



Final Analysis

*Max Gakh and
other LSC staff*

Legislative Service Commission

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Reps. Brinkman, Evans, J. McGregor, Bupp, Raussen, Blessing, Uecker, Batchelder, Adams, Hughes, Collier, Combs, Patton, Yuko, Stebelton, Hite, Gibbs, J. Stewart, Jones, Webster, Bacon, Schindel, Huffman, Daniels, Dolan, J. Hagan, R. McGregor, Wachtmann, Wagner, Skindell, Fessler, Book, Peterson, D. Stewart, Coley, Goodwin, Domenick, Bolon, Boyd, Brown, Celeste, Core, DeBose, Dodd, Dyer, Flowers, Garrison, Gerberry, Goyal, R. Hagan, Letson, Luckie, Mallory, Mecklenborg, Newcomb, Oelslager, Schneider, Setzer, Wolpert, Zehringer

Sens. Amstutz, Buehrer, Carey, Faber, Goodman, Harris, Padgett, Schaffer, Schuler, Seitz, Stivers

Effective date: Emergency, December 30, 2008; certain other provisions effective on other dates

ACT SUMMARY

TRANSPARENCY

- Requires the Department of Administrative Services to establish and maintain a searchable web site accessible to the public providing certain information on state awards.
- Requires the Attorney General to monitor the compliance of entities with the terms and conditions of state awards for economic development and requires the Attorney General to pursue available remedies and recoveries for noncompliance.
- Requires agencies awarding state grants to establish and maintain web sites that include certain information about state grants and receiving entities and requires the Department of Administrative Services to establish and maintain a web site providing links to state grants web sites of individual agencies.

- Requires the Treasurer of State to develop and maintain a database available to the public of all real property under the custody and control of the state.
- Creates the Ohio Geographically Referenced Information Program Council and requires it to develop a real property management plan and a real property inventory.
- Authorizes the Governor to direct certain state departments to develop departmental goals and metrics to further the gubernatorial leadership agenda and requires periodic posting of performance measures on the Governor's web site.

COUNTY LAW LIBRARIES

- Creates in each county a county law library resources board to provide legal research, reference, and a library to the county and its municipal corporations, townships, and courts, and sets forth the board's membership and requirements.
- Creates a county law library resources fund in each county treasury to receive all revenue required to be deposited into the fund, appropriated to the fund from the general fund by the board of county commissioners, or designated for deposit by gift or bequest.
- Requires a library resources board to prepare an annual estimate of revenue and expenditures of the board beginning with the calendar year commencing January 1, 2010, that must clearly state the course of the revenue and include a specific request for moneys to be appropriated for the ensuing fiscal year.
- Allows the boards of county commissioners of two or more adjacent counties to form a multi-county law library resources commission to carry out any or all of the duties and responsibilities conferred upon a library resources board.
- Requires that during calendar year 2009 the board of county commissioners compensate the librarian and up to two assistant librarians and pay for the space and utilities in the county courthouse or other building that the board of trustees of the law library association provides

for the use of the law library and repeals the law establishing those responsibilities in other years, effective December 31, 2009.

- Requires that beginning January 1, 2010, the allowance to law libraries from fines and penalties collected in municipal courts, county courts, courts of common pleas, and probate courts and from fines and penalties for violations of liquor laws and state traffic laws be deposited in the county law library resources fund.
- Creates a Statewide Consortium of County Law Library Resources Boards comprised of the library resources boards of each county and creates a Consortium Board and specifies its membership and responsibilities.
- Creates the Statewide Consortium of County Law Library Resources Boards Fund.
- Reconstitutes the Task Force of Law Library Associations.
- Requires a law library association, on or before January 1, 2010, to transfer all unspent fines and penalties in the law library's general fund, retained moneys, and all personal property purchased with such funds to the library resources board in the county where the law library association is located.
- Requires the law library association to retain all dedicated moneys or personal property that were not purchased with the fines and penalties in the law library's general revenue fund or retained moneys fund.

EDUCATION

- Effective July 1, 2008, replaces the existing statutory sanctions for school districts and buildings that consistently fail to make adequate yearly progress (AYP) with a requirement for school districts, community schools, and STEM schools that do not make AYP for two consecutive school years (or, in the case of districts, that contain a school building that does not make AYP for two consecutive school years) to implement corrective actions specified in the Department of Education's Model of Differentiated Accountability.
- Requires the recalculation of the local share of a current project under the Classroom Facilities Assistance Program (CFAP) for certain school

districts that previously received assistance under CFAP or the Exceptional Needs School Facilities Assistance Program within the prior 20-year period.

- Allows the Board of Regents to use certain money in the Ohio Outstanding Scholarship Payment Fund and the Ohio Priority Needs Fellowship Programs Payment Fund to support state financial aid for higher education provided pursuant to the Ohio Instructional Grant Program and the Ohio College Opportunity Grant Program.

ASSISTED LIVING PROGRAM

- Revises the Assisted Living Program's home first component.
- Expressly authorizes the establishment of one or more waiting lists for the Assisted Living Program.
- Expressly requires that a residential care facility have a valid Medicaid provider agreement authorizing the facility's participation in the Assisted Living Program in order for an individual to be permitted to reside there while participating in the program.

MISCELLANEOUS PROVISIONS

- Reauthorizes township use of tax increment financing revenue for public safety expenses.
- Sets forth that the cost of a retirement incentive plan established by a county or county agency is an allowable use of federal funds provided that more than 15% of the agency's employees do not participate, but specifies that this provision does not relieve such county or county agency from seeking federal approval for any retirement incentive plan that uses federal dollars.
- Expands the list of allowable municipal energy conservation measures to include (1) construction of a new building or infrastructure, or installation or installation modification in, or remodeling of, existing infrastructure, (2) a heating and cooling system, (3) a metering system or any other construction, modification, installation, or remodeling of a water, electric, gas, or other municipally supplied utility system, and (4) any construction a municipal corporation considers an energy conservation measure.

