three erroneous cross-references in provisions of Am. Sub. H.B. 2 of the 128th General Assembly that clarified the distribution of results of criminal

records checks conducted of persons wishing to become a qualified pharmacy technician.

OCCUPATIONAL THERAPY, PHYSICAL THERAPY, AND ATHLETIC TRAINERS BOARD (PYT)

- Permits the Occupational Therapy Section of the Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board to charge any or all of the fees that prior law required the Section to charge, additionally permits the Section to charge fees for initial license applications and license verifications, and expressly permits the Section to charge fees for late license renewal applications and for reviewing continuing education activities but limits the amounts of these two fees to the actual costs the Section incurs.

- Requires that the Occupational Therapy Section's fee amounts be established in rules adopted by the Section.

Occupational therapist fees

(R.C. 4755.06 and 4755.12)

Former law required the Occupational Therapy Section of the Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board to charge fees for examinations, initial licensure, biennial license renewal, and limited permits. The act permits the Section to charge any or all of these fees.

Former law permitted the Section to adopt rules establishing fees for late license renewal applications and the administrative costs of reviewing continuing education activities. The act permits the Section to charge fees (not just establish fee amounts) for these services.

The act also permits the Section to charge fees for the following additional purposes: (1) initial license applications and (2) license verifications.

The act specifies that the amounts of fees that the Section is authorized to charge must be established in rules adopted by the Section. If the Section adopts rules relating to the amounts of the fees the Section may charge for the late renewal of licenses and the review of continuing education activities, the act prohibits the Section from

establishing fees for these services that exceed the actual costs the Section incurs in providing the services.

PUBLIC DEFENDER COMMISSION (PUB)

- Adds to the sources of the Indigent Defense Support Fund by establishing a bail surcharge, increasing additional court costs for criminal offenses, and increasing driver's license reinstatement fees and by requiring that the money collected be credited to the Fund.

- Authorizes the State Public Defender Office to use up to 10% of the money in the Indigent Defense Support Fund to support the present operations of the Office.

Indigent Defense Support Fund

(R.C. 120.08, 2937.22, 2949.091, 2949.111, 4507.45, 4509.101, and 4510.22)

Under prior law, the Indigent Defense Support Fund consisted solely of specified fine money paid into the Fund under R.C. 4511.19 (DUI) and additional court costs imposed under R.C. 2949.094 (moving violations). The State Public Defender Office used the money to reimburse counties for costs incurred in running their public defender programs. The act adds to the sources of money for the Fund by (1) establishing a surcharge of $25 to be paid when a person posts bail and, if the person is convicted, pleads guilty, or forfeits bail, requiring that the surcharge be deposited into the Fund, (2) increasing, from $15 to $30 for a felony offense and to $20 for a misdemeanor offense other than a traffic offense that is not a moving violation, the additional court cost traditionally used for public defender support and requiring that it be credited to the Fund, (3) imposing a $10 additional court cost for a traffic offense that is neither a moving violation nor a parking violation and requiring that the money collected as the additional court costs be credited to the Fund, and (4) increasing the general driver's license reinstatement fee (from $30 to $40), the reinstatement fee for a financial responsibility violation (from $75 to $100 for a first violation, from $250 to $300 for a second violation, and from $500 to $600 for a third violation), and the reinstatement fee for a person who commits a specified traffic offense, motor vehicle equipment offense, or motor vehicle crime that is a misdemeanor other than a minor misdemeanor and whose license is forfeited for failing to appear in court to answer the charge or pay the fine (from $15 to $25) and requiring that the amounts of the increases collected be credited to the Fund.

Prior law required the State Public Defender Office to make disbursements from the Fund in each state fiscal year to reimburse counties for a portion of the costs of their county or joint county public defender systems or county appointed counsel systems. The act requires the Office to use at least 90% of the money in the Fund to reimburse counties for their public defender systems, requires that disbursements be made at least once per year, allows disbursements to be used to support contracted public defender services and selected and appointed counsel, and authorizes the Office to use up to 10% of the money in the Fund to support the present operations of the Office.

DEPARTMENT OF PUBLIC SAFETY (DPS)

- Reclassifies four traffic offenses as unclassified misdemeanors on a first offense, with specified permissive fines and community service.

- Reclassifies 28 traffic offenses as minor misdemeanors, regardless of prior offenses.

- Provides that no certificate of registration is required for an all-purpose vehicle that is used primarily for agricultural purposes when the owner qualifies for the current agricultural use valuation credit, unless it is to be used on any public land, trail, or right-of-way.

- Permits owners of certain off-highway motorcycles and all-purpose vehicles to register the motorcycles or vehicles by presenting an affidavit of ownership rather than requiring the owners to obtain first certificates of title for the off-highway motorcycles or all-purpose vehicles.

- Applies the enhanced penalty provisions of the state criminal trespass statute (doubling of the fine and impoundment of the certificate of registration) to state criminal trespass violations that are committed using snowmobiles and off-highway motorcycles.

- Removes the minimum age requirement of 12 years for operation of snowmobiles, off-highway motorcycles, and all-purpose vehicles on state-controlled land under Department of Natural Resources jurisdiction when such a minor is accompanied by a parent or guardian who is a licensed driver and is 18 years of age or older and when permitted by the Department.

- Specifies that the rules the Registrar of Motor Vehicles must adopt by October 1, 2009, to permit multi-year registration of up to five years of commercial trailers and semitrailers must permit a person who owns or leases only one such trailer or semitrailer to be eligible for such multi-year registration, thus eliminating the

requirement that a person must own at least two such vehicles in order to be eligible for multi-year registration.

- Authorizes reimbursement from the State Law Enforcement Assistance Fund for the cost of annual continuing professional training for each of a public appointing authority's officers or troopers who completes the training in a timely manner, whether or not the public appointing authority receives an extension for the officers and troopers who do not timely complete the training.

- Eliminates the prohibition against carrying a firearm during the course of official duties or the performance of functions by a peace officer or trooper who has not completed continuing professional training.

- Specifies that a person who has a valid driver's or commercial driver's license cannot be required to have a motorcycle operator's endorsement to operate a three-wheel motorcycle with a motor of not more than 50 cubic centimeters piston displacement.

- Allows the Registrar to determine by rule the manner to use to indicate the expiration of a validation sticker issued for an all-purpose vehicle (three-year registration period) or for a trailer or semitrailer (up to a five-year registration period).

- Creates the Rehabilitation Employment Fund to be used by the Rehabilitation Services Commission to fund employment-related services and requires each applicant for a "handicapped" removable windshield placard or license plate who is walking-impaired to be asked whether the person wishes to contribute $2 to the fund.

- Requires the Registrar to determine the feasibility of implementing an electronic commercial fleet licensing and management program enabling commercial tractor, trailer, and semitrailer owners to conduct electronic transactions by July 1, 2010, or sooner.

- Provides that the increases in the fees for initial reserve license plates and personalized license plates enacted in the Transportation Appropriations Act apply to each registration renewal with an expiration date on or after October 1, 2009, and to each initial registration application received on or after that date.

- Clarifies (1) that the $1 fee for a replacement certificate of registration must be deposited into the State Bureau of Motor Vehicles Fund and (2) that $5.50 of each fee collected for a set of two replacement license plates, a single replacement license plate, or a replacement validation sticker is to be deposited into the State Highway

Safety Fund and that the remaining portion of each such fee is to be deposited into the State Bureau of Motor Vehicles Fund.

- Reduces the $15 fee for each placard the Registrar issues to a dealer that took effect July 1, 2009, which had been $7, to $2 and does not require any of the $2 fee to be deposited into the State Highway Safety Fund, and requires deputy registrars to transmit placard fees to the Registrar at the time and in the same manner as motor vehicle registration fees.

- Corrects a cross-reference to clarify that payment of the $7.50 fee for a duplicate driver's license does not apply to a disabled veteran who has a service-connected disability rated at 100% by the Veterans Administration (Department of Veterans Affairs).

- Permits the State Board of Emergency Medical Services to issue a certificate of accreditation for an emergency medical services training program or certificate of approval for an emergency medical services continuing education program for up to five years, rather than for three years; permits a provisional certificate to be issued for the length of time established by the Board, rather than one year; allows the Board to renew provisional certificates; and allows a certificate of accreditation to be for more than one emergency medical services training program.

- Requires the Board to establish certification cycles for the expiration of certificates to teach in an emergency medical services training program or an emergency medical services continuing education program and certificates to practice as a first responder, and to establish a common expiration date for these certificates and fire service training program certificates.

- Creates the "combat infantryman badge" license plate.

- Would have provided that no angled parking space that is located on a state route within a municipal corporation is subject to elimination, irrespective of whether there is or is not at least 25 feet of unoccupied roadway width available for free-moving traffic at the location of that angled parking space, unless the municipal corporation approves of the elimination of the angled parking space (VETOED).

Reclassification of traffic law violations

(R.C. 4507.02, 4510.11, 4510.12, 4510.16, 4513.021, 4513.03, 4513.04, 4513.05, 4513.06, 4513.07, 4513.071, 4513.09, 4513.11, 4513.111, 4513.12, 4513.13, 4513.14, 4513.15, 4513.16,

4513.17, 4513.171, 4513.18, 4513.19, 4513.21, 4513.22, 4513.23, 4513.24, 4513.242, 4513.28, 4513.60, 4513.65, 4513.99, 4549.10, and 4549.12)

Driver's license violations

The act reclassifies four driver's license violations as unclassified misdemeanors on a first offense, with a permissive fine up to $1,000 and an additional permissive term of community service of up to 500 hours; subsequent offenses are as described below. Also as described below, the act also modifies the penalty for operating a motor vehicle without a valid license if the offender's license was expired and for driving in violation of a license restriction.

Description of offense (R.C. section)	Prior penalty	Penalty under the act
Permitting the operation of a motor vehicle by an unlicensed driver (§ 4507.02)	First degree misdemeanor	Unclassified misdemeanor, with a permissive fine and term of community service on a first or second offense and a first degree misdemeanor with two or more previous offenses within three years
Driving under suspension for failure to pay child support and failure to appear or pay court fines (§ 4510.11(C)(1))	First degree misdemeanor, with a license suspension for a definite period not to exceed one year	Unclassified misdemeanor, with a permissive fine and term of community service on a first or second offense and a first degree misdemeanor with two or more previous offenses within three years; no required license suspension
Driving in violation of a license restriction (§ 4510.11(C)(2))	First degree misdemeanor, with a license suspension for a definite period not to exceed one year	First degree misdemeanor; no required license suspension
Operating a motor vehicle without a valid license if the offender has never held a valid license (§ 4510.12(B)(1))	First degree misdemeanor	Unclassified misdemeanor, with a permissive fine and term of community service
Operating a motor vehicle without a valid license if the offender's license was expired (§ 4510.12(B)(2))	Minor misdemeanor if expired for not more than six months, a fourth degree misdemeanor if expired for more than six months, a third degree misdemeanor if the offender had such a violation in the past three years, a second degree misdemeanor if the	Minor misdemeanor, but a first degree misdemeanor if the offender had three or more such violations in the past three years

Description of offense (R.C. section)	Prior penalty	Penalty under the act
	offender had two such violations in the past three years, and a first degree misdemeanor if the offender had three or more such violations in the past three years	
Driving under financial responsibility suspension or cancellation (§ 4510.16)	First degree misdemeanor	Unclassified misdemeanor, with a permissive fine and term of community service on a first or second offense and a first degree misdemeanor with two or more previous offenses within three years

Vehicle equipment and other violations (PARTIALLY VETOED)

In addition, the act reclassifies the following 28 traffic offenses, generally equipment violations, as minor misdemeanors, regardless of prior similar offenses. The Governor vetoed one reclassification related to bumper heights, vehicle modifications, and suspension system disconnections (R.C. 4513.021). Unless otherwise noted in the chart, under prior law, each offense was a minor misdemeanor on a first offense, a fourth degree misdemeanor on a second offense within one year, and a third degree misdemeanor on each subsequent offense within one year.

R.C. Section	Description of offense
4513.03	Display of lighted lights
4513.04	Required headlights
4513.05	Required tail lights and illumination of rear license plate
4513.06	Required red reflectors
4513.07	Safety lighting for commercial vehicles
4513.071	Required stop lights on rear of vehicle
4513.09	Required red light or flag for extended load
4513.11	Required equipment for animal-drawn and slow-moving vehicles
4513.111	Lights for multi-wheel agricultural tractors and farm machinery

R.C. Section	Description of offense
4513.12	Spotlights and auxiliary driving lights
4513.13	Cowl, fender, and back-up lights
4513.14	Display of two lighted lights
4513.15	Headlight illumination standards
4513.16	Speed restriction for vehicles with less intense lights
4513.17	Number of lights permitted; flashing light restrictions
4513.171	Lights on coroner's vehicle
4513.18	Lights on snow removal equipment and oversize vehicles
4513.19	Focus and aim of headlights
4513.21	Horns, sirens, and warning devices
4513.22	Muffler requirements
4513.23	Rear view mirrors
4513.24	Windshields and wipers
4513.242	Security decal display
4513.28	Warning devices displayed on disabled vehicles
4513.60	Vehicles on private property without permission (First offense, minor misdemeanor; subsequent offenses, third degree misdemeanor)
4513.65	Willfully leaving a junk motor vehicle uncovered (First offense, minor misdemeanor; second offense, fourth degree misdemeanor; subsequent offenses, third degree misdemeanor)
4549.10	Operating manufacturer vehicle without placard (First offense, minor misdemeanor; subsequent offenses, fourth degree misdemeanor)
4549.12	Resident operating a vehicle with number issued by other state (First offense, minor misdemeanor; subsequent offenses, fourth degree misdemeanor)

Driver's license vision screening fee

(R.C. 4507.24)

Am. Sub. H.B. 2 of the 128th General Assembly increased the fee charged for vision screening of a driver's license applicant by $1.75 (to a total of $2.75). The act directs that the entire amount of the increase be paid into the State Highway Safety Fund, rather than $1 of the increase as Am. Sub. H.B. 2 required.

State Highway Safety Fund

(R.C. 4501.06)

The act updates the cross-referencing list of fees deposited into the State Highway Safety Fund to include fees from the cost of replacing a license plate and obtaining an initial or personalized license plate, which were added to the fees being deposited into that Fund by Am. Sub. H.B. 2 of the 128th General Assembly.

Registration exemption for certain all-purpose vehicles

(R.C. 4519.02)

Under continuing law, no person may operate a snowmobile, off-highway motorcycle, or all-purpose vehicle within this state unless it is registered and numbered, subject to certain exceptions. One exception provides that no registration is required for a snowmobile, off-highway motorcycle, or all-purpose vehicle that is operated exclusively upon lands owned by the owner of the snowmobile, off-highway motorcycle, or all-purpose vehicle, or on lands to which the owner has a contractual right.

Under provisions contained in the Transportation Appropriations Act that became effective July 1, 2009, no registration is required for an all-purpose vehicle that is used primarily on a farm as a farm implement.

The act eliminates the phrase "on a farm as a farm implement" and provides that no registration is required for an all-purpose vehicle that is used primarily for agricultural purposes when the owner qualifies for the current agricultural use valuation credit, unless it is to be used on any public land, trail, or right-of-way. An all-purpose vehicle that is exempted from registration under this provision and is operated for agricultural purposes may use public roads and rights-of-way when traveling from one farm field to another when such use does not violate the law governing the operation of all-purpose vehicles on public roads and rights-of-way.

Affidavit of ownership when obtaining a certificate of registration for certain off-highway motorcycles and all-purpose vehicles

(R.C. 4519.03)

Under former law, if a person owned an off-highway motorcycle or all-purpose vehicle prior to July 1, 1999, the person was not required to obtain a certificate of title for the motorcycle or vehicle so long as the person did not sell or otherwise transfer ownership of the motorcycle or vehicle. In addition, if, since that date, the person operated the off-highway motorcycle or all-purpose vehicle only on lands the person owned or to which the person had a contractual right, the person also was not required to obtain a certificate of registration for the motorcycle or vehicle.

Law generally retained by the act provides that no certificate of registration or renewal of a certificate of registration may be issued for an off-highway motorcycle or all-purpose vehicle unless a certificate of title (physical or electronic) has been issued for that motorcycle or vehicle. The certificate of title must be presented to the Registrar or deputy registrar when the application for the initial certificate of registration for the motorcycle or vehicle is submitted.