- Establishes new, statutory competitive bidding and request for proposal (RFP) procedures that a municipal corporation can follow to implement energy conservation measures, in lieu of following procedures set forth in its charter or ordinances or in other existing authority.
- Requires RFP proposal submissions from at least three vendors.
- Specifies the standards a municipal corporation must use to award an energy conservation measure contract under the competitive bidding or RFP process.
- Exempts from competitive bidding requirements interest and financing term provisions of an installment payment contract for municipal installation of energy conservation measures.
- Requires an installment payment contract for municipal energy conservation measures to contain specified provisions regarding the timing of municipal payment on the contract.
- Changes the maximum maturity for a municipal energy conservation bond from its current ten years, to a range of 5-30 years depending on the estimated life or period of usefulness of the energy conservation improvements.
- Establishes the Governor's Policy Information Working Group.
- Specifies compensation for the office of majority floor leader of the Senate.
- Changes the procedure for nominating Portage County municipal judges.
- Requires one full-time judge be elected for the Hillsboro municipal court instead of one part-time judge.
- Requires a manufacturer or supplier of alcoholic beverages to, under certain circumstances, compensate a distributor before assigning the distributor's territory for a particular product or brand to another distributor.
- Provides that when a distributor receives written notice of termination or nonrenewal of its franchise, the distribution of beer or wine for 90 days

or more without a written contract does not establish a franchise relationship between the successor manufacturer and the distributor.

- Removes, effective February 1, 2009, a requirement that aircraft repair, remodeling, replacement, and maintenance services be performed at a Federal Aviation Administration certified repair station to qualify for an exemption from sales and use tax.
- Permits an attest service contract with an independent accountant employed to audit a public office to include provisions governing arbitration or alternative dispute resolution.
- Exempts the North Olmsted Welcome House from provisions of continuing law that impose numerous restrictions and requirements on public improvements.
- Authorizes the conveyance of state-owned real estate in Clermont County to the Williamsburg Local School District.
- Authorizes the conveyance of state-owned real estate in Franklin County to Res-Care Ohio, Inc.
- Authorizes the conveyance of state-owned real estate in Gallia County that is no longer needed for state purposes.
- Authorizes the conveyance of state-owned real estate in Gallia County to the City of Gallipolis.
- Authorizes the conveyance of state-owned real estate in Greene County to Tawawa Community Development Corporation.
- Authorizes the conveyance of state-owned real estate to the Board of Trustees of Cambridge Township, Guernsey County.
- Authorizes the conveyance of state-owned real estate in Guernsey County to Cambridge Real Estate Holdings, LLC.
- Authorizes the conveyance of state-owned real estate in Huron County to the City of Norwalk.
- Authorizes the conveyance of state-owned real estate in Lucas County to The University of Toledo Foundation.



- Authorizes the conveyance of state-owned real estate in Mercer County to Mr. Charles Knapke.
- Authorizes the conveyance of state-owned real estate in Pickaway County to the Scioto Township Board of Trustees.
- Authorizes the conveyance of state-owned real estate in Preble County to the Preble Shawnee Local School District.
- Authorizes the conveyance of Delaware Armory, Ashland Armory, and Mansfield Armory properties to future buyers.
- Revises the legal description of certain armory property in Ashtabula County that the Governor is authorized to convey to future buyers.
- Makes appropriations.

TABLE OF CONTENTS

TRANSPARENCY	10
Transparency of state awards and grants.....	10
State awards web site.....	11
Monitoring compliance with the terms of state awards for economic development.....	11
State grants web site	12
State real property database.....	12
Ohio Geographically Referenced Information Program (OGRIP) Council.....	13
Composition.....	13
Appointment of members	14
Real property management.....	14
Management plan	14
Real property inventory	15
Development of departmental goals and metrics	15
COUNTY LAW LIBRARIES.....	15
County law library resources board.....	15
Creation of board.....	15
Membership of the county law library resources board	17
Meetings and quorum of the county law library resources board	18
Annual estimate and appropriation of funds	18
County law library resources fund	19
Multi-county law library resources commission	19

Reduction of board of county commissioner duties with respect to the law library	20
Vacation accrual rate and credit for accrued but unused vacation and sick leave	21
Allowance to law libraries from fines and penalties of municipal courts.....	21
Moneys collected by county court.....	22
Court of common pleas and probate court payment of fines and penalties	23
Fines and penalties for violation of liquor law and state traffic laws	23
Report and possible refund of certain funds.....	23
Money used for lawbooks, computer communications equipment, and other equipment and materials.....	24
Statewide consortium of county law library resources boards.....	24
Task Force on Law Library Associations.....	26
Transfer of unspent fines, penalties, and personal property.....	26
Miscellaneous county law library provisions.....	27
 EDUCATION.....	 27
Model of Differentiated Accountability for school districts and buildings	27
Background.....	28
Recalculation of local share for a second school facilities project	32
Background.....	32
The act	33
Financial aid for higher education.....	34
 ASSISTED LIVING PROGRAM.....	 35
Assisted Living Program	35
Background.....	35
Home first component	35
Waiting lists.....	36
Requirement for residential care facility to have provider agreement.....	37
 MISCELLANEOUS PROVISIONS	 37
Township use of tax increment financing revenue for public safety expenses.....	37
Federal funding of retirement incentive plans.....	37
Municipal energy conservation	38
"Energy conservation measures"	38
New, statutory procurement procedures.....	38
Contract approval standards	40
Installment payment contracts.....	40
Municipal energy conservation measure securities.....	41
Governor's Policy Information Working Group.....	41
Salary of certain Senate leadership positions	42
Nominations of judges for Portage County Municipal Court	43

Hillsboro Municipal Court Judge	43
Alcoholic beverage franchises.....	44
Sales and use tax exemption: aircraft repair services.....	44
Attest service contract arbitration provisions	45
North Olmsted Welcome House.....	45
Conveyance to Williamsburg Local School District, Clermont County	45
Authorization and consideration.....	45
Preparation of the deed and costs of conveyance.....	46
Expiration date.....	46
Conveyance to Res-Care Ohio, Inc.	46
Authorization and consideration.....	46
Preparation of the deed and costs of conveyance.....	47
Expiration date.....	47
Conveyance of land in Gallia County no longer needed for state purposes.....	47
Authorization and consideration.....	47
Preparation of the deed and costs of conveyance.....	48
Expiration date.....	48
Conveyance to the City of Gallipolis	49
Authorization and consideration.....	49
Preparation of the deed and costs of conveyance.....	49
Expiration date.....	49
Conveyance to Tawawa Community Development Corporation.....	49
Authorization and consideration.....	49
Preparation of the deed and costs of conveyance.....	50
Expiration date.....	50
Conveyance of land to the Board of Trustees of Cambridge Township	50
Authorization and consideration.....	50
Preparation of the deed and costs of conveyance.....	50
Expiration date.....	50
Conveyance of land in Guernsey County to Cambridge Real Estate Holdings, LLC.....	51
Authorization and consideration.....	51
Preparation of the deed and costs of conveyance.....	51
Expiration date.....	51
Conveyance to the City of Norwalk	51
Authorization and consideration.....	51
Preparation of the deed and costs of conveyance.....	52
Expiration date.....	52
Conveyance to The University of Toledo Foundation	52
Authorization and consideration.....	52
Preparation of the deed and costs of conveyance.....	53
Expiration date.....	53
Conveyance to Mr. Charles Knapke.....	53



Authorization and consideration	53
Preparation of the deed and costs of conveyance.....	54
Expiration date.....	54
Conveyance to the Scioto Township Board of Trustees	54
Authorization and consideration	54
Preparation of the deed and costs of conveyance.....	55
Expiration date.....	55
Conveyance to Preble Shawnee Local School District	55
Authorization and consideration	55
Preparation of the deed and costs of conveyance.....	55
Expiration date.....	55
Delaware, Ashland, and Mansfield Armories land conveyances.....	56
Authorization and consideration	56
Preparation of the deed and costs of conveyance.....	57
Expiration date.....	57
Conveyance of armory property in Ashtabula County.....	57
Emergency clause; immediate and delayed effective dates	57

CONTENT AND OPERATION

TRANSPARENCY

Transparency of state awards and grants

(R.C. 125.112)

The act establishes a new regime for providing information to the public regarding state awards and grants made to any entity by an agency of the state. The act also provides for monitoring of compliance with the terms of state awards for economic development. The act states that this new regime must not be construed as requiring the disclosure of information that is not a public record.

The act defines a "state award" as a contract awarded by the State that costs more than \$25,000. Excluded from the definition is compensation received as an employee of the State as well as any financial assistance and expenditure received from the General Assembly or any legislative agency, any court or judicial agency, the Secretary of State, Auditor of State, Treasurer of State, Attorney General, and their respective offices. "Entity" is defined to mean any profit or nonprofit corporation, association, partnership, limited liability company, sole proprietorship, or other business entity, but not an individual receiving state assistance unrelated to that individual's business. "Agency" means the following departments: the office of budget and management; the departments of Commerce, Administrative Services, Transportation, Agriculture, Natural

Resources, Health, Job and Family Services, Public Safety, Mental Health, Mental Retardation and Developmental Disabilities, Insurance, Development, Youth Services, Rehabilitation and Correction, Aging, Alcohol and Drug Addiction Services, and Veteran Services; and the Environmental Protection Agency.

State awards web site

The act requires the Department of Administrative Services (DAS), no later than one year after the effective date of this section of the act, to establish and maintain a single, searchable web site containing information on state awards for fiscal year 2008 and thereafter. The web site must be accessible to the public at no cost and must contain links to the daily journals of the Ohio House of Representatives and the Ohio Senate. The act requires DAS to post the following information on the web site within 30 days after making each state award:

- The name of the entity receiving the award;
- The amount of the award;
- Information on the award, the agency or other instrumentality providing the award, and the commodity code;
- Any other relevant information determined by DAS.

The act authorizes DAS to consult with other state agencies in the web site's development, establishment, operation, and support and requires DAS to provide the public with an opportunity to comment on the web site's utility and any suggested improvements. DAS must also provide to the General Assembly, and post on the web site, an annual report regarding the web site's implementation. The report must include information about web site usage and any public comment on its utility (including recommendations for improving data quality and collection).