As an exception to the law generally described above, the act provides that in the case of an off-highway motorcycle or all-purpose vehicle that was purchased prior to October 1, 2005, and for which a certificate of title has not been issued, the owner is not required to present a physical certificate of title or memorandum certificate of title or an electronic certificate of title for the motorcycle or vehicle. The owner instead may present a signed affidavit of ownership in a form prescribed by the Registrar at the time of application for the certificate of registration. The affidavit must include, at a minimum, the date of purchase, make, model, and vehicle identification number (VIN) of the off-highway motorcycle or all-purpose vehicle. If no VIN has been assigned to the motorcycle or vehicle, then its serial number must be presented at the time of application.

Identifying markers for snowmobiles and off-highway motorcycles

(R.C. 4519.04)

Under prior law, when a person registered a snowmobile, off-highway motorcycle, or all-purpose vehicle, the Registrar or deputy registrar issued to the owner a certificate of registration and a registration sticker. The Registrar determined the sticker color and size, the combination of numerals and letters displayed on it, and placement of the sticker on the snowmobile, off-highway motorcycle, or all-purpose vehicle. The owner of a snowmobile also was required to paint or otherwise attach upon each side of the forward cowling of the snowmobile the identifying registration

number, in block characters not less than two inches in height and of a color that is distinctly visible and legible.

Under provisions contained in the Transportation Appropriations Act that became effective July 1, 2009, owners of all-purpose vehicles are not issued a registration sticker; rather, they are issued one license plate and a validation sticker or a validation sticker alone if the registration is a renewal. The license plate and validation sticker must be displayed on the all-purpose vehicle so that they are distinctly visible, in accordance with rules the Registrar must adopt.

Under the act, when a person registers a snowmobile or off-highway motorcycle, the Registrar or deputy registrar must issue to the owner a certificate of registration and two decal registration stickers. The Registrar must determine the color and size of the stickers and the combination of numerals and letters displayed on them. One sticker must be placed on each side of the forward cowling or fuel tank of the snowmobile or off-highway motorcycle.

Addition of snowmobiles and off-highway motorcycles to the enhanced penalty provisions of the trespassing statute

(R.C. 2911.21)

The trespassing statute prohibits any person, without privilege to do so, from knowingly entering or remaining on the land or premises of another. Whoever commits trespassing is guilty of criminal trespass, a fourth-degree misdemeanor (punishable by a fine of not more than $250, a jail term of not more than 30 days, or both).

Under provisions contained in the Transportation Appropriations Act that became effective July 1, 2009, if a person uses an all-purpose vehicle in committing criminal trespass, the court must impose a fine of two times the usual amount imposed for such a violation. If the offender previously has been convicted of or pleaded guilty to two or more state or local criminal trespass violations and the offender, in committing each violation, used an all-purpose vehicle, the court, in addition to or independent of all other penalties imposed for the violation, may impound the certificate of registration and license plate of that all-purpose vehicle for not less than 60 days. The court must send the impounded certificate and license plate to the Registrar, who must hold them for the impoundment period, and the clerk of the court must pay the fine to the State Recreational Vehicle Fund.

The act adds snowmobiles and off-highway motorcycles to the enhanced penalty provisions of the state criminal trespass statute (doubling of the fine and impoundment of the certificate of registration). As a result, the enhanced penalty provisions apply not

only to criminal trespass violations that are committed using all-purpose vehicles but also to state criminal trespass violations that are committed using snowmobiles and off-highway motorcycles.

Operation of snowmobiles, off-highway motorcycles, and all-purpose vehicles by minors on state-controlled land under DNR jurisdiction

(R.C. 4519.44)

Continuing law prohibits a person who is less than 16 years of age from operating a snowmobile, off-highway motorcycle, or all-purpose vehicle on any land or waters other than private property or waters owned or leased by the person's parent or guardian unless the person is accompanied by another person who is at least 18 years of age and is a licensed driver. Under prior law, the Department of Natural Resources (DNR) could permit a person who is less than 16 years of age but is at least 12 years of age to operate a snowmobile, off-highway motorcycle, or all-purpose vehicle on state-controlled land under DNR jurisdiction if the person was accompanied by a parent or guardian who was at least 18 years of age and was a licensed driver.

The act eliminates the "12 years of age" minimum age requirement, thereby allowing DNR to permit any minor who is less than 16 years of age and is accompanied by a parent or guardian who is at least 18 years of age and is a licensed driver to operate a snowmobile, off-highway motorcycle, or all-purpose vehicle on state-controlled land under DNR jurisdiction.

Multi-year registration of motor vehicles

(R.C. 4503.103)

Commercial trailers and semitrailers

Prior law required the Registrar of Motor Vehicles to adopt rules to permit any person or lessee who owns or leases two or more commercial trailers or semitrailers to register them for up to five succeeding registration years. At the time of such registration, the person had to pay all annual taxes and fees for each year of registration. Prior law did not set a deadline for the adoption of such rules by the Registrar, however, and the Registrar did not adopt any such rules. Under a provision contained in the Transportation Appropriations Act that became effective July 1, 2009, the Registrar is required to adopt these rules not later than October 1, 2009.

The act retains the October 1, 2009, deadline enacted by the Act, but it specifies that the rules must permit any person who owns or leases a commercial trailer or semitrailer to register it for up to five years, thus eliminating the requirement that a

person must own at least two such vehicles in order to be eligible for this multi-year registration. The act also requires a person who registers a trailer or semitrailer under this multi-year registration provision to pay for each year of registration the additional registration fee of $30 that the Transportation Appropriations Act that became effective July 1, 2009, levied on the registration of commercial cars such as commercial tractors (which are part of tractor-trailer units). The act requires the person to pay one single deputy registrar service fee or one single Bureau of Motor Vehicles service fee regardless of the number of years for which the person is registering.

Multi-year vehicle registration stickers

(R.C. 4503.191)

In general, a vehicle license plate is issued for a multi-year period as determined by the Director of Public Safety and the validity of a current registration is indicated by a validation sticker attached to the license plate. The validation sticker indicates the expiration of the registration period, which, for a passenger vehicle is typically one year, but may be two years. The validation stickers must be different colors each year.

The act allows the Registrar of Motor Vehicles, by rule, to determine the manner by which specified multi-year validation stickers may indicate the expiration of the registration period. The act applies to validation stickers issued for an all-purpose vehicle, which is a three-year registration, and to validation stickers for those trailers or semitrailers that may be registered for up to five years under the International Registration Plan (TRP, a registration reciprocity agreement among states of the United States, the District of Columbia, and provinces of Canada providing for payment of license fees on the basis of fleet distance operated in various jurisdictions).

Effects of not completing annual continuing professional training by peace officers and troopers

(R.C. 109.802 and 109.803)

Under prior law, a public authority that appoints peace officers or troopers could be reimbursed from the State Law Enforcement Assistance Fund for the cost of annual continuing professional training for each of the authority's officers or troopers only if all of the authority's officers or troopers complete the training or the public authority receives because of emergency circumstances an extension for one or more of its officers or troopers to obtain the training. If such an extension was granted, the public authority was entitled to reimbursement for the officers or troopers who timely completed the training. The act authorizes reimbursement for each officer or trooper who completes the training in a timely manner, even if other officers or troopers have not completed the training and the appointing authority has not obtained an extension

for those officers and troopers to obtain the training, provided the appointing authority has complied with R.C. 109.761 (employee reporting requirements). Prior law prohibited a peace officer or trooper who had not completed continuing professional training from carrying a firearm during the course of official duties or the performance of a peace officer's or trooper's functions. The act eliminates the prohibition.

Operation of small three-wheel motorcycles

(R.C. 4507.03)

In general, no person may operate a motor vehicle on public property or private property open to the public unless the operator of the vehicle has a valid driver's license and no person may operate a motorcycle without having a valid license as a motorcycle operator, usually in the form of a motorcycle operator's endorsement on the person's driver's license. Continuing law establishes exemptions to this general requirement, including the operation of certain road machinery and agricultural tractors. The act allows a person who has a valid driver's or commercial driver's license to operate a three-wheel motorcycle with a motor of not more than 50 cubic centimeters piston displacement without being required to have a motorcycle operator's endorsement.

Voluntary donation to Rehabilitation Services Commission from applicants for license plates and placards for the walking-impaired

(R.C. 4503.44)

The act requires the Registrar of Motor Vehicles or a deputy registrar to ask each person applying for a removable windshield placard or temporary removable windshield placard or duplicate removable windshield placard or license plate ("handicapped" plates and placards) issued to a person who is walking-impaired, whether the person wishes to make a $2 voluntary contribution to support rehabilitation employment services. The voluntary contribution is in addition to any fee for issuance of the placard or license plate. The act requires a deputy registrar to transmit the contributions to the Registrar in the time and manner prescribed by the Registrar and requires the Registrar to transmit the contributions to the Treasurer of State for deposit into the Rehabilitation Employment Fund, which the act creates in the state treasury.

The contributions in the Rehabilitation Employment Fund must be used by the Rehabilitation Services Commission to purchase services related to vocational evaluation, work adjustment, personal adjustment, job placement, job coaching, and community-based assessment from accredited community rehabilitation program facilities.

Online commercial fleet licensing and management program

(R.C. 4503.10)

The act requires the Registrar to determine the feasibility of implementing an electronic commercial fleet licensing and management program. The program must enable the owners of commercial tractors, commercial trailers, and commercial semitrailers to conduct electronic transactions by July 1, 2010, or sooner. If the Registrar determines that implementing the program is feasible, the Registrar must adopt new rules or amend existing rules as necessary in order to respond to advances in technology.

Additionally, if the International Registration Plan (IRP, a registration reciprocity agreement among states of the United States, the District of Columbia, and provinces of Canada providing for payment of license fees on the basis of fleet distance operated in various jurisdictions) allows member jurisdictions to permit applications for registrations to be made via the Internet, the rules the Registrar adopts for electronic transactions must permit Internet registration of IRP-registered vehicles.

Fees for certain special and replacement license plates

(R.C. 4503.19, 4503.40, and 4503.42)

Fees for field or initial reserve and personalized license plates

The Bureau of Motor Vehicles produces a number of special license plates. Among them are two license plates known as "initial reserve" or "field reserve" license plates and "personalized" license plates. Initial reserve license plates are license plates that bear any of a number of certain specified combinations of letters, numbers, or letters and numbers and carry an extra fee of $10. Of that $10 fee, $7.50 compensates the Bureau for additional services required in issuing the license plates and $2.50 is deposited into the state treasury to the credit of the State Highway Safety Fund. Personalized license plates bear numbers, letters, or numbers or letters that are not normally produced by the Bureau (unlike standard issue license plates and initial reserve license plates) and carry an extra fee of $35. Of that $35 fee, $5 compensates the Bureau for additional services required in issuing the license plates and $30 is credited to the Fund.

Under provisions contained in the Transportation Appropriations Act that became effective July 1, 2009, the additional fee for initial reserve license plates increased from $10 to $25. Of that $25 fee, $7.50 compensates the Bureau for additional services required in issuing the license plates (unchanged from prior law) and $17.50 is credited to the Fund. The additional fee for personalized license plates increased on

that date from $35 to $50. Of that $50 fee, $5 compensates the Bureau for additional services required in issuing the license plates (unchanged from prior law) and $45 is to be credited to the Fund.

The act provides that, in the case of initial reserve license plates, for each registration renewal with an expiration date before October 1, 2009, and for each initial application for registration received before that date, the Registrar is allowed a fee not to exceed $10. For each registration renewal with an expiration date on or after October 1, 2009, and for each initial registration application received on or after that date, the Registrar is allowed a fee of $25. The act specifies that $7.50 of each such fee (unchanged from prior law), whether it be $10 or $25, compensates the Bureau for additional services required in issuing the license plates and that the remaining portion of the fee is to be credited to the Fund.

In the case of personalized license plates, the act similarly provides that for each registration renewal with an expiration date before October 1, 2009, and for each initial application for registration received before that date, the Registrar is allowed a fee not to exceed $35. For each registration renewal with an expiration date on or after October 1, 2009, and for each initial registration application received on or after that date, the Registrar is allowed a fee of $50. The act specifies that $5 of each such fee (unchanged from prior law), whether it be $35 or $50, compensates the Bureau for additional services required in issuing the license plates and that the remaining portion of the fee is to be credited to the Fund.

Fees for replacement license plates

Continuing law prescribes a fee of $1 for a replacement certificate of registration, a fee of $7.50 for a set of two replacement license plates, and a fee of $6.50 for a single replacement license plate or a replacement validation sticker. Prior law did not specify the disposition of the $1 fee, but $5.50 of each $7.50 fee and $5.50 of each $6.50 single replacement license plate fee had to be credited to the State Highway Safety Fund.

Under the act, the $1 fee for a replacement certificate of registration must be credited to the State Bureau of Motor Vehicles Fund. Commencing with each request made on or after October 1, 2009, or in conjunction with replacement license plates issued for renewal registrations expiring on or after October 1, 2009, the fee for a set of two replacement license plates is $7.50 and the fee for a single replacement license plate or replacement validation sticker is $6.50. The act requires the Registrar to credit $5.50 of each $7.50 fee collected to the State Highway Safety Fund and the remaining $2 to the State Bureau of Motor Vehicles Fund. Of each $6.50 fee collected, the act requires the Registrar to credit $5.50 to the State Highway Safety Fund and the remaining $1 to the State Bureau of Motor Vehicles Fund.

Temporary license placard fees

(R.C. 4503.182; Section 812.20)

Continuing law permits the Registrar of Motor Vehicles to issue to motorized bicycle dealers and motor vehicle dealers temporary license placards, which in turn are issued to purchasers for use on vehicles the dealer sells. The fee for each placard issued by the Registrar to a dealer is $7, of which $5 must be deposited into the State Highway Safety Fund.

In addition, since October 1, 2003, when the Registrar or a deputy registrar issues a temporary license placard, the Registrar or deputy registrar also is required to collect an additional $5 fee. The purpose of this fee is to defray the costs the Department of Public Safety incurs in administering and enforcing the state's motor vehicle and traffic laws.

The Transportation Appropriations Act of the 128th General Assembly increased the fee for each placard issued by the Registrar to a dealer from $7 to $15 and required $13 of the $15 to be deposited into the State Highway Safety Fund. This change took effect July 1, 2009. In addition, the Act increased the additional placard fee from $5 to $13, effective October 1, 2009.

The act reduces the $15 fee for each placard the Registrar issues to a dealer that took effect July 1, 2009, to $2 and does not require any of the $2 fee to be deposited into the State Highway Safety Fund. The act also requires deputy registrars to transmit placard fees to the Registrar at the time and in the same manner as motor vehicle registration fees. These changes took effect when the Governor signed the act.

Driver's license fees and disabled veterans

(R.C. 4507.23; Section 812.20)

Under continuing law, a disabled veteran who has a service-connected disability rated at 100% by the Veterans Administration (Department of Veterans Affairs) may apply to the Registrar of Motor Vehicles or a deputy registrar for the issuance to that veteran, without the payment of any fee, of any of the following items:

(1) A temporary instruction permit and examination;

(2) A new, renewal, or duplicate driver's or commercial driver's license;

(3) A motorcycle operator's endorsement;

(4) A motorized bicycle license or duplicate of such a license;

(5) Lamination of a driver's license, motorized bicycle license, or temporary instruction permit identification card.

These provisions were located in division (I) of Revised Code section 4507.23. The Transportation Appropriations Act of the 128th General Assembly imposed a late fee of $20 for the late issuance of a driver's license or motorcycle endorsement. This late fee was inserted into R.C. 4507.23 as division (H) of that section, and existing divisions (H) and (I) were redesignated in that act as divisions (I) and (J), respectively. Accordingly, a number of cross-references within R.C. 4507.23 to division "(I)" were changed to "(J)." All these changes took effect July 1, 2009.

The Transportation Appropriations Act failed, however, to change from "(I)" to "(J)" the internal cross-reference in the duplicate driver's license provision. Because this cross-reference was incorrect, it could have brought into question whether a disabled veteran who has a service-connected disability rated at 100% by the Department of Veterans Affairs still was exempt from having to pay the $7.50 fee for a duplicate driver's license on and after July 1, 2009. The act corrects the incorrect cross-reference, thus clarifying that a disabled veteran who has a service-connected disability rated at 100% by the Department of Veterans Affairs indeed remains exempt from having to pay the $7.50 fee for a duplicate driver's license, and made the clarification effective when the Governor signed the act.