Monitoring compliance with the terms of state awards for economic development

The act requires the Attorney General to monitor the compliance of entities with the terms and conditions of state awards for economic development, including any performance metrics. It also requires agencies making such awards to assist, as necessary, the Attorney General with monitoring compliance. The Attorney General is required to submit an annual report to the General Assembly regarding the level of entity compliance with state award terms and conditions. The act also requires the Attorney General, when appropriate and when an entity does not comply with a performance metric specified in the terms and conditions

of the award, to pursue from and against the entity remedies and recovery authorized under the law. For compliance monitoring purposes, the act defines "state award for economic development" as state financial assistance and expenditure in the following forms: grants, subgrants, loans, awards, cooperative agreements, or other similar and related forms of financial assistance and contracts, subcontracts, purchase orders, task orders, delivery orders, or other similar and related transactions. The definition excludes, however, compensation received as an employee of the state and any state financial assistance and expenditure received from the General Assembly or any legislative agency, any court or judicial agency, the Secretary of State, Auditor of State, Treasurer of State, or Attorney General and the respective offices.

State grants web site

The act requires each agency awarding a grant to an entity in fiscal year 2008 and thereafter to establish and maintain a separate web site containing the name of the entity receiving each grant, the grant amount, information on each grant, and any other relevant information determined by DAS. Each agency must provide a link to the web site to DAS within a reasonable time after the effective date of this provision of the act and must update its web site within 30 days of awarding a new grant. DAS also must, not later than one year after the effective date of this provision of the act, establish and maintain a separate web site--accessible to the public at no cost--listing the links to the agency web sites that contain the information on state grants as described above.

State real property database

(R.C. 113.41)

The act requires the Treasurer of State to develop and maintain a comprehensive and descriptive database of all real property under the custody and control of the state, except when otherwise required for homeland security reasons. It requires the Treasurer to make the information in the database available to the public free of charge through a searchable internet web site and to allow public comment on property owned by the state. The act further requires the Ohio Geographically Referenced Information Program Council (OGRIP Council) (see "**Ohio Geographically Referenced Information Program (OGRIP) Council**" below) to provide to the Treasurer, and requires the Treasurer to collect, information adequately describing the known location, acreage, and use of the state-owned property. The OGRIP Council must make its best effort to obtain the required information and submit updated information to the Treasurer as it becomes available.

For purposes of the OGRIP Council's and Treasurer's duties regarding the provision and collection of information on state-owned property for the database, the act excludes from "state-owned property" property that is owned or under the control of the General Assembly or any legislative agency, any court or judicial agency, the Secretary of State, Auditor of State, the Treasurer, or the Attorney General, and their respective offices.¹

Ohio Geographically Referenced Information Program (OGRIP) Council

(R.C. 125.901)

The act establishes the OGRIP Council within the Department of Administrative Services to coordinate property owned by the state.

Composition

The OGRIP Council is made up of the following 15 members: the State Chief Information Officer, or a designee, who also chairs the Council; the Director of the Department of Natural Resources, or a designee; the Director of Transportation, or a designee; the Director of Environmental Protection, or a designee; the Director of Development, or a designee; the Treasurer of State, or a designee; the Attorney General or a designee; an individual appointed by the Governor from the organization representing the state's county auditors; an individual appointed by the Governor from the organization that represents the state's county commissioners; an individual appointed by the Governor from the organization that represents the state's county engineers; an individual appointed by the Governor from the organization that represents the state's regional councils; two individuals appointed by the Governor from the organization that represents the state's municipal governments (one representing a municipality with a population of fewer than 100,000 people and the other representing a municipality with a population of over 100,000 people); an individual appointed by the Governor representing the interests of the regulated utilities in this state; and an individual appointed by the Governor representing the interests of a public university.

¹ The act requires the database to reference "all real property under the custody and control of the state," despite the fact that the act only requires the OGRIP Council to provide, and the Treasurer to collect, information on "state-owned property" for purposes of the database. Thus, it is not clear whether all state property must be listed on the database.

Appointment of members

The act requires the Governor to make initial appointments within a reasonable time. The act also provides that the members appointed by the Governor must serve two-year terms, with each term ending on the same day of the same month as the term it succeeds. It provides procedures for the filling of vacancies and allows members to be reappointed.

Real property management

(R.C. 125.902)

Management plan

The act requires the OGRIP Council to develop and annually update a real property management plan and requires every state agency authorized to own or acquire real property to provide the OGRIP Council with information necessary to develop and update it. All state agencies are required to provide such information to the OGRIP Council. "State agency" and "agency" are defined for purposes of the real property management plan and inventory to exclude the General Assembly or any legislative agency, any court or judicial agency, the Secretary of State, Auditor of State, the Treasurer of State, or the Attorney General, and their respective offices.

The act requires the Real Property Management Plan to contain the following: (1) a comprehensive report on the total number of real property assets owned by the state, (2) information that uniquely identifies each real property asset of each state agency and associated characteristics, (3) life-cycle cost estimations associated with the costs relating to the acquisition of real property assets by purchase, condemnation, lease, or otherwise, (4) the cost and time required to dispose of state real property assets and the financial recovery of the state investment resulting from the disposal, (5) the operating, maintenance, and security costs of state properties, including the costs of utility services at unoccupied properties, (6) the environmental costs associated with ownership of property, including the cost of environmental restoration and compliance activities, (7) changes in the amount of vacant space, (8) the realization of equity value in state real property assets, (9) opportunities for cooperative arrangements with the commercial real estate community, and (10) the enhancement of agency productivity through an improved working environment.²

² It is unclear whether the information contained in the plan must describe and analyze all assets owned by the state or just those owned by state agencies or agencies, as defined by the act.

Real property inventory

The act also requires the OGRIP Council to develop and update a real property inventory and requires every state agency authorized to own or acquire real property to provide the OGRIP Council with information necessary to develop and update the inventory. The act requires that, for purposes of the inventory, each state agency provide the Council with information uniquely identifying each real property asset and associated characteristics. Each agency must make its best efforts to obtain the required information on the property it owns and to submit updated information to the Council as it becomes available.