Certificates of accreditation and certificates of approval

(R.C. 4765.11, 4765.17, 4765.23, and 4765.30)

Under continuing law, the State Board of Emergency Medical Services issues certificates of accreditation and certificates of approval to applicants who meet the statutory requirements to receive such certificates. The former type of certificate enables the applicant to conduct an emergency medical services training program while the latter enables the applicant to conduct an emergency medical services continuing education program. The Board must grant or deny both types of certificates within 120 days of receipt of the application, and it may issue either such certificate on a provisional basis to an applicant who is of good reputation and is in substantial compliance with the applicable requirements. The act permits the Board not only to issue either type of certificate on a provisional basis but also to renew both types on a provisional basis.

Prior law generally provided that a certificate of accreditation or certificate of approval was valid for three years and could be renewed by the Board pursuant to procedures established in rules the Board had adopted. The act provides that both

types of certificates are valid for up to five years and may be renewed by the Board pursuant to procedures and standards established in the Board's rules.

Under prior law, a certificate of accreditation or certificate of approval that was issued on a provisional basis was valid for one year and could not be renewed by the Board. The act provides that if either type of certificate is issued on a provisional basis, it is valid for the length of time the Board establishes.

Prior law provided that a certificate of accreditation was valid only for the emergency medical services training program for which it was issued, and the operator of an accredited or approved program could offer courses from the program at more than one location. The act provides that a certificate of accreditation is valid only for the emergency medical services training program or programs for which it is issued. The act also provides that the holder of a certificate of accreditation may apply to operate additional training programs in accordance with rules the Board may adopt. Any additional training programs expire on the expiration date of the applicant's current certificate. The holder of a certificate of accreditation or certificate of approval may offer courses at more than one location in accordance with rules adopted by the Board.

Under prior law, the Board also issued to qualified applicants certificates to teach in an emergency medical services training program or an emergency medical services continuing education program. Such a certificate was valid for two years and could be renewed by the Board pursuant to procedures established in the Board's rules. The act provides that a certificate to teach must have a certification cycle established by the Board and may be renewed by the Board pursuant to the Board's rules.

Similarly, prior law provided that a certificate to practice as a first responder (emergency medical technician or paramedic) was valid for three years and could be renewed by the Board pursuant to procedures established in the Board's rules. Not later than 60 days prior to the expiration date of an individual's certificate to practice, the Board was required to notify the individual of the scheduled expiration and furnish the individual with a renewal application.

The act provides that a certificate to practice as a first responder must have a certification cycle established by the Board and may be renewed by the Board pursuant to the Board's rules. The act also eliminates the requirement that the Board furnish such a certificate holder with a renewal application.

Consistent with these provisions, the act requires the Board to adopt rules establishing certification cycles for certificates to teach in an emergency medical services training program or an emergency medical services continuing education program, as

well as for certificates that are issued to first responders and to those who teach in fire service training programs.

"Combat infantryman badge" license plate

(R.C. 4503.548)

Under the act, any person who was awarded the combat infantryman badge may apply to the Registrar of Motor Vehicles for the registration of any passenger car, noncommercial motor vehicle, recreational vehicle, or other vehicle of a class approved by the Registrar of Motor Vehicles that the person owns or leases. The application must be accompanied by such documentary evidence in support of the award of the combat infantryman badge as the Registrar may require by rule, and may be combined with a request for a special reserved license plate provided in continuing law.

Upon receipt of the completed application and the required taxes and fees, compliance with the act's requirements, and presentation by the applicant of the required supporting evidence of the award of the combat infantryman badge, the Registrar is required to issue to the applicant the appropriate vehicle registration and a set of license plates with a validation sticker, or a validation sticker alone when required by continuing law.

In addition to the letters and numbers ordinarily inscribed on license plates, license plates issued to persons who were awarded the combat infantryman badge must be inscribed with the words "combat infantryman badge" and a reproduction of the combat infantryman badge. License plates must bear county identification stickers that identify the county of registration by name or number.

Combat infantryman badge license plates and validation stickers are to be issued upon payment of the regular taxes prescribed in continuing law, any applicable local motor vehicle tax, and the applicant's compliance with all other applicable laws relating to the registration of motor vehicles. If the application for the license plate is combined with a request for a special reserved license plate provided in continuing law, the applicant must also pay the applicable additional special reserved license plate fee.

The act prohibits any person who is not a recipient of the combat infantryman badge from willfully and falsely representing that the person is a recipient of the combat infantryman badge for the purpose of obtaining the license plate the act creates. The act also prohibits any person from owning a motor vehicle bearing the license plate the act creates unless the person is eligible to be issued the license plate.

Under continuing law, certain enumerated special license plates and generally all special license plates created since August 21, 1997, are subject to a minimum

registration requirement and to termination and revival procedures. Specifically, the Registrar is not required to implement any legislation that creates a new license plate until the Registrar receives written statements from at least 500 persons indicating that they intend to apply for and obtain the special license plate. (R.C. 4503.78, not in the act.) If, during any calendar year, the total number of new and renewal motor vehicle registrations involving such a special license plate totals less than 500, the issuance of that special license plate may cease as of December 31 of the following year. A special license plate whose issuance is so ended may be revived if certain conditions are met. (R.C. 4503.77, not in the act.)

The act exempts combat infantryman badge license plates from both the minimum registration requirement and the termination and revival procedures. This is consistent with the law's treatment of the military-related special license plates that existed at the time of enactment of the special license plate minimum requirement and the military-related special license plates that have been created since the enactment of those provisions.

Angle parking on state routes within municipal corporations (VETOED)

(R.C. 4511.69)

Continuing law permits local authorities, by ordinance, to permit angle parking on any roadway under their jurisdiction, except that angle parking is not permitted on a state route within a municipal corporation unless an unoccupied roadway of at least 25 feet is available for free-moving traffic. The Governor vetoed a provision that would have made this 25-foot angle parking restriction subject to the following: on and after the act's general effective date, no angled parking space that is located on a state route within a municipal corporation would be subject to elimination, irrespective of whether there is or is not at least 25 feet of unoccupied roadway width available for free-moving traffic at the location of that angled parking space, unless the municipal corporation approved the elimination of the angled parking space. Replacement, repainting, or any other repair performed by or on behalf of the municipal corporation of the lines that indicate the angled parking space would not have constituted an intent by the municipal corporation to eliminate the angled parking space.

PUBLIC UTILITIES COMMISSION (PUC)

- Declares that if a shipment of a highway route controlled quantity of certain radioactive materials that is subject to certain notification requirements has been the subject of a United States Department of Transportation Level VI inspection and has passed the inspection, the shipment is not otherwise subject to inspection by state

officials unless such inspection is determined to be necessary by the state; would have declared that the shipment also was not subject to inspection by local officials; would have provided that a state or local inspection had to be determined to be necessary by the State Highway Patrol; requires the Public Utilities Commission to establish procedures for the reduction of the fee governing such shipments to incorporate police escort services only; and provides that the procedures must require the payment of the fee only after the police escort has been completed (PARTIALLY VETOED).

Radioactive shipment inspections (PARTIALLY VETOED)

(R.C. 4905.801)

Am. Sub. H.B. 2 of the 128th General Assembly, the transportation budget bill, included provisions requiring a person shipping certain radioactive material within, into, or through Ohio to provide the Emergency Management Agency with notice of the shipment and to pay the Public Utilities Commission a fee for each shipment of $2,500 for each shipment by motor carrier and $4,500 per cask plus $3,000 for each additional cask shipped by rail by the same entity in the same shipment.

The act declares that if a shipment of a highway route controlled quantity of radioactive material that is subject to the above notification requirements has been the subject of a United States Department of Transportation Level VI inspection and has passed the inspection, the shipment is not otherwise subject to inspection. The act declares that the shipment is not subject to inspection by state or local officials; however, the Governor vetoed the provision declaring that the shipment is not subject to inspection by local officials. The act further would have provided that such a shipment could be inspected if the inspection was determined to be necessary by the State Highway Patrol. However, the Governor vetoed the reference to the Highway Patrol, and, thus, the shipment may be inspected only if the inspection is determined to be necessary by the state. Under the act, the Public Utilities Commission must establish procedures for the reduction of the fee governing such shipments to incorporate police escort services only. The act provides that the procedures must require the payment of the fee only after the police escort has been completed.

BOARD OF REGENTS (BOR)

Ohio College Opportunity Grants (OCOG)

- Eliminates statutory grant tables and establishes statutory guidelines for determining grant amounts for the Ohio College Opportunity Grant (OCOG) Program.

- For fiscal years 2010 and 2011, disqualifies students of for-profit institutions from receiving OCOG grants.

- For fiscal years 2010 and 2011, requires the Chancellor of the Board of Regents to devise "at-risk" and "academic performance" components for determining OCOG eligibility, if the appropriated funds are insufficient to distribute grants to all eligible students.

- For fiscal years 2010 and 2011, requires OCOG-eligible institutions of higher education to collect "at-risk" and "performance" data on eligible students, report that information to the Chancellor, and make recommendations on students considered most "at-risk."

- For fiscal years 2010 and 2011, allows (and may actually require) the Chancellor to require institutions of higher education to provide matching funds for students receiving OCOG awards.

- For fiscal years 2010 and 2011, requires the Chancellor first to subtract prior year's OCOG and OIG obligations, and allows the Chancellor also to subtract funds for renewals of Ohio Academic Scholarships, from the OCOG appropriation before distributing OCOG awards.

- For fiscal years 2010 and 2011, prohibits the Chancellor from obligating or committing to be distributed an amount greater than that which is appropriated for OCOG.

Other student aid programs

- Repeals the Student Choice Program, which provided grants to Ohio resident undergraduates at nonprofit private institutions.

- Specifies that the criteria the Chancellor uses in awarding grants under the Choose Ohio First Scholarship program include the extent to which a grant proposal will increase the number of women participating in the program.

- Allows the Chancellor to authorize institutions of higher education to award Choose Ohio First Scholarships in amounts greater than the statutory maximum to (1) undergraduate students enrolled in a program leading to a teaching profession in science, technology, engineering, math, or medicine (STEMM), or (2) graduate students in STEMM fields or STEMM education.

- Eliminates the requirement that a private Ohio institution of higher education, in order to submit a proposal for Choose Ohio First Scholarships, must collaborate with a state university or college, and permits a private Ohio institution of higher education to submit a proposal for the Ohio Research Scholars Program.

- Requires that the Governor's designation of the single nonprofit education loan secondary market operation for Ohio be made annually and pursuant to competitive selection, and specifies that the current designation expires December 31, 2009.

- Changes allocation of 25% of the Nurse Education Assistance Fund from loans to students in prelicensure education programs for licensed practical nurses to loans to students in any nurse education programs, as determined by the Chancellor, and requires the Chancellor to give preference to programs aimed at increasing enrollment in an area of need.

Institutions of higher education

- For fiscal years 2010 and 2011, limits the increase in in-state undergraduate instructional and general fees for state-assisted institutions of higher education to 3.5% over the previous year.

- Requires state institutions of higher education to charge in-state tuition and fees to nonresident students who are members of the Ohio National Guard and to their spouses and dependent children.

- Permits the board of trustees of a state university, university branch, state community college, community college, technical college, or the Northeastern Ohio Universities College of Medicine to adopt a policy providing for mandatory furloughs of employees, including faculty, to reduce institutional budget deficits.

- Removes the specific dates the board of trustees of Central State University must meet for regular session. (The Board must still meet at least twice a year.)

- Modifies the law that permits Rio Grande Community College to contract with the University of Rio Grande for operation of the community college.

- Defines the "University System of Ohio" as the collective group of state institutions of higher education, and "member of the University System of Ohio" as any individual state institution of higher education.

- Replaces the "course applicability system" with an information system the Chancellor selects, contracts for, or develops to assist and advise transfer students at state institutions of higher education.

Eastern Gateway Community College

- Adds Columbiana, Mahoning, and Trumbull counties to the Jefferson County Community College District to create a new four-county Eastern Gateway Community College District.

- Abolishes the Jefferson County Community College board of trustees and establishes an 11-member board of trustees composed of residents of the four-county territory appointed entirely by the Governor with the advice and consent of the Senate.

Entrepreneurial projects

- Declares it is the public policy of the state for state institutions of higher education to facilitate and assist with establishing and developing entrepreneurial projects to create or preserve jobs and employment opportunities and to improve the economic welfare of the people of the state pursuant to Section 13 of Article VIII of the Ohio Constitution and determines that entrepreneurial projects qualify as property, structures, equipment, and facilities under that constitutional provision.

- Authorizes board of a state institution of higher education to (1) enter into an agreement to develop entrepreneurial projects, (2) acquire stock or other ownership in entrepreneurial projects or related legal entities, or (3) make or guarantee loans and borrow money and issue bonds, notes, or other evidence of indebtedness to provide money for entrepreneurial projects.

- Requires that the bond proceeding law governing the issuance of bonds, notes, and other obligations by a state institution of higher education for housing and dining facilities, auxiliary facilities, or education facilities also govern bonds, notes, and other evidence of indebtedness issued by a state institution of higher education for entrepreneurial projects.

Bond intercept program

- Permits the board of any community college district, state community college district, or technical college district, when issuing bonds or other obligations, to enter into an intercept agreement with the Chancellor that would authorize the Chancellor, in the event debt service payments on the obligations are not made in full and on time, to withhold state funds otherwise due the district and use those funds to make the debt service payments.

- Authorizes the Ohio Building Authority to issue revenue obligations on behalf of a community or technical college district if the board of trustees of that district has entered into an intercept agreement with the Chancellor.

Water and energy conservation measures

- Either through competitive bidding or requests for proposals, authorizes state universities, the Northeastern Ohio Universities College of Medicine, and community colleges, state community colleges, university branches, and technical colleges to implement water conservation measures in their buildings and on surrounding grounds, and authorizes the Director of Administrative Services to implement such measures at the institution's request pursuant to competitive bidding or an RFP.

- Revises the laws governing implementation and financing of energy conservation measures at public institutions of higher education.

Ohio College Opportunity Grants (OCOG)

(R.C. 3333.122; Section 371.50.50)

The act modifies the Ohio College Opportunity Grant (OCOG) Program, which is a state program of needs-based assistance to Ohio residents in nursing degree and undergraduate programs. The changes are two-fold: (1) amendments to the permanent, codified law authorizing and governing OCOG and (2) uncodified requirements pre-empting much of the codified law for fiscal years 2010 and 2011.

Fiscal years 2010 and 2011

(Section 371.50.50)

For fiscal years 2010 and 2011, the act (1) excludes students of for-profit institutions, limiting eligibility to students of public and private, nonprofit institutions,

(2) requires the Chancellor of the Board of Regents to specify eligibility award criteria if the Chancellor determines that the funds appropriated for OCOG are insufficient to distribute grants to all eligible students, (3) authorizes (and may require) the Chancellor to impose matching fund requirements on higher education institutions, and (4) authorizes disbursements of OCOG appropriations to programs other than OCOG.

Eligibility and award criteria

If the Chancellor determines that the amounts appropriated for fiscal year 2010 or 2011 for OCOG are inadequate to make awards to all eligible students, the act requires the Chancellor to create a formula to distribute the available funds. The formula is subject to approval by the Controlling Board and must be established before the start of the 2010-2011 academic year. It must include an "at-risk component" and an "academic performance component" for determining distribution priority. The act defines "at-risk" as including first-generation college students, non-traditional aged adult students, graduates of low-achieving high schools, and any other factors the Chancellor may determine. The Chancellor may use the academic performance component (which the act does not define) to increase an award if a student does well on or completes a course for credit, or for any other academic performance factor determined by the Chancellor. The Chancellor, however, must determine which at-risk and performance components are most appropriate to apply to each type of institution (state college or university, community college, state community college, university branch, technical college, or private, nonprofit institution) and devise a formula for each type of institution based on the appropriate components.

Institutions that enroll OCOG-eligible students must collect at-risk and performance data for each eligible student and report that information to the Chancellor by a deadline set by the Chancellor. Each institution's report must include "a recommendation of eligible students considered most at-risk."

The Chancellor must establish award tables based on the Chancellor's formula and post them on the Board of Regents' web site. Further, the Chancellor must notify students and institutions of any reductions in awards under the act's provisions.

Matching funds

The act authorizes the Chancellor to require institutions to provide matching funds for students receiving OCOG grants. But after authorizing the Chancellor to do so, it then mandates that the Chancellor recommend a required match for each institution that takes into account the institution's capacity to meet the match. This recommendation must be included in the eligibility and award formula submitted to the Controlling Board. Whether the recommended match is subject to the Controlling

Board's approval may not be clear. The act is silent with respect to potential consequences for students if an institution fails to meet its required match.

Other uses of appropriation

Before determining OCOG awards, the act requires the Chancellor in fiscal year 2010 to use the OCOG appropriation to pay the prior year's Ohio College Opportunity Grant and Ohio Instructional Grant obligations. The act also permits the Chancellor to use OCOG funds to pay for renewals or partial renewals of Ohio Academic Scholarships for fiscal years 2010 and 2011.[360] To pay for prior year obligations and scholarships, the Chancellor must deduct funds proportionately from the two separate sectors allocated OCOG funds: (1) state institutions of higher education[361] and (2) eligible private nonprofit institutions of higher education. In other words, if state institutions of higher education were allocated 60% of the total OCOG appropriation, 60% of the funds used to pay for prior year's obligations and scholarship renewals would come from the funds allocated to state institutions of higher education.

The act expressly prohibits the Chancellor from distributing, obligating, or committing to be distributed an amount greater than what is actually appropriated for OCOG.

Codified provisions

(R.C. 3333.12)

The act's revisions to the codified OCOG law apply in fiscal years 2010 and 2011 to the extent not pre-empted by the uncodified measure described above. The revised codified law would apply in full after fiscal year 2011, unless pre-empted again by future legislation.

Eligible students

Under the modified codified law, eligible students are Ohio residents enrolled in undergraduate or nursing diploma programs at any (1) state-assisted, accredited institution of higher education in Ohio that meets federal Title VI nondiscrimination requirements, (2) nonprofit private institution with a certificate of authorization from the Board of Regents, or (3) for-profit private institution registered with, or exempt from regulation by, the Board of Career Colleges and Schools, but holding a certificate of

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[360] The Ohio Academic Scholarship Program awards renewable scholarships based on high academic achievement. (See R.C. 3333.21 and 3333.22, not in the act.)

[361] "State institution of higher education" includes state colleges and universities, community colleges, state community colleges, university branches, and technical colleges.

authorization from the Board of Regents. (However, students described in (3) are ineligible in fiscal years 2010 and 2011, which cover the 2009-2010 and 2010-2011 academic years; see above). Grants will continue to be awarded through the institution of enrollment, and the institution must still report to the Chancellor all students who received OCOG grants but are no longer eligible for all or part of the grants. The law continues to require refunding of grants made to ineligible students.

Grant awards

The act preserves the student need standard of a $2,190 expected family contribution (EFC), which is a measure of a family's financial strength based on the Free Application for Federal Student Aid (FAFSA) form. But it removes the statutory tables that previously specified award amounts based on particular EFC ranges. Instead, the act generally prohibits an OCOG grant from exceeding the "total state cost of attendance," as defined in rule by the Chancellor (an exception exists for foster youth, discussed in the next paragraph), and it establishes formulas for OCOG grant awards. That is, an OCOG grant must equal the student's remaining "state cost of attendance" at the student's school after the student's Pell Grant and EFC are applied to the instructional and general charges for the undergraduate program. But for students enrolled in a state university, the Northeastern Ohio Universities College of Medicine, or a university branch, the Chancellor may provide that the grant equals the *student's* remaining instructional and general charges for the undergraduate program after the student's Pell Grant and EFC are applied. But in no case may the grant for such a student exceed any maximum that the Chancellor may set by rule. The Chancellor may specify by rule the maximum grant amounts for a third semester or fourth quarter. The act preserves the limitation on receiving an OCOG grant for no more than ten semesters, fifteen quarters, or the equivalent of five academic years.

The act makes one exception to the prohibition that an OCOG grant may not exceed the total state cost of attendance. If a student is enrolled in a two-year institution of higher education and is eligible for an Education and Training Voucher through the Ohio Education and Training Voucher Program that receives funding under the federal John H. Chafee Foster Care Independence Program, the OCOG grant may exceed the total state cost of attendance to additionally cover housing costs. To be eligible for an Education and Training Voucher, a student must be age 18, 19, or 20 at the time of first application; a U.S. citizen or qualified non-citizen; accepted into or enrolled in a degree, certificate, or other accredited program at a college, university, technical or vocational school; have less than $10,000 worth of personal assets; and must fall into at least one of the following categories: (1) the student was in foster care on the student's 18th birthday and aged out at that time, (2) the student's foster care case will be closed between the ages of 18 and 21, or (3) the student was adopted from foster care with adoption finalization after the student's 16th birthday.

Notwithstanding these statutory grant amount standards, if there is inadequate funding for any academic year, the Chancellor must either (1) give preference in the payment of grants based on EFC, beginning with the lowest EFC category and proceeding to the highest EFC category, (2) proportionately reduce each individual grant, or (3) use an alternate formula approved by the Controlling Board.

Student Choice Grants

(Repealed R.C. 3333.27; conforming changes in R.C. 3315.37, 3333.04, 3333.28, 3333.38, and 3345.32)

The act abolishes the Student Choice Grant program. The program provided grants to full-time Ohio resident students enrolled in bachelor's degree programs at Ohio nonprofit private institutions. For 2008-2009 (fiscal year 2009), the program awarded each eligible student $310.

Choose Ohio First Scholarships and Ohio Research Scholars programs

Background

The Ohio Innovation Partnership is a multi-pronged grant program designed to attract students and scholars in the fields of science, technology, engineering, mathematics, and medicine (STEMM) to state universities and the Northeastern Ohio Universities College of Medicine (NEOUCOM). It comprises the Choose Ohio First Scholarship Program, the Ohio Research Scholars Program, and the Ohio Co-op/Internship Program.

Under the Choose Ohio First Scholarship Program, the Chancellor may award competitive grants to institutions of higher education to fund scholarships for qualified students. The scholarships are awarded to each participating student as a grant to the institution the student is attending and must be reflected on the student's tuition bill.

The Ohio Research Scholars Program awards grants to recruit scientists to college faculties. The grants must be deposited in new or existing endowment funds.

Award criteria

(R.C. 3333.62)

Continuing law lists several criteria for the Chancellor to use in awarding Choose Ohio First grants to institutions. The act adds as a new criterion for the Chancellor to consider: the extent to which a proposal will increase the number of women participating in the Choose Ohio First Scholarship Program.

Scholarship amounts

(R.C. 3333.66)

Under former law, no student could receive a Choose Ohio First scholarship in an amount more than half of the highest in-state undergraduate tuition charged by all state universities. The act however allows the Chancellor to authorize an institution of higher education to award a scholarship for more than that amount to either (1) an undergraduate student is enrolled in a program leading to a teaching profession in a STEMM field or (2) a graduate student in a STEMM field or STEMM education. (The act retains the stipulation that Choose Ohio First scholarships may be awarded to graduate students only as part of an initiative to recruit Ohio residents enrolled outside Ohio to return to Ohio to study in a STEMM field or STEMM education.)

Participation of private institutions

(R.C. 3333.61)

Also under prior law, a nonpublic four-year Ohio institution of higher education could submit a proposal for Choose Ohio First scholarships if the proposal was a collaboration with a state university or NEOUCOM. The act eliminates this requirement and allows nonpublic institutions of higher education to submit proposals on their own. It also allows nonpublic institutions to submit proposals for a grant from the Ohio Research Scholars Program. As under continuing law, if the Chancellor awards a nonpublic institution scholarships or grants, the nonpublic institution must comply with all the rules and requirements that apply to public institutions.

Nonprofit education loan secondary market operation

(R.C. 3351.07)

Federal law authorizes each state, as part of its educational loan efforts, to designate one nonprofit secondary market operation.[362] Ohio law authorizes the Governor to make that designation. Also under Ohio law, the designated nonprofit operation may be awarded state tax-exempt private activity bonds for issuance of student loan notes.[363]

The act stipulates that the Governor's designation in effect on the provision's effective date expires on December 31, 2009, and that designations after the effective date (1) must be made by competitive selection and (2) are valid for one year. The act

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[362] 20 U.S.C. 1085(d).

[363] R.C. 133.021, not in the act.

prohibits the Controlling Board from waiving this requirement for competitive selection.

Nurse Education Assistance Loan Program

(R.C. 3333.28)

Under prior law, between July 1, 2005, and January 1, 2012, the Chancellor was required to distribute funds in the Nurse Education Assistance Loan Program as follows:

(1) 50% of the funds as loans to registered nurses enrolled in post-licensure education programs;

(2) 25% as loans to students enrolled in prelicensure education programs for registered nurse education programs; and

(3) 25% as loans to students enrolled in prelicensure education programs for licensed practical nurses.

The act eliminates the specific allocation to prelicensure licensed practical nurse education programs in (3), and instead directs the Chancellor to allocate 25% of the funds as loans to students in any nurse education program the Chancellor determines. However, the Chancellor must give preference to "programs aimed at increasing enrollment in an area of need." Presumably, the Chancellor would determine the areas of need.

Cap on undergraduate tuition increases

(Section 371.20.90)

For fiscal years 2010 and 2011 (the 2009-2010 and 2010-2011 academic years), the act requires the boards of trustees of state-assisted institutions of higher education to limit increases in in-state undergraduate instructional and general fees to 3.5% over what the institution charged the previous year. As in previous biennia when the General Assembly capped tuition increases, this 3.5% cap does not apply to increases required to comply with institutional covenants related to the institution's obligations or to meet unfunded legal mandates or legally binding obligations incurred or commitments made prior to the act's effective date, such as bond obligations. Further, the Chancellor may modify the limitations, with Controlling Board approval, to respond to exceptional circumstances as the Chancellor identifies.

Resident tuition rates for members of the Ohio National Guard

(R.C. 3333.42)

The act requires state institutions of higher education to charge in-state tuition and fees to a nonresident student who is a member of the Ohio National Guard, or who is the spouse or dependent child of such a student.

Employee furloughs at public colleges and universities

(Section 371.70.20)

The act authorizes the board of trustees of a state university, state community college, community college, technical college, or the Northeastern Ohio Universities College of Medicine and the managing authority of a university branch district to adopt a policy that provides for mandatory furloughs of employees to reduce spending due to institutional budget deficits. The act specifies that faculty may be furloughed.

Central State University

(R.C. 3343.04)

Prior law required the board of trustees of Central State University to meet for regular session on the third Thursday in June and the first Thursday in November. The act removes the specific dates when the Board must meet. However, the Board must still meet at least twice a year for regular session.

Rio Grande Community College

(R.C. 3354.26)

Rio Grande Community College is a public two-year institution of higher education, and the University of Rio Grande is a private nonprofit institution of higher education. The two institutions share facilities. Prior law permitted the boards of trustees of the community college and the university to enter into a contract providing for the university to operate the community college. In addition, the community college could have its president also serve as president of the university in accordance with the terms of the contract between the two institutions, but the salary, benefits, and other compensation paid to the joint president had to be the sole responsibility of the community college.

The act modifies the authority of the community college to contract with the university in several ways. First, it specifies that the community college board may enter into one or more contracts with the university for "any services for the operation

of the community college," except the services of a treasurer or other fiscal officer. Second, through those contracts, the community college "may acquire the services of the president of the university and other personnel," rather than have the community college president serve as the university president. Third, the community college board retains exclusive authority to employ and make personnel decisions regarding the college's treasurer or other fiscal officer and other employees whom the board determines are necessary. Finally, the community college board, by a majority vote of its membership, may terminate any contract with the university, if the community college board determines that the contract is no longer in the best interests of the college. Each contract must include a termination provision.

University System of Ohio

(R.C. 3345.011)

The act formally defines the "University System of Ohio" and "member of the University System of Ohio" within the Revised Code. The "University System of Ohio" is defined as the collective group of all state institutions of higher education. Under continuing law, "state institution of higher education" includes all state universities,[364] the Northeastern Ohio Universities College of Medicine, community colleges, state community colleges, university branches, and technical colleges. The act defines a "member of the University System of Ohio" as any individual institution listed above.

College transfer policies

(R.C. 3333.16)

Under prior law, all state institutions of higher education were required to fully implement the "course applicability system" (CAS) to assist and advise transfer students. The act removes the specific reference to the course applicability system, and instead requires all state institutions to fully implement "the information system for advising and transferring selected by, contracted for, or developed by the Chancellor."

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[364] University of Akron, Bowling Green State University, Central State University, University of Cincinnati, Cleveland State University, Kent State University, Miami University, Ohio University, The Ohio State University, Shawnee State University, University of Toledo, Wright State University, and Youngstown State University.

Eastern Gateway Community College District

(R.C. 3354.24; Section 515.10)

The act adds Columbiana, Mahoning, and Trumbull counties to the Jefferson County Community College District to form a new four-county district renamed the Eastern Gateway Community College District. The new district is to be governed by a new board of trustees composed of residents of the four-county territory. The powers, duties, obligations, liabilities, employees, and property of the board of trustees of the Jefferson County Community College District will be assigned to the board of trustees of the Eastern Gateway Community College District.

Taxes and bonds

Under continuing law, community college districts may seek voter approval of property tax levies. According to the Jefferson County Auditor's office, the Jefferson County Community College District currently levies a tax of 1 mill per dollar. The act would divide the Eastern Gateway Community College District into two taxing subdistricts, with Jefferson County constituting one subdistrict and Columbiana, Mahoning, and Trumbull counties (CMT) constituting the other subdistrict. The new board of trustees may levy separate taxes in each subdistrict with the approval of the voters in that subdistrict. Each subdistrict's tax revenue must be used for the benefit of its residents only. Revenue from each subdistrict's tax may be used for students attending Eastern Gateway Community College but residing in the respective subdistrict territory. The revenue may be spent for student tuition subsidies and student scholarships, and for instructional facilities, equipment, and support services within the respective subdistrict. Revenue also may be used for any other voter-approved purpose. Taxes from each subdistrict must be deposited into separate funds from all other district revenues and budgeted separately.

The new board of trustees may issue bonds to finance buildings and other facilities under the continuing bond issuance authority, but may limit the issuance (and the associated tax) to one of the subdistricts. If the issuance is so limited, the board may limit use of the bond-financed facilities to the residents of that subdistrict.

Tuition for Columbiana, Mahoning, and Trumbull county residents

Until a community college tax is levied in the CMT subdistrict, residents of that subdistrict must continue to be charged higher tuition than Jefferson County residents, in an amount equal to the tuition charged other Ohio residents who live outside Jefferson County. After a tax is approved in the CMT subdistrict, the board of trustees may use the revenues to subsidize tuition for CMT subdistrict residents and reduce their tuition rates.

Trustees' voting powers

Until the CMT taxing subdistrict approves a tax levy that is equal to the tax levy of Jefferson County, the Jefferson County trustees have sole authority to vote on Jefferson County's tax levy, expenditure of revenue from that levy, and tax-subsidized tuition rates. Once the CMT subdistrict approves an equivalent levy, the restrictions on trustee voting power do not apply. For this purpose, an equivalent tax levy is one that is determined jointly by the county auditors of the four counties to satisfy either of the following:

(1) In the first tax year, the levy yields per-capita revenue equal to or exceeding the per-capita yield of community college taxes levied in Jefferson County; or

(2) In the first tax year, the levy is imposed at a millage rate that equals or exceeds the effective community college tax rate in Jefferson County.

Board of trustees membership

The act abolishes the nine-member Jefferson County board of trustees and establishes an 11-member board of trustees to be appointed by the Governor with the advice and consent of the Senate.[365] Three trustees must be residents of Jefferson County, one appointed for a one-year term, one for a three-year term, and one for a five-year term. Initially, the Governor must select three of the Jefferson County trustees to continue to serve until their respective terms expire. The other eight trustees must be residents of Columbiana, Mahoning, or Trumbull counties. Terms of those trustees are as follows: one one-year term, two two-year terms, two three-year terms, two four-year terms, and one five-year term. Thereafter, each successor trustee will be appointed for a five-year term. If a vacancy occurs and at that time the Jefferson County tax has expired, or the Eastern Gateway Community College District has converted to a state community college (see below), the Governor may fill the vacancy with a resident of any of the four counties.