Development of departmental goals and metrics

(R.C. 107.41)

The act requires the Governor, whenever necessary, to direct each department to establish goals and metrics that, when achieved, will further the gubernatorial leadership agenda. In order to increase transparency, each department's performance measures (determined by assessing the department's adherence to these goals and metrics) must be periodically posted on the governor's web site. The act defines "department" to mean the following: (1) the Office of Budget and Management, (2) the Department of Commerce, (3) the Department of Administrative Services, (4) the Department of Transportation, (5) the Department of Agriculture, (6) the Department of Natural Resources, (7) the Department of Health, (8) the Department of Job and Family Services, (9) the Department of Public Safety, (10) the Department of Mental Health, (11) the Department of Mental Retardation and Developmental Disabilities, (12) the Department of Insurance, (13) the Department of Development, (14) the Department of Youth Services, (15) the Department of Rehabilitation and Correction, (16) the Environmental Protection Agency, (17) the Department of Aging, (18) the Department of Alcohol and Drug Addiction Services, and (19) the Department of Veteran's Services.

COUNTY LAW LIBRARIES

County law library resources board

Creation of board

(R.C. 307.51; R.C. 3375.48 and 3375.55, repealed by the act)

The act creates a county law library resources board in each county to replace each county's law library association. The new board will consist of five members who are appointed and hold office as provided below in "**Membership of the county law library resources.**" Beginning on January 1, 2010, subject to



appropriations made by the board of county commissioners (see "Annual estimate and appropriation of funds," below), each library resources board must provide legal research, reference, and library services to the county and to the municipal corporations, townships, and courts within the county and must manage the coordination, acquisition, and utilization of legal resources.³

Powers of board. The library resources board may adopt any rules it considers necessary for its operation and must adopt rules for the following:

- (a) The expenditure of funds that are appropriated for its use by the board of county commissioners;
- (b) Public access and hours of operation of the law library;
- (c) Fees for services;
- (d) The receipt of gifts to the county law library resources fund.

The library resources board cannot charge any fee for any service provided to any member of the General Assembly or to any officer or employee of a county, municipal, or township government or court located within that county when the officer or employee is acting within the scope of employment. This fee waiver continues similar requirements of former law.⁴ The act also prohibits the library resources board from charging a fee for access to the law library. It also requires the county law librarian or the librarian's designee to deposit all fees collected by any employee of the library resources board into the county law library resources fund established pursuant to the act.

Advisory council. The act establishes a transition advisory council consisting of those individuals serving as members of the board of trustees of the law library association of the county that, as of the effective date of this section of the act (which is immediate because of the emergency clause), received fines, penalties, and moneys arising from forfeited bail. The transition advisory council will exist from July 1, 2009, to December 31, 2010. After December 31, 2010, the board may create an advisory council comprised of persons engaged in the private practice of law and with expertise in the operation and funding of law libraries.

³ This, presumably, includes the provision of space, furniture and fixtures, and utilities for the library.

⁴ The repeal of the requirement for fee-free use of the law library by township and municipal corporation officers is effective March 31, 2009. The repeal of the fee-free use requirement for General Assembly members and county judges and officers is effective December 31, 2009.

Contracting to provide services. Subject to the approval of the board of county commissioners, the act permits the library resources board to contract with library resources boards of other counties, the Statewide Consortium of Law Library Resources Boards, private entities, or public agencies for the provision of any services that the library resources board considers necessary.

County offices obtaining materials. After January 1, 2010, county offices are prohibited from purchasing, leasing, renting, operating, or contracting for the use of any legal research or reference materials available in print, audio, visual, or other medium or, notwithstanding the law governing the county automatic data processing board, any equipment necessary to support the utilization of that medium without prior approval of the library resources board. The act provides that if approval is denied, the county office may purchase, lease, rent, operate, or contract for the use of any legal research or reference materials available in print, audio, visual, or other medium at its own expense. A "county office" is defined as any office, department, board, commission, or agency of a county.

Membership of the county law library resources board

(R.C. 307.511)

The act requires the five members of each library resources board to be residents of the county and be appointed as follows:

(1) The prosecuting attorney of the county appoints one member whose initial term expires on December 31, 2010.

(2) The administrative judges or presiding judges of all municipal courts and county courts within the county appoint as a member an attorney licensed to practice law in Ohio who is in good standing before the Supreme Court of Ohio and whose initial term expires on December 31, 2011.

(3) The administrative judge or the presiding judge of the court of common pleas of the county appoints as a member an attorney licensed to practice law in Ohio who is in good standing before the Supreme Court of Ohio and whose initial term expires on December 31, 2012.

(4) The board of county commissioners appoints one member whose initial term expires on December 31, 2013.

(5) The board of county commissioners appoints one member whose initial term expires on December 31, 2014.

The act requires the initial appointments to each library resources board to be made on or before July 1, 2009, and for the terms specified. Thereafter, terms

for all members appointed will be for five years, with each term ending on the same day of the same month as did the term that it succeeds. The member appointed pursuant to (5) above serves as the chairperson of the library resources board until December 31, 2010, after which the library resources board selects a chairperson from among its members.

The act also provides that from July 1, 2009, through December 31, 2010, each library resources board will consist of seven members. Along with the members appointed pursuant to (1) through (5) above, two additional members who are residents of the county must be appointed for this period by the board of trustees of the law library association in a county that, prior to the effective date of the act, received fines, penalties, and moneys arising from forfeited bail.

The act requires each member of the library resources board to hold office from the date of appointment until the end of the member's term. Vacancies must be filled within 60 days in the manner provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration date of a term must hold office for the remainder of that term. A member must continue in office subsequent to the expiration date of the member's term until a successor takes office or until a period of 60 days has elapsed, whichever occurs first.

A member of the board of trustees of a law library association may serve as a member of a library resources board if the member discloses each membership to both the board of trustees of the law library association and the library resources board.

Meetings and quorum of the county law library resources board

(R.C. 307.512)

The act provides that each library resources board must hold its initial meeting within 15 days after July 1, 2009, at the office of the board of county commissioners at a time that the chairperson of the library resources board determines. Thereafter, the board must meet at least four times a year, as determined by the chairperson or at any other time as determined by a majority of the board. A majority of the members of the library resources board constitutes a quorum at any regular or special meeting.

Annual estimate and appropriation of funds

(R.C. 307.513)

The act requires each library resources board to prepare an annual estimate of the revenue and expenditures of the library resources board for the calendar year commencing January 1, 2010, and for each year thereafter. The library

resources board must submit that estimate to the board of county commissioners as provided in the law governing a taxing authority's adoption of a tax budget. The estimate of expenses must be sufficient to provide for the operation of the library resources board. The estimate of revenue must clearly specify the source of the revenue and must include a specific request for moneys to be appropriated to the county law library resources fund from the county general fund for the ensuing fiscal year.

The act allows the board of county commissioners to appropriate funds from the county general fund for the use of the library resources board. Within 15 days after its adoption of the annual appropriation measure required of all taxing units, the board of county commissioners must transfer 50% of the annual general fund appropriation to the county law library resources fund and must transfer the remaining 50% not later than July 15 of each year. Under the act, the funds appropriated by the board of county commissioners from the county law library resources fund must be disbursed by the county auditor's warrant drawn on the county treasury five days after receipt of a voucher approved by the county law librarian pursuant to procedures established by the library resources board.

County law library resources fund

(R.C. 307.514)

The act creates in each county treasury a county law library resources fund, effective January 1, 2010. The fund will receive all revenue that is required to be deposited into the fund pursuant to the act, appropriated to the fund from the general fund by the board of county commissioners, or designated for deposit into the fund by gift or bequest. Expenditures from the fund must be made pursuant to the annual appropriation measure adopted by the board of county commissioners.

Multi-county law library resources commission

(R.C. 307.516)

The act provides that upon the recommendation of the library resources boards of two or more adjacent counties, the boards of county commissioners of those counties may enter into a contract to form a multi-county law library resources commission. The purpose of the commission is to collaborate in carrying out any or all of the duties and responsibilities conferred upon a library resources board by the act. Members of the commission must consist of the chairperson of each participating library resources board and one additional member from each of the library resources boards. The commission must administer the multi-county contract.

Any such contract must do all of the following:

- (1) Prescribe the structure, management, and responsibilities of the commission;
- (2) Provide for a process to establish the annual budget for the commission that includes a requirement that the annual budget be approved by all of the boards of county commissioners of the member counties;
- (3) Apportion the annual operating costs of the commission to each member county;
- (4) Designate the expenditure of funds from the county law library resources fund of each member county;
- (5) Address amendments to the contract.

The contract must be for a period of not less than three, but not more than five, calendar years.

Reduction of board of county commissioner duties with respect to the law library

(R.C. 307.51(C) and 3375.49 (amended and then repealed by the act); Sections 101.03 and 503)

The act, except as discussed below, repeals all laws requiring boards of county commissioners to pay for the cost of library space, furniture and fixtures, and utilities, and to compensate a librarian and assistant librarians as of December 31, 2008. However, until December 31, 2009, the act still requires boards of county commissioners to do all of the following with respect to the county law libraries: (1) provide space in the county courthouse or other building located in the county seat, (2) pay the costs of the space and utilities for the use of the law libraries, and (3) compensate the librarian and up to two assistant librarians.

As stated earlier in this final analysis, the library resources board must provide the county law library services beginning January 1, 2010. In addition, the act requires the library resources board to employ a county law librarian as its chief administrator and allows it to employ additional staff to perform any functions as determined by the library resources board. The library resources board must fix the compensation of the county law librarian and any additional employees. All employees of the library resources board are in the unclassified civil service of the county.

Vacation accrual rate and credit for accrued but unused vacation and sick leave

(Section 311)

The act provides that for a person employed by a law library association immediately preceding the effective date of the act and upon that person's employment by a library resources board, the board must use certain specified methods for determining the employee's vacation accrual rate and credit for accrued but unused vacation leave and sick leave.

Allowance to law libraries from fines and penalties of municipal courts

(R.C. 3375.50, renumbered R.C. 307.515 in the act)

Law generally retained by the act provides that all fines and penalties collected by, and moneys arising from forfeited bail in, a municipal court for offenses and misdemeanors (1) brought for prosecution in the name of a municipal corporation under one of its penal ordinances, where there is in force a state statute under which the offense might be prosecuted, or (2) brought for prosecution in the name of the state, must be retained by the municipal court clerk and paid each month, to the board of trustees of the law library association in the county in which the municipal corporation is located.⁵ The sum paid by the clerk to the board of trustees each month must not be less than 25% of the amount of those fines, penalties, and moneys received in that month.

Law generally retained by the act further limits the total amount of such money paid to the trustees of the law library association by the clerks of all municipal courts in any county in any one calendar year based on the size of the county's population, as follows:

⁵ The portions of those fines, penalties, and moneys, in addition to all costs collected monthly in the state cases, that equal the compensation the board of county commissioners allows for the municipal court judges, clerk, and prosecuting attorney in state cases must be retained by the clerk and not paid to the board of trustees (R.C. 307.515(A)). In addition, fines for violations of state law governing occupant restraining devices and fines for violations of comparable municipal ordinances are retained by the clerk and must be paid to the state treasurer (R.C. 307.515(A)(5)).