Conversion to state community college

The act requires the new board of trustees of the four-county community college district to submit a proposal to the Chancellor to convert the district to a state community college if the Jefferson County tax expires and is not renewed, and the CMT taxing subdistrict does not levy a tax. If the Chancellor approves, the board must enter into a transition agreement with the Chancellor following statutory procedures and

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[365] For all other community college districts, appointment of trustees is split between the Governor and the county commissioners of the constituent counties. (R.C. 3354.05 and 3354.25, neither in the act.)

terms governing the conversion of a technical college into a state community college (R.C. 3358.05, not in the act).

Entrepreneurial projects

(R.C. 3345.36 and 3345.12)

The act authorizes the board of trustees of each state institution of higher education to pursue methods of establishing and developing certain "entrepreneurial projects" generally for the purpose of improving the economy of the state.

The act defines "entrepreneurial project" as an effort to develop or commercialize technology through research or technology transfer or investment of real or personal property, or both, including undivided and other interests therein, acquired by gift or purchase, constructed, reconstructed, enlarged, improved, furnished, or equipped, or any combination thereof, by an institution of higher education or by others.

Purpose and methods of developing entrepreneurial projects

(R.C. 3345.36)

Section 13 of Article VIII of the Ohio Constitution provides a means to create or preserve jobs and employment opportunities and improve the economic welfare of the people of the state, by declaring it to be in the public interest and a proper public purpose to make or guarantee loans and to borrow money and issue bonds or other obligations to provide moneys for the acquisition, construction, enlargement, improvement, or equipment, of property, structures, equipment and facilities for industry commerce, distribution, and research. The Constitution permits the enactment of laws to carry out these purposes and to authorize the borrowing of money and the issuance of bonds or other obligations provided that tax moneys are not obligated or pledged for the payment of bonds or obligations issued or guarantees made pursuant to those laws.

The act declares that, pursuant to that provision of the Constitution, it is the public policy of the state for state institutions of higher education to facilitate and assist with establishing and developing entrepreneurial projects or to assist and cooperate with any governmental agency in achieving this purpose in order to create or preserve jobs and employment opportunities and to improve the economic welfare of the people of Ohio. Under the act, an entrepreneurial project is determined to qualify as "property, structures, equipment, and facilities" described in Art. VIII, Sec. 13.

In pursuit of this stated public policy to create and preserve jobs and improve the state's economic welfare, the act authorizes a board of trustees of an institution of higher education to do any of the following by resolution:

(1) Enter into an agreement with persons and with governmental agencies to induce such persons to acquire, construct, reconstruct, rehabilitate, renovate, enlarge, improve, equip, furnish, or otherwise develop entrepreneurial projects;

(2) Acquire stock or other ownership in an entrepreneurial project or a legal entity formed in connection with a project; and

(3) Make or guarantee loans and borrow money and issue bonds, notes, or other evidence of indebtedness to provide moneys for the acquisition, construction, enlargement, improvement, equipment, maintenance, repair, or operation of entrepreneurial projects.

The act states that bonds, notes, or other evidence of indebtedness issued under this provision do not constitute debt for which the full faith and credit of the state or an instrumentality or political subdivision of the state may be pledged and moneys raised by taxation cannot be obligated or pledged for their repayment.

Applicability of bond proceeding law to entrepreneurial projects

(R.C. 3345.12)

The act applies the law governing bonds, notes, and other obligations issued by state institutions of higher education for housing and dining facilities, auxiliary facilities, or education facilities to the bonds, notes, and other evidence of indebtedness issued for entrepreneurial projects. The act refers to these new obligations as "assurances" to fund the costs of entrepreneurial projects in order to distinguish them from the obligations described under the bond proceeding law.

Community and Technical College Bond Intercept Program

(R.C. 152.09, 152.10, 152.12, 152.15, 3333.90, and 3345.12(C))

Intercept agreements

Preexisting law authorizes the board of trustees of a community college district, state community college district, or technical college district to issue bonds or other obligations.[366] The act permits a board of trustees, in connection with an issuance of obligations, to adopt a resolution requesting the Chancellor to enter into an agreement

[366] See R.C. 3354.12, 3354.121, 3357.11, 3357.112, and 3358.10, not in the act.

with the district (and the primary paying agent or fiscal agent for the obligations) that provides for the withholding and deposit of funds otherwise due the district or the community or technical college it operates as its allocated state share of instruction, for the payment of bond service charges on the obligations.

Upon review of a request received from a community or technical college district, the Chancellor, with the advice and consent of the Director of Budget and Management (and the Ohio Building Authority, in cases in which the Authority will issue obligations), must approve the request if all of the following conditions are met:

(1) Approval of the request will enhance the marketability of the obligations for which the request is made;

(2) The Chancellor and the Office of Budget and Management (OBM) have no reason to believe the requesting district or the community or technical college it operates will be unable to pay when due the bond service charges on the obligations for which the request is made;

(3) Any other pertinent conditions established in rules adopted under this portion of the act (see below).

If the Chancellor approves the request, the Chancellor must enter into a written agreement with the district and the primary paying agent or fiscal agent for the obligations.[367] This intercept agreement is to provide for the withholding of funds for the payment of bond service charges on the obligations. The agreement may also include (1) provisions for certification by the district to the Chancellor, prior to the deadline for payment of the applicable bond service charges, whether the district and the community or technical college it operates are able to pay those bond service charges when due and (2) requirements that the district or the community or technical college it operates deposits amounts for the payment of those bond service charges with the primary paying agent or fiscal agent prior to the date on which the bond service charges are due to the owners or holders of the obligations.

In the event a district or the community or technical college it operates notifies the Chancellor that it will not be able to pay the bond service charges when they are due, or the paying agent or fiscal agent notifies the Chancellor that it has not timely received from a district or from the college it operates the full amount needed for payment of the bond service charges when due to the holders or owners of the obligations, the Chancellor must immediately contact the district or college and the

[367] The paying agent or fiscal agent cannot be an officer or employee of the district or the community or technical college it operates (R.C. 3333.90(G)).

paying agent or fiscal agent to confirm that the district and the college are not able to make the required payment by the date it is due. If the Chancellor so confirms, and the payment will not be made pursuant to a credit enhancement facility,[368] the Chancellor must promptly pay to the paying agent or fiscal agent the lesser of (1) the amount due for bond service charges or (2) the next periodic distribution scheduled to be made to the district or college as its allocated state share of instruction. If this amount is insufficient to pay the total amount then due the agent, the Chancellor must continue to pay to the agent from each periodic distribution thereafter the lesser of the remaining amount due the agent for bond service charges or the amount of the next periodic distribution scheduled to be made to the district or college as its allocated state share of instruction.

Any amount received by a paying agent or fiscal agent is to be applied only to the payment of bond service charges on the obligations of the district or college or to the reimbursement of the provider of a credit enhancement facility that has paid the bond service charges.

The Chancellor may make payments to paying agents or fiscal agents during any fiscal biennium of the state *only from and to the extent that* money is appropriated by the General Assembly for distribution during the biennium for the state share of instruction *and only to the extent that* a portion of the state share of instruction has been allocated to the community or technical college district or community or technical college.[369]

The act permits the Chancellor, with the advice and consent of OBM, to adopt reasonable rules for the implementation of the intercept program. The rules must include criteria for the evaluation and approval or denial of community or technical college district requests for withholding under the program.

Issuance of bonds by the Ohio Building Authority

As part of this intercept program, the power of the Ohio Building Authority to issue revenue bonds under Article VIII, Section 2i of the Ohio Constitution is expanded. Specifically, the act permits the Authority to issue obligations on behalf of a community or technical college district if the issuance is subject to an intercept agreement.

The proceeds of the obligations are to be applied to the cost of community or technical college capital facilities. "Community or technical college capital facilities"

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[368] For the definition of credit enhancement facility, see R.C. 133.01.

[369] Because ongoing law prohibits the use of money raised by taxation and state appropriations to secure obligations issued by institutions of higher education, the act makes an exception for obligations issued in conjunction with the intercept program (R.C. 3345.12(C)).

generally means auxiliary facilities, education facilities, and housing and dining facilities,[370] and includes site improvements, utilities, machinery, furnishings, and any separate or connected buildings, structures, improvements, sites, open space and green space areas, or equipment to be used in, or in connection with the operation or maintenance of, the facilities. The "cost of community or technical college capital facilities" includes the costs of acquiring, constructing, reconstructing, rehabilitating, remodeling, renovating, enlarging, improving, equipping, or furnishing the facilities (such as the cost of clearance and preparation of the site and of any land to be used in connection with the facilities, the cost of any indemnity and surety bonds and premiums on insurance, all related direct administrative expenses and allocable portions of direct costs of the Authority and of the college or district, cost of engineering, architectural services, design, plans, specifications and surveys, legal fees, fees and expenses of trustees, depositories, bond registrars, and paying agents for the obligations, cost of issuance of the obligations and expenses of financial advisers and consultants in connection with the issuance, and all other expenses necessary or incident to planning or determining feasibility or practicability with respect to the facilities.

The bond service charges, and all other payments required to be made by the trust agreement or indenture securing the obligations, are to be payable solely from available community or technical college receipts pledged to their payment. "Available community or technical college receipts" generally means all money received by a community or technical college or community or technical college district, including income, revenues, and receipts from the operation, ownership, or control of facilities, grants, gifts, donations, and pledges, receipts from fees and charges, the allocated state share of instruction, and the proceeds of the sale of obligations. The available community or technical college receipts pledged and thereafter received by the Authority are immediately subject to the lien of the pledge, which lien is binding against all parties having claims of any kind against the Authority. Every pledge may be extended to the benefit of the owners and holders of the obligations for the further securing of the payment of bond service charges.

The obligations may be issued at one time or from time to time, and each issue is to mature at the time the Authority determines, but not more than 40 years from the date of issue. The Authority must also determine the form of the obligations, fix their denominations, establish their interest rate or rates, and establish a place of payment of bond service charges. The act authorizes the Authority to issue obligations for the refunding of obligations previously issued by a community or technical college district to pay the costs of capital facilities.

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[370] For a definition of those terms, see R.C. 3345.12.

Under ongoing law, obligations for the refunding of prior obligations may be issued by the Authority only for specified purposes. Formerly those purposes included "as an incident to providing funds for reconstructing, equipping, furnishing, improving, extending, or enlarging" any capital facility of the Authority. The act replaces that purpose with "to fund, or to refund any obligations issued to refund, capital facilities."[371]

Obligations not a debt of the state

The act states that obligations issued by a community or technical college district or the Ohio Building Authority in conjunction with the intercept program do not constitute a debt or a pledge of the faith, credit, or taxing power of the state, and the holders or owners of the obligations have no right to have excises or taxes levied or appropriations made by the General Assembly for the payment of bond service charges on the obligations. It also states that the agreement for or the actual withholding and payment of money pursuant to an intercept agreement does not constitute the assumption by the state of any debt of a community or technical college district or community or technical college.

Water and energy conservation measures

(R.C. 156.01 to 156.04 and 3345.61 to 3345.66)

Continuing law authorizes a state university, the Northeastern Ohio Universities College of Medicine, and any community college, state community college, university branch, or technical college to implement specified energy conservation measures in existing buildings to reduce their energy consumption and operating costs. To do so, the institution can issue notes to finance those measures and any attendant architectural and engineering consulting services.

In general, the act allows any such institution also to implement specified water conservation measures. It also authorizes the Director of Administrative Services to implement water conservation measures at such institutions. Additionally, the act makes certain changes in the authority of an institution or the Director to implement energy conservation measures. (The act does not (1) alter the Director's authority to implement energy conservation measures in other state buildings, or (2) allow the Director to implement water conservation measures in those other buildings.)

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[371] See R.C. 152.12(B)(2).

Water conservation measures

Allowable measures

Under the act, an institution can, in the manner of energy conservation measures, purchase, lease-purchase, lease with an option to buy, or make an installment purchase of water conservation measures to reduce water consumption in existing buildings or on surrounding grounds owned by the institution. To do so, the institution can issue notes to finance the measures and any attendant architectural and engineering consulting services. The act also authorizes the Director of Administrative Services to implement water conservation measures at an institution.

A "water conservation measure" includes any (1) water-conserving fixture, appliance, or equipment, or the substitution of a nonwater-using fixture, appliance, or equipment, (2) water-conserving, landscape irrigation equipment, (3) landscaping measure that reduces storm water runoff demand and capture and hold applied water and rainfall, including landscape contouring such as the use of a berm, swale, or terrace and including the use of a soil amendment, including compost, that increases the water-holding capacity of the soil, (4) rainwater harvesting equipment or equipment to make use of water collected as part of a storm water system installed for water quality control, (5) equipment for recycling or reuse of water originating on the premises or from another source, including treated, municipal effluent, (6) equipment needed to capture water for nonpotable uses from any nonconventional, alternate source, including air conditioning condensate or gray water, and (7) any other modification, installation, or remodeling approved by the institution's board of trustees as a water conservation measure.

Contract for a report on measures

Similar to energy conservation measures, an institution, and the Director upon request of the institution, can contract with a water services company, architect, professional engineer, contractor, or other person experienced in the design and implementation of water conservation measures for a report containing an analysis, cost estimates, and recommendations pertaining to the implementation of measures meeting the act's standard.

Allowable contracts

Contracts to implement one or more water conservation measures can include installment payment contracts or other types of contracts. The contract process for implementation of the measures for both an institution and the Director is similar insofar as proposals generally will be obtained through either competitive bidding or a request for proposal (RFP).

Approval standards for contracts implementing measures

The act provides that an institution, when using an RFP process, must select the proposal that is most likely to result in the greatest savings when the proposal's cost is compared to the resultant water or wastewater cost savings, operating cost savings, or avoided capital costs. Too, an institution cannot award a water conservation installment payment or other contract pursuant to an RFP unless the contract's cost is not likely to exceed the amount of water or wastewater savings, operating cost savings, and avoided capital costs over not more than 15 years. Neither of those costs-versus-savings standards apply to a contract entered into by an institution pursuant to competitive bidding.

If the Director uses an RFP process, the Director must select one or more proposals that are most likely to result in the greatest water or wastewater savings, operating cost savings, and avoided capital costs created. As with energy conservation measures, the Director also must evaluate a proposal as to the availability of funds to pay for the water conservation measure or measures either with current appropriations or by financing through an installment payment contract.

Under the act, "avoided capital costs" is defined as a measured reduction in the cost of future equipment or other capital purchases resulting from implementation of one or more water conservation measures, when compared to an established baseline for previous such cost. "Operating cost savings" means a measured reduction in the cost of stipulated operation or maintenance created by the installation of new equipment or implementation of a new service, when compared with an established baseline for previous such stipulated costs. And, "water or wastewater cost savings" means a measured reduction in the cost of water consumption, wastewater production, or stipulated operation or maintenance resulting from implementation of one or more water conservation measures, when compared to an established baseline for previous such costs.

Terms of contracts implementing measures

A water conservation installment payment contract entered into by an institution must require repayment on the following terms: (1) not less than one-fifteenth of the contract's costs will be paid within two years from the date of purchase, and (2) the remaining balance will be paid within 15 years from the date of purchase. The act establishes this same requirement for both water conservation installment payment and other contracts entered into by the Director.

A water conservation installment payment contract entered into by the Director is subject to additional restrictions. The contract must provide that all payments, except payments for repairs and obligations on termination of the contract prior to its

expiration, must be a stated percentage of the measure's calculated water or wastewater cost savings, operating costs, and avoided capital costs over a defined time period and must be made only to the extent that those savings and avoided costs are realized. Too, no such contract can require any additional capital investment or contribution of funds, other than funds available from state or federal grants, or a payment term longer than 15 years.

Energy conservation measures

Under prior law, an institution could purchase, lease-purchase, lease with an option to buy, or make an installment purchase of energy conservation measures to reduce energy consumption, in existing buildings owned by the institution and could issue notes to do so. The Director could implement those measures at an institution. The act conforms prior law as needed to the new water conservation provisions of the act.

Contract for a report on measures

Under prior law, an institution or the Director could contract with a company, architect, professional engineer, contractor, or other person experienced in the design and implementation of energy conservation measures for a report containing an analysis, cost estimates, and recommendations regarding the implementation of energy conservation measures that would significantly reduce energy consumption and operating costs in a building owned by the institution. The act changes this standard to require the report to focus on measures that result in energy cost savings, operating cost savings, or avoided capital costs for the institution. The terms "operating cost savings" and "avoided capital costs" are defined for energy conservation measures similarly to the definitions applicable to water conservation measures, as described above. The act defines "energy cost savings" as a measured reduction in the cost of fuel, energy consumption, or stipulated operation or maintenance resulting from the implementation of one or more energy conservation measures when compared to an established baseline for previous such costs.

Contracts implementing measures

Under prior law, an energy conservation installment payment contract entered into by an institution had to require that (1) not less than one-tenth of the costs of the contract be paid within two years from the date of purchase, and (2) the remaining balance of the costs of the contract must be paid within ten years from the date of purchase or, in the case of a cogeneration system, within five years. The act changes these repayment requirements to mirror the requirements applicable to water conservation measures, so that not less than one-fifteenth of the contract costs for all types of energy conservation measures must be repaid within two years from the date

of purchase and so that the remaining balance of a contract must be paid within 15 years of the date of purchase.

Additionally, the act requires the Director to select one or more proposals for energy conservation measures most likely to result in the greatest energy savings, operating cost savings, and avoided capital costs created for implementation under an installment payment contract or other contract. It also requires that an energy conservation installment payment contract or other contract entered into by the Director contain the following terms: (1) not less than one-fifteenth of the contract's costs will be paid within two years from the date of purchase, and (2) the remaining balance will be paid within 15 years from the date of purchase.

An energy conservation installment payment contract entered into by the Director is subject to additional restrictions. The contract must provide, similar to prior law, that all payments, except payments for repairs and obligations on termination of the contract prior to its expiration, must be a stated percentage of the measure's calculated energy cost savings, operating costs, and avoided capital costs over a defined time period and must be made only to the extent that those savings and avoided costs are realized. Too, no such contract can require any additional capital investment or contribution of funds, other than funds available from state or federal grants, or a payment term longer than 15 years.

Miscellaneous changes

The act eliminates the distinction between cogeneration systems that are energy conservation measures and other energy conservation measures with respect to the repayment terms of installment payment contracts for such measures entered into by institutions or by the Director on their behalf. Under prior law, the repayment terms for cogeneration systems were five years, and for other energy conservation measures were ten years. The act changes them to 15 years. The act also changes the amount that must be paid in the first two years for installment payment contracts entered into by an institution from one-tenth to one-fifteenth.

The act additionally changes the limitations relating to the cost of the measures versus the savings likely to result from the measures. Under prior law, an institution or the Director could not contract for implementation of a cogeneration system as an energy conservation measure if the cost of the contract would likely exceed the cost savings over five years. With respect to all other conservation measures, the prior law period was ten years. The act eliminates the distinction between cogeneration systems and other types of energy conservation measures regarding the comparison of costs versus savings for institution-implemented measures with the result that the comparison relates to a 15-year period. With respect to the Director-implemented

measures, the act simply makes the cost-versus-savings contract limitation inapplicable to all energy savings measures for institutions.

DEPARTMENT OF REHABILITATION AND CORRECTION (DRC)

- Would have permitted DRC to develop, oversee, and evaluate a two-year pilot project for the provision of comprehensive correctional health care services by private contractors to inmates of state correctional facilities (VETOED).
- Permits instead of requires DRC to develop and implement intensive program prisons for male and female prisoners and, if any such prison is established for male and female prisoners sentenced to a mandatory prison term for a third or fourth degree felony OVI offense, permits instead of requires DRC to contract for the private operation and management of the initial prison so established.
- Repeals the Revised Code section that: (1) banned in some state correctional institutions and restricted in all other state correctional institutions smoking and other tobacco-related activities, (2) imposed duties on DRC with respect to the restrictions, and (3) generally required DRC to provide smoking and tobacco usage cessation programs for prisoners.

Pilot project for the contractual provision of health care services to inmates of state correctional facilities (VETOED)

(Section 375.20)

The act would have authorized the Department of Rehabilitation and Correction (DRC) to develop, oversee, and evaluate a pilot project for the provision of comprehensive correctional health care services through private correctional health care contractors to complement the current system for the provision of health care services to inmates of state correctional facilities. Comprehensive correctional health care services would have been medical, dental, and mental health care services comparable to those provided by DRC to inmates at and outside of state correctional facilities. If DRC were to develop the pilot project, it would have been required to develop and implement the pilot project by January 1, 2010, for a period of two years, and the pilot project would have been required to be conditioned upon a private contractor offering a minimum of 10% savings from DRC's projected costs for comprehensive correctional health care services during the period of the project. The cost comparison would have been

required to include all on-site and off-site healthcare costs, including all personnel, benefit, administrative, overhead, and transportation costs.

The act would have specified that, if DRC were to develop a pilot project, private correctional health care contractors would have been required to be selected through a request for proposal process. DRC would have been required to determine the method for requesting proposals, the form of the request-for-proposal, and criteria for the provision of comprehensive correctional health care services under the pilot project. DRC would have been required to determine the award of contracts based upon written criteria prepared by DRC.

A pilot project under the authorization would have been required to include a minimum of 20% of the current inmate population and be designed to include a representative sample of the inmate population in order to promote a realistic comparison of services and costs. DRC would have been required to control inmate participation in the pilot project based on current standard operating procedures and the need to maintain the representative sample of the inmate population. DRC would have been required to determine the locations for the pilot project and in making that determination must give consideration to the geographic proximity of medical facilities in order to promote economies of scale. The locations would have been required to include a representative sample of current facilities, the facilities' missions, and medical acuity. The mix of facilities would have been required to remain consistent throughout the pilot project in order to promote a realistic comparison of costs and services.

Intensive program prisons

(R.C. 9.06, 5120.032, and 5120.033)

Formerly, DRC was required, no later than January 1, 1998, to develop and implement intensive program prisons for male and female prisoners other than prisoners in any category specified as being ineligible (generally, those who committed the most serious offenses). Preexisting law retained by the act specifies that the intensive program prisons must include institutions at which imprisonment consisting of a military style combination of discipline, physical training, and hard labor and substance abuse education, employment skills training, social skills training, and psychological treatment is provided and prisons that focus on educational achievement, vocational training, alcohol and other drug abuse treatment, community service and conservation work, and other intensive regimens or combinations of intensive regimens.

Formerly, DRC also was required, within 18 months after October 17, 1996, to develop and implement intensive program prisons for male and female prisoners

sentenced to a mandatory prison term for a third or fourth degree felony OVI offense. Preexisting law retained by the act specifies that prisoners in specified categories are ineligible (generally, those who committed the most serious offenses) and that the intensive program prisons must include prisons with the same focus as the prisons described in the preceding paragraph. Formerly, DRC was required to contract pursuant to R.C. 9.06 for the private operation and management of the required intensive program prison and was authorized to contract for the private operation and management of other intensive program prisons of this nature.

Preexisting law retained by the act provides procedures for determining whether a prisoner who is eligible to be placed in either type of intensive program prison may be so placed, generally authorizes the reduction of the stated prison term of a prisoner placed in an intensive program prison who successfully completes the period of the placement, and provides for an intermediate, transitional type of detention followed by a period of post-release control for a prisoner whose term is so reduced.

The act permits (instead of requires) DRC to develop and implement intensive program prisons under the provisions described in the two preceding paragraphs. If, under the act, DRC establishes any intensive program prison for prisoners sentenced for a third or fourth degree felony OVI offense, the act permits (instead of requires) DRC to contract for the private operation and management of the initial prison so established.

Smoking and other tobacco-related activities in prisons

(R.C. 5145.32 (repealed))

The act repeals the Revised Code section (R.C. 5145.32) that: (1) banned in some state correctional institutions and restricted in all other state correctional institutions smoking and other tobacco-related activities, (2) imposed duties on DRC with respect to the restrictions, and (3) generally required DRC to provide smoking and tobacco usage cessation programs for prisoners.

REHABILITATION SERVICES COMMISSION (RSC)

- Provides that if the total of all funds from nonfederal sources to support the Rehabilitation Services Commission (RSC) does not comply with federal law or would cause the state to lose federal funding, RSC must solicit additional funds from, and enter into agreements with, private or public entities until the total funds available are sufficient for RSC to receive federal funding at the maximum amount possible.

- Specifies that services provided under an agreement between RSC and an entity providing the solicited additional funds must be provided by a person or government entity that meets accreditation standards established in rules adopted by RSC.

Rehabilitation Services Commission funding

(R.C. 3304.16, 3304.181, and 3304.182)

The Rehabilitation Services Commission (RSC) is Ohio's designated agency providing vocational rehabilitation services under the federal Rehabilitation Act of 1973. While the majority of funds are provided through the federal government, a state is required to make expenditures that match the federal funds and meet maintenance of effort (MOE) requirements.[372] If a state fails to meet its MOE requirement, the state will not receive the entire amount of federal funding allotted to the state and may face penalties. A state may use local government and, if certain conditions are met, private funding in meeting MOE requirements.[373] Federal law provides that, if any state fails to meet its MOE or otherwise fails to make expenditures necessary to receive the state's entire federal vocational rehabilitation services allotment, other states may seek a reallotment of those funds to provide services.[374]

The act provides that, if the total of all funds available from nonfederal sources to support RSC's activities does not comply with the expenditure requirements of federal law, or would cause the state to lose an allotment of federal funds or a potential reallotment of federal funds, RSC is required to solicit additional funds from private or public entities. RSC must continue to solicit additional funds until the total funding available is sufficient for RSC to receive federal funds at the maximum amount and in the most advantageous proportion possible.[375]

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[372] 34 C.F.R. 361.60 and 361.62.

[373] 34 C.F.R. 361.60.

[374] 34 C.F.R. 361.65.

[375] RSC established the Pathways II Program in FY 2009. Under the program, RSC enters into contracts with local government agencies for the agencies to provide funds and services and draw down additional federal funding. (Legislative Service Commission, "LSC Redbook: Rehabilitation Services Commission," p. 10.)

When soliciting funds, the act requires RSC to enter into an agreement with the private or public entity providing the funds.[376] The agreement may permit RSC to receive a percentage, not greater than 13% of the total funds available under the agreement, for administration expenses. The agreement is to last for a minimum of six months. RSC is to notify the private or public entity at least three months before discontinuing an agreement and may discontinue an agreement only for good cause. The act requires that any services provided under an agreement be provided by a person or government entity that meets accreditation standards established by RSC in rules.

RETIREMENT (RET)

- Removes members of the Unemployment Compensation Advisory Council from the Public Employees Retirement System (PERS).

- Makes the preexisting requirement that a state institution or state employing unit establish a retirement incentive plan if it proposes to close or to lay off, within a six-month period, the lesser of 50 or 10% of its employees applicable only to actions taken before July 17, 2009.

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[376] Federal law places certain restrictions on a state's use of funds from private entities to meet the requirement to match the federal share of funds provided for vocational rehabilitation services. Specifically, 34 C.F.R. 361.60 provides that private funds may be used if the funds are earmarked for the following:

(1) Meeting in whole or in part the state's share for establishing a community rehabilitation program or constructing a particular facility for community rehabilitation program purposes;

(2) Particular geographic areas within the state for any purpose under the state rehabilitation services plan, in accordance with the following criteria: (a) before funds that are earmarked for a particular geographic area may be used as part of the non-federal share, the state must notify the federal government that the state cannot provide the full non-federal share without using these funds, (b) funds that are earmarked for a particular geographic area do not require a waiver of statewideness under federal law, and (c) all federal funds are used on a statewide basis, unless a waiver of statewideness is obtained;

(3) Any other purpose under the state plan. The expenditures must not benefit in any way the donor of the funds, an individual to whom the donor is related by blood or marriage or with whom the donor has a close personal relationship, or an individual, entity, or organization with whom the donor shares a financial interest. Federal law does not consider a donor's receipt from the state a grant, subgrant, or contract with such funds allotted to be a benefit if the grant, subgrant, or contract is awarded under the state's regular competitive procedures.

- Requires a state institution or state employing unit to establish a PERS retirement incentive plan if, on or after July 17, 2009, it proposes to close or to lay off, within a six-month period, the lesser of 350 or 40% of its employees.

- Exempts state employing units with 50 or fewer employees from establishing a PERS retirement incentive plan under the following circumstances: (1) prior to July 17, 2009, the employing unit proposed to close or lay off, within a six-month period, the lesser of 50 or 10% of its employees, or (2) on or after July 17, 2009, the employing unit proposed to close or lay off, within a six-month period, 40% of its employees.

- Provides that the employer contribution under the State Highway Patrol Retirement System (SHPRS) is to be 26.5% of members' salaries.

- Requires the Ohio Retirement Study Council to (1) annually review the adequacy of SHPRS employee and employer contribution rates and the contribution rates recommended in a report prepared by the SHPRS actuary for the upcoming year and (2) make recommendations to the General Assembly as necessary for the proper financing of SHPRS benefits.

- Provides for the confidentiality of certain records maintained by the Ohio Public Employees Deferred Compensation Board on an individual who is a participating employee or continuing member, including personal history records, medical records, and tax information.

- Specifies the circumstances under which otherwise confidential records may be released, such as pursuant to a court order or an administrative subpoena.

- Requires, when an individual becomes employed in a position paid by warrant of the Director of Budget and Management, that the individual's employer provide materials to the employee regarding the benefits of deferred compensation and to secure, in writing or by electronic means, the employee's acknowledgement form regarding the employee's desire to participate or not participate in the Deferred Compensation Program.

- Requires such an election to be filed with the program not later than 45 days after the employee's employment begins.

- Specifies that the Treasurer of State is the custodian of contributions into the Ohio Public Employees Deferred Compensation Receiving Account, but that the account is not part of the state treasury.

Removal of Unemployment Compensation Advisory Council Members from the Public Employees Retirement System

(R.C. 145.012 and 4141.08; Section 309.50.30)

Under prior law, the members of the Unemployment Compensation Advisory Council were considered "public employees" for purposes of the Public Employees Retirement System law (R.C. Chapter 145.). The act removes the Council members from the definition of "public employee" under that law, thus removing these Council members from the Public Employees Retirement System (PERS). The act specifies that the intent of the General Assembly in removing these members is to provide that service as a member of the Council on or after the provision's effective date is not service as a public employee for purposes of the PERS law and that the General Assembly does not intend this removal to prohibit the use of such service for calculation of benefits under the PERS law for service prior to the provision's effective date.

Continuing law requires Council members to be paid $50 per day and actual and necessary expenses while engaged in the performance of their duties as Council members. The act specifies that the $50 per day is a "meeting stipend."

PERS retirement incentive plans

(R.C. 145.298)

Prior law, partially changed by the act, required a state institution[377] or state employing unit[378] to establish a PERS retirement incentive plan if the institution or employing unit proposed to close or to lay off, within a six-month period, the lesser of 50 or 10% of its employees. Under a plan, the institution or employing unit purchases service credit for eligible PERS members in return for an agreement to retire within 90 days of receiving the credit. To be eligible to participate, a PERS member must be eligible to retire or be made eligible by the service credit purchased by the institution or employing unit. The plan must go into effect at the time the proposed closing is announced and is to remain in effect at least until the date of the closing.

The act establishes different requirements under which an institution or employing unit must establish a retirement incentive plan depending on the date the

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[377] "State institution" means a state correctional facility, a state institution for the mentally ill, or a state institution for the care, treatment, and training of the mentally retarded. (R.C. 145.298(A).)

[378] "State employing unit" means any entity of the state including any department, agency, institution of higher education, board, bureau, commission, council, office, or administrative body or any part of such entity that is designated by the entity as an employing unit. (R.C. 145.297(A)(2).)

institution or employing unit proposes to close or to lay off employees. Under the act, the institution or employing unit continues to be required to establish a plan if, prior to July 17, 2009, it proposed to close or to lay off, within a six-month period, the lesser of 50 or 10% of its employees. The institution or unit must establish a plan if, on or after July 17, 2009, it proposes to close or to lay off, within a six-month period, the lesser of 350 or 40% of its employees. However, the act exempts state employing units with 50 or fewer employees from establishing a retirement incentive plan under the following circumstances: (1) prior to July 17, 2009, the employing unit proposed to close or lay off, within a six-month period, the lessor of 50 or 10% of its employees, or (2) on or after July 17, 2009, the employing unit proposes to close or lay off, within a six-month period, 40% of its employees.