County population	Maximum to be paid by all municipal courts in the county	Maximum to be paid by any one municipal court in the county
50,000 or less	\$7,500	\$4,000
50,001 to 100,000	\$8,000	\$5,500
100,001 to 150,000	\$10,000	\$7,000
150,001 or more	\$15,000	Annually determined for each municipal court by the county auditor using the ratio of fines, costs, and forfeitures received by the municipal court in the prior year to those received by all the municipal courts in the county in that prior year.

The act renumbers R.C. 3375.50 as R.C. 307.515(A) and modifies the above-described provision by removing references to payment to the board of trustees of a law library association and replacing them with references to the county law library resources fund.

Moneys collected by county court

(R.C. 3375.51 repealed and reenacted as 307.515(B))

Law generally retained by the act provides that 50% of all moneys collected by a county court accruing from fines, penalties, and forfeited bail, unless otherwise distributed by law, must be paid to the board of trustees of the law library association of the county by the county treasurer.⁶ The act repeals and reenacts this provision as R.C. 307.515(B) and requires the county treasurer to deposit 50% of all moneys collected by a county court accruing from fines, penalties, and forfeited bail into the county law library resources fund in that county.

⁶ Fines for violations of state law governing occupant restraining devices and fines for violations of comparable municipal ordinances are retained by the clerk and must be paid to the state treasurer, and not to support the county law library (R.C. 307.51(B)).

Court of common pleas and probate court payment of fines and penalties

(R.C. 3375.52 repealed and reenacted as R.C. 307.515(C))

Law largely retained by the act provides that all fines and penalties collected by, and moneys arising from forfeited bail in, the court of common pleas and the probate court of each county, for offenses and misdemeanors prosecuted in such courts in the name of the state must be paid monthly by the clerk to the board of trustees of the law library association. The total annual amount paid to the board of trustees cannot exceed \$1,250.⁷

The act repeals and reenacts this provision as R.C. 307.515(C) and instead requires the clerks of the court of common pleas and the probate court to deposit those moneys into the county law library resources fund.

Fines and penalties for violation of liquor law and state traffic laws

(R.C. 3375.53 repealed and reenacted as 307.515(D))

Law generally retained by the act requires 50% of all fines and penalties collected by, and of moneys arising from forfeited bail in, any court in that county for offenses brought under the liquor control law and law regarding liquor permits (R.C. Chapters 4301. and 4303.) and the state traffic laws to be paid monthly by the treasurer of the county or municipal corporation to the board of trustees of the county's law library association. But the sum paid to the board by each treasurer cannot exceed \$1,200 per annum under the liquor control and permits laws.

The act repeals and reenacts this provision as R.C. 307.515(D) and provides that the treasurer of the county or the municipal corporation must deposit monthly 50% of all fines and penalties collected by, and 50% of moneys arising from forfeited bail in, any court in that county for offenses brought for prosecution under the liquor control and permits laws and the state traffic laws into the county law library legal resources fund.

Report and possible refund of certain funds

(R.C. 3375.56 repealed by the act)

The act outright repeals, effective January 1, 2010, the law requiring the board of trustees of a county law library association to make an annual detailed

⁷ Fines for violations of state law governing occupant restraining devices are retained by the clerk and must be paid to the state treasurer, and not to support the county law library (R.C. 307.515(C)).

statement to the county auditor about (1) the money received under R.C. sections 3375.50 to 3375.53 and (2) the money expended by the association. The act also repeals, effective January 1, 2010, the requirement that if the money received pursuant to those sections during the preceding calendar year exceeds the board's reported expenditure during that year, the board must refund at least 90% of any unencumbered balance on hand from the preceding calendar year to the contributing political subdivisions in the appropriate proportions.

Money used for lawbooks, computer communications equipment, and other equipment and materials

(R.C. 3375.54 repealed by the act)

The act outright repeals, effective March 31, 2009, the law providing that the money paid to the board of trustees of a law library association under R.C. 3375.50 to 3375.53 be expended in its support and operation; to purchase, lease, or rent lawbooks, a computer communications console to access a system of computerized legal research, microform materials and equipment, videotape materials and equipment, audio or visual materials and equipment, other materials and equipment utilized in conducting legal research, furniture, and fixtures used in the association's law library; and to pay the compensation of any librarian and assistant librarians of the law library.

Statewide consortium of county law library resources boards

(R.C. 3375.481)

The act creates, effective January 1, 2010, a Statewide Consortium of County Law Library Resources Boards comprised of the library resources board of each county. The act provides that the Consortium Board consists of five voting members, one of whom is the librarian of the Supreme Court of Ohio, or, if the librarian of the Supreme Court is unavailable, the chief justice's designee. The other four members are appointed as follows:

(1) The Ohio Judicial Conference appoints one member (initial term ends December 31, 2014);

(2) The County Commissioners Association of Ohio appoints two members, one of whom is the chief administrator of a county law library resources board (the initial term of the chief administrator ends December 31, 2016, and of the other appointee ends December 31, 2014);

(3) The Ohio State Bar Association appoints one member (initial term ends December 31, 2016).

The act requires initial appointments to the Consortium Board to be made on or before July 1, 2010. After the initial terms, all terms are for five years. The act provides the procedure for filling vacancies on the Consortium Board.