SHPRS contribution rates

(R.C. 5505.15 and 5505.152)

Continuing law requires public employers and their employees to contribute to one of five state retirement systems: the Public Employees Retirement System (PERS), Ohio Police and Fire Pension Fund (OP&F), State Teachers Retirement System (STRS), School Employees Retirement System (SERS), and State Highway Patrol Retirement System (SHPRS). SHPRS members must contribute to SHPRS an amount equal to 10% of their salaries. Under prior law, the employer (the State Highway Patrol) was required to contribute to SHPRS an amount equal to a "certain percentage" of members' salaries (not in statute, but was 25.5%).[379] The act requires the employer to contribute to SHPRS an amount equal to 26.5% of members' salaries.

The act requires the Ohio Retirement Study Council to do the following: (1) annually review the adequacy of SHPRS employee and employer contribution rates and the contribution rates recommended in a report prepared by the SHPRS actuary for the upcoming year and (2) make recommendations to the General Assembly as necessary for the proper financing of SHPRS benefits. The actuarial calculations used by the actuary are to be based on the entry age normal actuarial cost method,[380] and the adequacy of the contribution rates is to be reported on the basis of that method.

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[379] Continuing law provides that the SHPRS employer contribution must not be lower than 9% of members' salaries and not exceed three times the SHPRS member contribution (10%), which is 30% of members' salaries. (R.C. 5505.15(B).)

[380] "Entry age normal actuarial cost method" means an actuarial cost method under which the actuarial present value of the projected benefits of each individual included in the valuation is allocated on a level basis over the earnings or service of the individual between the entry age and the assumed exit age, with the portion of the actuarial present value that is allocated to the valuation year to be the normal cost and

Deferred Compensation Program for public employees

Access to records

(R.C. 148.05 and 3105.87)

Continuing law provides for the confidentiality of various records in the possession of the state retirement systems. This confidentiality did not formerly apply to the records maintained by the Ohio Public Employees Deferred Compensation Board. The act generally applies similar confidentiality provisions to the records maintained by the Board.

Under the act, records of the Board generally are open to public inspection, except that the following records are not open to public inspection without the written authorization of the individual concerned:

- Information pertaining to an individual's participant account;
- The individual's personal history record. An individual's "personal history record" means information maintained by the Board on an individual who is a participating employee or continuing member that includes the address, telephone number, social security number, record of contributions, records of benefits, correspondence with the Ohio public employees deferred compensation program, or other information the board determines to be confidential.

Additionally, all medical reports, records, and recommendations of a participating employee or a continuing member that are in the Board's possession are privileged. And, all tax information of a participating employee, continuing member, or former participant or member that is in the Board's possession is confidential to the extent that the information is confidential under the Tax Law or any other provision of the Revised Code.

Notwithstanding this general confidentiality, the Board may furnish information as follows:

- If a participating employee, continuing member, or former participant or member is subject to an order for restitution to the victim of a crime or is convicted of or pleads guilty to a charge of theft in office, or, on written request of a prosecutor, the Board must furnish to the prosecutor the

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the portion of the actuarial present value not provided for at the valuation date by the actuarial present value of future normal costs to be the actuarial accrued liability. (R.C. 5505.152(A).)

information requested from the individual's personal history record or participant account.

- Pursuant to a court or administrative order issued pursuant to the Child Support Law, the Board must furnish to a court or child support enforcement agency the required information.

- Pursuant to an administrative subpoena issued by a state agency, the Board must furnish the information required by the subpoena.

- The board must comply with orders issued by a court to provide information necessary to make an award of spousal support. The act authorizes a court to order the Board to provide information from a participant's personal history record to determine the amount of the award.

The act specifies that a statement that contains information obtained from the program's records that is signed by the executive director or the director's designee and to which the Board's official seal is affixed, or copies of the program's records to which the signature and seal are attached, must be received as true copies of the Board's records in any court or before any officer of the state.

New employees

(R.C. 148.04)

The act establishes a process for new employees to be notified of their option to participate in the Deferred Compensation Program and for those employees to choose whether or not they wish to participate.

Whenever an individual becomes employed in a position paid by warrant of the Director of Budget and Management, the individual's employer must do both of the following at the time the employee completes the employee's initial employment paperwork: (1) provide to the employee informational materials regarding the benefits of long-term savings through deferred compensation, and (2) secure, in writing or by electronic means, the employee's acknowledgement form regarding the employee's desire to participate or not participate in a deferred compensation program offered by the Board. The Board must provide employers with the informational materials and the acknowledgement form.

An election regarding participation must be made in the manner and form as is prescribed by the Deferred Compensation Program and must be filed with the Program. The employer must forward each acknowledgement form to the Deferred

Compensation Program not later than 45 days after the date on which the employee's employment begins.

Miscellaneous changes

(R.C. 148.02 and 148.04)

The act specifies that the Ohio Public Employees Deferred Compensation Receiving Account is in the custody of the Treasurer of State, But is not part of the state treasury.

Prior law listed various options for possible investment of deferred funds, including life insurance, annuities, variable annuities, pooled investment funds managed by the Board, or other forms of investment approved by the Board. The act eliminates these specific types of investments and instead requires the Board to offer a program of deferred compensation, including a reasonable number of options to the employee for the investment of deferred funds.

Prior law required the state retirement system serving an eligible employee to serve as collection agent for compensation deferred by any of its members and to account for and deliver those amounts to the board. The act eliminates this requirement.

SCHOOL FACILITIES COMMISSION (SFC)

- Extends until December 31, 2009, the deadline for a school district that was conditionally approved for a project under the Classroom Facilities Assistance Program (CFAP) in July 2008 to pass a levy to raise its share of the project cost.

- Reduces by 1% the local share of a CFAP project for a school district that passed a levy in fiscal year 2008 based on an estimated share that was 1% lower than the actual share required due to the district's percentile ranking on the finalized equity list.

- Would have revised the method for computing the percentile rankings of school districts that have relatively higher percentages of tangible personal property valuation (VETOED).

- Specifies that priority for assistance under CFAP for a school district participating in the Expedited Local Partnership Program is based on the district's percentile ranking on the equity list at the time it entered into its agreement for the Expedited Program.

- Changes the ½-mill maintenance levy requirement for a school district participating in the Accelerated Urban Program that has divided its project into separate segments so that levy must run for 23 years from the date the initial segment was undertaken, instead of 23 years after the last segment is undertaken.

- Permits the School Facilities Commission to approve a project under the Exceptional Needs Program in fiscal year 2010 for a school district that (1) initially applied for the program in fiscal year 2008 and (2) is ranked higher than 360 on the equity list for fiscal year 2009.

- Limits a school district's share of a classroom facilities project under the Extreme Environmental Contamination Program to 50% of the project cost.

- Authorizes the School Facilities Commission to make allocations and reallocations with respect to the national qualified school construction bond limitation.

- Specifies that any part of a school district income tax allocated for the project cost, debt service, or maintenance set-aside associated with a state-assisted classroom facilities project is not considered a "current expense" to be included in calculating a district's tuition rate for nonresident students or whether the district has met its obligation to levy at least 20 mills for operating expenses.

- Specifies that bonds issued by a joint vocational school district to pay for the district's share of the project cost, and that are payable from a property tax for general permanent improvements, are not counted toward the district's unvoted debt limit.

- Requires the Executive Director of the School Facilities Commission to advise the Superintendent of Public Instruction, upon request, of new demands upon and issues related to classroom facilities that may arise due to expenditure and reporting standards adopted by the Superintendent.

- Requires the Executive Director of the Commission to survey spaces included in state-assisted classroom facilities projects that are used for activities, services, and programs shared between schools and other public and private entities in their communities.

Background: school facilities assistance programs

The Ohio School Facilities Commission administers several programs that provide state assistance to school districts and community schools in building

classroom facilities. The main program, the Classroom Facilities Assistance Program (CFAP) is designed to provide each school district with partial funding to address all of the district's classroom facilities needs. It is a graduated, cost-sharing program where a district's share of the total cost of the project, and its priority for funding, are based on the district's relative wealth, as indicated on an annual percentile ranking of all districts known as the "equity list." The lowest wealth districts are served first and receive a greater amount of state assistance than wealthier districts will receive when it is their turn to be served. For most districts, the portion of the project cost paid by the district is equal to its percentile ranking. Besides raising its share of the cost of its project, generally through issuing bonds, each district must levy at least ½ mill for 23 years (or its equivalent, generated and set aside through other means) to pay for maintenance of the new facilities. The Commission also operates a number of other similar programs designed to meet the immediate or special needs of particular types of districts.

Temporary extension of deadline to raise local share of a CFAP project

(Section 385.70)

A school district participating in CFAP ordinarily must pass a levy to raise its share of the project cost within one year after the School Facilities Commission certifies its conditional approval of the project. If the district fails to meet this deadline, the conditional approval lapses and the state funds encumbered for the project are released.[381]

The act grants a five-month extension for passing a levy to school districts undertaking CFAP projects conditionally approved by the Commission in July 2008. They have until December 31, 2009, to pass levies for their local shares before their project approval lapses and the state funds are released. With the extension, these districts will have an additional opportunity to seek passage of levies at the general election in November 2009.

Adjustment of local share for certain CFAP projects

(Section 385.90)

Under continuing law, if a school district has a net gain in interdistrict open enrollment students equal to at least 10% of the district's formula ADM (average daily membership), the net gain is added to the district's "valuation per pupil" to determine its ranking on the equity list. This provision was enacted in Am. Sub. H.B. 119 of the 127th General Assembly (the main operating budget for the 2008-2009 biennium) and

[381] R.C. 3318.05, not in the act. Nevertheless, when the district is able to raise its local share, it has first priority for state funding as those funds become available.

would have first affected funding determinations for school districts in fiscal year 2010. Subsequently, Am. Sub. H.B. 562 of the 127th General Assembly (the capital budget for the 2009-2010 capital biennium) applied the provision retroactively to funding determinations in fiscal year 2009.

The act adjusts the local share of a CFAP project for a school district that passed a levy to raise its portion of the project cost in fiscal year 2008 and then became eligible for the retroactive application of the open enrollment provision under H.B. 562, *if* the district based its levy amount on its projected share derived from a preliminary equity list and later was ranked one percentile higher on the finalized equity list, resulting in a 1% higher actual share. Since the district's levy amount may be insufficient to cover the higher share, the act directs the School Facilities Commission to reduce the district's share by 1% to equal the projected share from the preliminary equity list.

Accounting for reductions in tangible personal property valuation (VETOED)

(R.C. 3318.011; Section 385.93)

The Governor vetoed a provision that would have changed the way the average adjusted valuation per pupil is computed for school districts with significant amounts of tangible personal property valuation that is not public utility personal property. Adjusted valuation per pupil, averaged over three years, is used in calculating the wealth percentiles of districts for the School Facilities Commission's programs.

The tax on tangible personal property that is not public utility personal property is being phased out; therefore, each district's tangible personal property tax valuation is declining over time. All other things being equal, this decline also reduces the district's total valuation per pupil, which for some districts will eventually lower the wealth percentile and increase the amount of state funding available for school facilities projects. But since the valuation is averaged over three years when calculating wealth percentiles, a sudden reduction in tangible personal property tax valuation from one year to the next may not affect a district's *average* adjusted valuation and its percentile ranking for some time thereafter.

The act would have addressed this delay by specifying that, if a school district's tangible personal property valuation minus its public utility personal property valuation made up 20% or more of its total taxable value for tax year 2005, then its three-year "average taxable value" used in determining the wealth percentiles must include only its real property and public utility personal property tax valuations, and not its other tangible personal property tax valuation. Since the Department of Education had already certified the equity list for fiscal year 2009 to determine funding

under the School Facilities Commission's programs for fiscal year 2010, the act also would have required the Department to calculate and certify a new, alternate equity list for use in fiscal year 2010 using the revised definition of "average taxable value."

Priority for CFAP for Expedited Local Partnership districts

(R.C. 3318.36)

The Expedited Local Partnership Program allows school districts that have not yet been served under CFAP to spend local funds on a discrete part of their classroom facilities needs and then apply those expenditures toward their share of a district-wide project when they become eligible for CFAP. The local share of the CFAP project is generally based on the district's percentile ranking at the time it entered into an agreement under the Expedited Program, regardless of changes in that ranking before the district becomes eligible for CFAP. In other words, the district is able to "lock in" its project share at that time. However, under prior law, the district's priority for CFAP, or the time when it will be served under that program, continued to be based on the district's most recent percentile ranking.

The act locks in a school district's priority for CFAP in the same way it locks in its project share. Therefore, the district's percentile ranking at the time of its agreement under the Expedited Program will determine when it becomes eligible for CFAP. For example, a district ranked at the 63rd percentile when it enters the Expedited Program will be served under CFAP when the 63rd percentile becomes eligible, even if the district drops to the 65th percentile in the intervening period. This provision also works the other way. If a district moves into a lower percentile after entering the Expedited Program, it will not be eligible for CFAP until CFAP serves its original, higher percentile.

Maintenance tax for Accelerated Urban districts

(R.C. 3318.061 and 3318.38; Section 385.30)

Another program operated by the Commission is the Accelerated Urban School Building Assistance Program, which provides CFAP funding for six urban districts with very large, long-term projects earlier than they would otherwise be served through CFAP based on their wealth percentiles. It serves Akron, Cincinnati, Cleveland, Columbus, Dayton, and Toledo. Under this program, a district may divide its project into separate segments with the district share of each segment financed separately.

Under former law, the maintenance levy requirement for an Accelerated Urban district that has segmented its project ran for 23 years after the district's last segment is undertaken. The act changes this requirement to run for 23 years from the date the

initial segment was undertaken, as is required for all other districts undertaking CFAP projects.

Eligibility for Exceptional Needs Program

(Section 385.85)

The Exceptional Needs School Facilities Assistance Program provides low-wealth and geographically large school districts with funding in advance of their district-wide CFAP projects to construct single buildings in order to address acute health and safety issues. A district that is reasonably expected to be eligible for CFAP within three fiscal years after its application for assistance under the Exceptional Needs Program is generally ineligible for the program.[382]

The act temporarily permits participation in the Exceptional Needs Program for certain school districts that otherwise would be disqualified due to their proximity to CFAP eligibility. Under the act, in fiscal year 2010 only, the School Facilities Commission may approve an Exceptional Needs project for a district that (1) initially applied for the program in fiscal year 2008 and (2) is ranked higher than 360 on the equity list for fiscal year 2009. Based on data available at the time this analysis was written, Greenville City School District in Darke County would become eligible for assistance under this provision.

Local share under the Environmental Contamination Program

(Section 385.50)

The Extreme Environmental Contamination Program, which is a sub-program of the Exceptional Needs Program, provides state assistance to school districts for the relocation or replacement of a single facility damaged by extreme environmental contamination.[383] As required by the Exceptional Needs Program, a school district's share of a project to address a contaminated facility is equal to its percentile ranking on the equity list. However, the act caps a district's maximum share at 50%. Therefore, if a district with a ranking higher than the 50th percentile on the equity list participates in the program, it would pay just 50% of the project cost. The cap applies only to the Environmental Contamination Program. It does not affect a district's share of a later

[382] R.C. 3318.37, not in the act. The only exception is for a district that entered into an agreement under the Expedited Local Partnership Program during the first two years of that program's existence and whose entire classroom facilities plan consists of one building for grades K to 12 (R.C. 3318.37(A)(2)).

[383] The program is established in uncodified law. It was first authorized in 1999 and has been renewed in each biennial budget act since.

project under any of the other classroom facilities assistance programs, including the Exceptional Needs Program.

Based on data available at the time this analysis was written, Three Rivers Local School District in Hamilton County would benefit from this provision, as it has a 95% local share and is eligible for participation in the program.

Qualified school construction bond allocations

Background--federal authorization

"Qualified school construction bonds" are authorized by the federal American Recovery and Reinvestment Act of 2009. Instead of paying interest, the bonds provide bond holders with federal tax credits. This reduces the bond issuers' cost of borrowing for school construction projects. The federal law provides for an allocation of the bonds to each state, plus separate allocations for large educational agencies (school districts). According to the School Facilities Commission's web site, Ohio's allocation is $267,112,000 in calendar year 2009 and should be about the same in calendar year 2010. The state's role is to authorize school districts to issue the bonds for public school projects within the state's allocation, based on assurances they meet federal criteria. Additional allocations totaling $151,671,000 for 2009 were made directly to Ohio's five largest urban districts.[384]

The act

(R.C. 133.022)

The act states that in order to provide for the orderly and prompt issuance of school construction bonds, the School Facilities Commission, in consultation with the Director of Budget and Management, must (1) allocate Ohio's portion of the national limit on qualified school construction bonds among issuers authorized to issue the bonds, (2) establish procedures for making allocations, including those from any carryover of Ohio's portion, and (3) adopt guidelines to carry out the purposes of the act regarding the bonds. The act also provides that the Commission may accept, from any large local educational agency, the allocation received directly by that agency under federal law and reallocate it to any issuer or issuers authorized to issue obligations, including any such agency. The factors the Commission must consider when making allocations or reallocations include the interests of the state with regard to education and economic development and the need and ability of each issuer to issue obligations.

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[384] www.osfc.state.oh.us/Programs/QualifiedSchoolConstructionBondsQSCB/tabid/156/Default.aspx, visited August 4, 2009.

Under the act, "qualified school construction bond" is defined as per federal law and means any bond (1) whose proceeds are to be used for the construction, rehabilitation, or repair of a public school facility or for the acquisition of land on which the facility is to be constructed with part of the proceeds, (2) issued by a state or local government within the same jurisdiction as the school, and (3) designated by the issuer as a bond for purposes of the federal law. The "national limit" is defined as the limitation on the aggregate amount of qualified school construction bonds that may be issued by the states each calendar year under federal law. Finally, "large local educational agency" includes a local educational agency (school district) that is either among the 100 local educational agencies with the largest numbers of children age 5 through 17 from families living below the poverty level, or one of not more than 25 local educational agencies the U.S. Secretary of Education determines are in particular need of assistance based on various factors.

Consideration of school district income tax levies allocated for school facilities projects

(R.C. 3317.021(D), 3317.0216(A), and 3317.08)

The law on school finance requires the Tax Commissioner annually to report the amount of a school district's income tax, if it has one, that is apportioned for the current expenses of the district. This information is used to set the amount of tuition that a district must charge nonresident students[385] and to determine whether a district has met its obligation to levy at least 20 mills for the current expenses of the district.[386] The act specifies that any part a school district income tax allocated for the project cost, debt service, or maintenance set-aside associated with a state-assisted classroom facilities project is not considered a "current expense" to be included in these calculations.

JVSD funding source for OSFC-aided project

(R.C. 133.06 and 3318.44)

Continuing law authorizes joint vocational school districts to finance their portion of the cost of School Facilities Commission-aided projects by one or more of several revenue sources, including bonded indebtedness, permanent improvement tax levies, and locally donated contributions. They also may issue bonds payable from a tax levy for general permanent improvements if revenue from the levy may lawfully be

[385] The tuition amount for a student who is a resident of Ohio but is not a resident of the school district is the per pupil amount of the district's taxes charged and payable (R.C. 3317.08).

[386] Each city, exempted village, and local school district must levy at least 20 mills of property tax for current expenses; however, the amount of a district's income tax that is for current expenses counts toward this requirement (R.C. 3306.01 and 3317.01).

used to pay general construction, renovation, repair, or maintenance expenses. The bond issuance does not have to be approved by voters if the revenue from the levy may lawfully be used for the purpose of paying the bond debt charges. The bonds are to be issued under the "uniform" public securities law codified as Chapter 133. of the Revised Code.

The act specifies that such bonds are not to be counted toward a joint vocational school district's unvoted debt limit if the district's board formally covenants to continue collecting the tax in sufficient amounts to pay the bonds (including associated financing costs), even if voters or the school board act to reduce the levy's rate. Under continuing law, school districts (presumably including joint vocational school districts) may incur indebtedness of up to 0.1% of its taxable property value without voter approval, subject to certain exceptions.

A similar provision already applies to other kinds of school districts.

Advice on effect of new spending and reporting standards

(R.C. 3318.312)

The act requires the Executive Director of the School Facilities Commission to advise the Superintendent of Public Instruction, at the Superintendent's request, of the demands upon, and other issued related to, existing classroom facilities that may arise due to new operating standards specified in the Superintendent's rules for the expenditure and reporting of state operating funds paid to school districts. (Separately, the act requires the state Superintendent to adopt rules for expenditure and reporting of state operating funds paid to school districts under the act's evidence based funding model. See "**Rules for expenditure and reporting**" under "**DEPARTMENT OF EDUCATION**" above.)

Survey of shared community spaces

(Section 385.40)

The act requires the Executive Director of the Commission to survey classroom facilities projects financed by the Commission, and compile descriptions of how spaces within those facilities are used for activities, services, and programs shared between schools and other public and private entities in their communities. The survey must identify and describe such spaces included in current or completed projects and recommend best practices for enhancing opportunities for including shared community spaces in future projects. The Executive Director must submit the survey and recommendations to the Commission by December 31, 2009.

SECRETARY OF STATE (SOS)

- Designates voting machines, marking devices, and automatic tabulating equipment as state capital facilities for which the Ohio Building Authority is authorized to issue revenue obligations, and specifies that county boards of elections are state agencies having jurisdiction over those state capital facilities.

- Establishes the County Voting Machine Revolving Lease/Loan Fund to finance a portion of the acquisition cost of voting machines, marking devices, and automatic tabulating equipment by boards of county commissioners.

- Requires the Secretary of State to administer the County Voting Machine Revolving Lease/Loan Fund, to adopt rules for the lease program's implementation, and to approve purchases of voting machines, marking devices, and automatic tabulating equipment using moneys from the Fund.

- Specifies that voting machines, marking devices, and automatic tabulating equipment are to be leased by participating counties until all lease payments have been made, at which time ownership transfers to the counties.

- Establishes the Board of Elections Reimbursement and Education Fund in the state treasury, which is to be used by the Secretary of State to reimburse boards of elections for various purposes, including reimbursements for special elections to fill vacancies in Congress, and to provide training and educational programs for employees and members of boards of elections.

- Permits the fund to receive transfers of cash pursuant to Controlling Board action and also to receive revenues from fees, gifts, grants, donations, and other similar receipts.

- Establishes the Statewide Ballot Advertising Fund, which is to be used by the Secretary of State to pay advertising costs for required advertising of statewide ballot issues.

Acquisition of voting machines, marking devices, and automatic tabulating equipment; County Voting Machine Revolving Lease/Loan Fund

(R.C. 111.26 and 152.33)

The act declares that it is a public purpose and function of the state to facilitate the conduct of elections by assisting boards of elections in acquiring voting machines, marking devices, and automatic tabulating equipment.

Use of Ohio Building Authority bond proceeds for specified election equipment; designation of boards of elections as state agencies

The act designates voting machines, marking devices, and automatic tabulating equipment as capital facilities under the Ohio Building Authority Law. Capital facilities, as defined in the Building Authority Law, generally are buildings and other structures for housing branches and agencies of state government. Therefore, the act also declares both of the following: (1) that voting machines, marking devices, and automatic tabulating equipment financed under the act's provisions are capital facilities for the purpose of housing agencies of state government, their functions and equipment and (2) that boards of elections, due to their responsibilities related to the proper conduct of elections under state law, are state agencies having jurisdiction over those state capital facilities.

The act authorizes the Ohio Building Authority to issue revenue obligations under the Building Authority Law to pay all or part of the cost of voting machines, marking devices, and automatic tabulating equipment. A county acquires use of the voting machines, marking devices, and automatic tabulating equipment by lease from the Secretary of State, as described more completely below.

County Voting Machine Revolving Lease/Loan Fund

The act creates the County Voting Machine Revolving Lease/Loan Fund in the state treasury. The fund consists of the net proceeds of obligations issued under the Building Authority Law to finance voting machines, marking devices, and automatic tabulating equipment, as needed to ensure sufficient moneys to support appropriations from the fund. Lease payments from counties acquiring voting machines, marking devices, and automatic tabulating equipment financed from the fund and interest earnings on the balance in the fund also must be credited to the fund. The fund also may receive any other authorized transfers of cash.

Moneys in the fund are required to be used for the purpose of acquiring a portion of the voting machines, marking devices, and automatic tabulating equipment used by a county, at the request of the applicable board of elections. Acquisitions made

under the act must provide not more than 50% of the estimated total cost of a board of county commissioners' purchase of voting machines, marking devices, and automatic tabulating equipment. Participation in the fund by a board of county commissioners must be voluntary.

The Secretary of State is required to administer the Fund in accordance with the act and must enter into any lease or other agreement with the Department of Administrative Services, the Ohio Building Authority, or any board of elections that is necessary or appropriate to accomplish the act's purposes.

County lease of voting equipment acquired through the fund

Counties must lease the voting machines, marking devices, and automatic tabulating equipment financed in part from the County Voting Machine Revolving Lease/Loan Fund from the Secretary of State, and may enter into any agreements required under the applicable bond proceedings. A county acquiring voting machines, marking devices, and automatic tabulating equipment through a lease from the fund is required to contribute to the cost of that equipment. As previously mentioned, acquisitions made under the act must provide not more than 50% of the estimated total cost of a board of county commissioners' purchase of voting machines, marking devices, and automatic tabulating equipment. All voting machines, marking devices, and automatic tabulating equipment purchased through the fund remain the property of the state until all payments under the applicable county lease have been made, at which time ownership transfers to the county. Costs associated with the maintenance, repair, and operation of the voting machines, marking devices, and automatic tabulating equipment purchased through the fund are the responsibility of the participating boards of elections and boards of county commissioners.

The voting machines, marking devices, and automatic tabulating equipment lease may obligate the counties, as state agencies using capital facilities, to operate the voting machines, marking devices, and automatic tabulating equipment for such period of time as may be specified by law and to pay such rent as the Secretary of State determines to be appropriate. Notwithstanding any other provision of the Revised Code to the contrary, any county may enter into such a lease, and any such lease is legally sufficient to obligate the county for the term stated in the lease.

Any such lease constitutes an agreement for the purpose of the Building Authority Law and is not indebtedness on behalf of the county. Any lease of voting machines, marking devices, or automatic tabulating equipment authorized by the act, the rentals of which are payable in whole or in part from appropriations made by the General Assembly, is governed by the rental provisions of the Building Authority Law.

The rentals constitute available receipts as defined in that law and may be pledged for the payment of bond service charges.

Adoption of rules

The Secretary of State is required to adopt rules for the implementation of the voting machines, marking devices, and automatic tabulating equipment acquisition and revolving lease/loan program established under the act. The rules must require that the Secretary of State approve any acquisition of voting machines, marking devices, and automatic tabulating equipment using money made available under the act. An acquisition for any one board of county commissioners must not exceed $5 million, and must be made only for voting machines, marking devices, or automatic tabulating equipment purchased on or after March 31, 2008. Any costs incurred on or after January 1, 2008, may be considered as the county cost percentage for the purpose of an acquisition made through the act.

Board of Elections Reimbursement and Education Fund

(R.C. 111.27)

The act establishes the Board of Elections Reimbursement and Education Fund in the state treasury. The fund is to receive transfers of cash pursuant to Controlling Board action and also is to receive revenues from fees, gifts, grants, donations, and other similar receipts. The Secretary of State is required to use the fund for both of the following:

(1) To reimburse boards of elections for various purposes, including reimbursements for special elections to fill vacancies in Congress; and

(2) To provide training and educational programs for employees and members of boards of elections.

Statewide Ballot Advertising Fund

(R.C. 3501.17(G)(2))

The Ohio Constitution requires information regarding statewide ballot issues, including the arguments for and against those issues, to be published in newspapers of general circulation throughout the state. Under continuing law, appropriations made to the Controlling Board are used to reimburse the Secretary of State for all expenses the Secretary of State incurs for that advertising.

The act establishes the Statewide Ballot Advertising Fund in the state treasury. The fund receives transfers approved by the Controlling Board and must be used by the

Secretary of State to pay the costs of advertising statewide ballot issues. Any transfers may be requested from and approved by the Controlling Board prior to placing the required advertising, in order to facilitate the timely provision of the advertising.

BOARD OF TAX APPEALS (BTA)

- Eliminates the requirement that all Board of Tax Appeals decisions be sent by certified mail and instead permits the Board to send its decisions by regular mail.
- Allows a person appealing to the Board to request that the Board's decision or order be sent by certified mail at the person's expense.

Board of Tax Appeals notices

(R.C. 5705.341, 5705.37, 5715.251, 5717.03, and 5717.04)

The Board of Tax Appeals hears and determines appeals arising under Ohio's tax law, including appeals from actions of a county budget commission, appeals by a county auditor, appeals from decisions of a county board of revision, appeals from decisions of a municipal board of appeals, and appeals from final determinations by the tax commissioner.

Under prior law, the Board was required to send its decisions rendered on these appeals by certified mail.

The act eliminates the requirement that the Board send its decisions on appeals by certified mail. Instead, the Board must "send" its decisions, presumably by regular mail. However, the act allows a person appealing to the Board to request that the decision be sent by certified mail at the person's own expense.

DEPARTMENT OF TAXATION (TAX)

I. Property Tax

- Authorizes school districts levying current expense taxes with an aggregate residential/agricultural effective tax rate exceeding 20 mills to suspend future application of the "H.B. 920" tax reduction factor on 20 mills by converting the millage in excess of 20 mills, with voter approval, to a single levy to raise a specified amount of money.

- Requires the state to reimburse a school district levying a conversion tax for tax revenue lost from nonresidential/agricultural real property and public utility personal property due to the conversion.

- Phases out that reimbursement over 13 years or less in increments equal to 50% of the annual inflationary revenue growth from residential/agricultural property resulting from the suspension of the H.B. 920 reduction.

- Requires tangible personal property tax reimbursement for conversion levies to continue until the levy expires.

- Authorizes a conversion tax to be levied for a fixed period up to ten years or for a continuing period of time.

- Authorizes voters to repeal a conversion levy that originally was imposed for a continuing period of time, and terminates conversion levy reimbursement if the levy is repealed.

- Would have made permanent the levy loss reimbursement for local taxing units, including school districts, for the phase-out of taxes on business personal property and telecommunications property (VETOED).

- Individual tax levies that were in effect in 2004 or 2005 (and voted on before September 1, 2005) would have been reimbursed at 100% until their expiration (VETOED).

- Would have eliminated the phase-down of the existing reimbursement for property tax-related county fees, but retained the scheduled 2017 termination of that reimbursement (VETOED).

- Raises the fee for administering property taxes that the state excises from property tax distributions to local taxing units.

- Consolidates into one annual payment the semiannual state reimbursement of local governments for the 10% and 2.5% property tax reductions for manufactured and mobile homes.

- Requires the compensation paid to county auditors for additional expenses associated with the recent expansion of homestead exemption eligibility to be paid on a semi-annual, instead of annual, basis.

- Authorizes the exemption and remittance of taxes paid or abatement of unpaid taxes on airport property leased by a port authority that was precluded from exemption

because the port authority did not own the property, as required under prior law, at the time it submitted the application for exemption.

- Requires the rate of a tax levied to compensate a school district for reductions in state funding due to property value increases to reflect the declining charge-off rate effected by the act, from 2.3% to 2.0%.

II. Sales and Excise Taxes

- Modifies the computation for determining the tax liability of a commercial or industrial purchaser electing to self-assess the Kilowatt Hour Tax, beginning January 1, 2011, from one based on both a per-kilowatt hour rate and a percentage of the price paid, to one based solely on a per-kilowatt hour rate.

- Includes Medicaid premiums received by insurance companies within the insurance companies' franchise tax base.

- Subjects to sales and use tax health care services provided or arranged by a Medicaid health-insuring corporation for Medicaid enrollees residing in Ohio.

- Specifies that the proposed extension of sales and use tax to Medicaid health insuring corporations is not among the taxes of which the franchise tax is in lieu.

- Increases annual licensing fees for tobacco product distribution licenses from $100 to $1,000 for each place of business, wholesale cigarette licenses from $200 to $1,000, and retail cigarette licenses from $30 to $125.

- Requires the $125 retail license fee and the $1,000 wholesale license fee to be paid for each place of business instead of for all places of business.

- Eliminates the authority of a wholesale or retail licensee to assign such a license to another person.

- Increases the retail license replacement fee from 50¢ to $5 and the transfer fee, from one place of business to another, for such licenses from $1 to $5.

- Increases the wholesale license replacement fee from 50¢ to $25 and the transfer fee, from one place of business to another, for such licenses from $1 to $25.

- Imposes a $25 fee to replace a tobacco product distribution license and to transfer such a license from one place of business to another place of business of the same licensee.