The act also requires the Consortium Board to do all of the following for the benefit of its members:

- (1) Negotiate contracts that each library resources board may use for purchasing or obtaining access to legal research and reference materials available in any medium;
- (2) Catalogue existing resources held by library resources boards and facilitate the sharing of those resources;
- (3) Develop and recommend guidelines for the collection of or access to legal resources that ought to be provided by a library resources board;
- (4) Provide consultation and assistance to library resources boards;
- (5) Issue an annual report of its activities to each library resources board.

The Consortium Board may create an advisory council comprised of persons with expertise in the operation and funding of law libraries. The act also requires the Consortium Board to determine the necessary qualifications of staff and the facilities and equipment necessary for its operation. The act requires the Consortium Board to elect a chairperson from its membership, to meet at least four times per year, and to keep a record of its proceedings. The record must be open to the public for inspection. The act requires the chairperson or the chairperson's designee to send a written notice of the time and place of each meeting to each member. A majority of the members of the Consortium Board constitutes a quorum.

Statewide Consortium of County Law Library Resources Boards Fund.

Effective January 1, 2010, the act creates in the state treasury the Consortium of County Law Library Resources Boards Fund. Beginning in calendar year 2011, each county treasurer, on or before February 15 of each year, must deposit 2% of the funds deposited pursuant to R.C. 307.515 into the county's law library resources fund from the immediately preceding calendar year into the Statewide Consortium of County Law Library Resources Boards Fund. The Consortium Board may recommend in writing and submit to each library resources board an increase or decrease in the percentage of funds that must be deposited into the Fund by county treasurers. Upon the receipt of written approval of the recommendation from a majority of the library resources boards, the recommendation becomes effective on January 1 of the succeeding year. The

Consortium Board must make any recommendations not later than the first day of April for the proceeding fiscal year, and any action by a library resources board on the recommendation must be certified to the Consortium Board not later than the first day of June of that year. The act allows the Consortium Board to use the money deposited in the Fund for its operation and to provide grants to library resources boards.

Task Force on Law Library Associations

(Section 307)

The act reconstitutes the Task Force on Law Library Associations created pursuant to Am. Sub. H.B. 66 of the 126th General Assembly and requires the appointing authority designated by that act to fill any vacancies on the reconstituted Task Force. The act requires the Task Force to help educate the library resources boards on the provisions of the act and facilitate its implementation, including transition of the management of county law libraries from the law library associations to the library resources boards, and monitor the necessary and proper expenditure of each county law library resources fund. The Task Force must submit a final report to the Speaker and the Minority Leader of the House of Representatives and the President and the Minority Leader of the Senate by December 31, 2011. Upon submission of its report, the Task Force ceases to exist. The act also provides that the sunset review law does not apply to the Task Force.

Transfer of unspent fines, penalties, and personal property

(Section 309)

The act requires a law library association, on or before January 1, 2010, to transfer both of the following to the library resources board in the county in which the association is located:

- (1) All unspent fines and penalties in the law library's general fund and retained moneys collected pursuant to R.C. 3375.50 to 3375.53;
- (2) All personal property that the association can reasonably identify as having been purchased by the fines and penalties in the law library's general fund or retained moneys fund collected pursuant to R.C. 3375.50 to 3375.53.

The act requires the association to retain all dedicated moneys or personal property that were not purchased with the fines and penalties in the law library's general revenue fund or retained moneys fund.

Miscellaneous county law library provisions

The act makes conforming changes with regards to cross references including those to R.C. 733.40, 1901.024, 1901.31, 1907.20, 2949.111, 3375.50 (307.515), and 4513.35. Those changes, along with the repeal of R.C. 3375.51, 3375.52, 3375.53, and 3375.56 take effect January 1, 2010.

EDUCATION

Model of Differentiated Accountability for school districts and buildings

(R.C. 3302.04, 3302.041, 3314.03(A)(24), and 3326.17; conforming changes in R.C. 3301.0715, 3302.10, and 3313.97)

On July 1, 2008, the U.S. Department of Education selected Ohio, along with five other states, to participate in a pilot program that allows states to create a differentiated accountability plan for school districts and buildings under the federal No Child Left Behind Act (NCLB).⁸ NCLB imposes sanctions on districts and buildings that fail to make "adequate yearly progress" (AYP) for two or more consecutive years. The severity of the sanctions depends on the length of time a district or school has missed AYP. The pilot project, however, enables participating states to tailor sanctions based on how long a district or school has failed to make AYP *and the degree to which it has failed*. For example, districts that have missed AYP for the same length of time would be subject to different types of sanctions, depending on the number of student subgroups that have failed to make AYP or how far below proficient the subgroups are on state reading and math tests.

As a pilot project participant, the Ohio Department of Education (ODE) has developed a Model of Differentiated Accountability for school districts and buildings that has been approved for use by the U.S. Department of Education. The act requires districts to implement all corrective actions required by the new accountability model, beginning July 1, 2008. On that date, these corrective actions replace the sanctions formerly prescribed by state law (see below). Under the act, the corrective actions apply to districts that have failed to make AYP for two or more consecutive school years or that contain a school building that has missed AYP for two or more consecutive school years. Each year a school district is subject to corrective action, ODE must notify the district, prior to the district's opening date, of the corrective actions it is required to implement that school year.⁹

⁸ U.S.C. 6301 *et seq.*

⁹ R.C. 3302.041.

According to ODE, the new accountability model places school districts in one of three groups based on whether they need low, medium, or high levels of support. A district's placement is determined by the aggregate percentage of AYP indicators that the district and all buildings operated by the district have missed. Districts that miss a higher percentage of AYP indicators face more numerous and rigorous corrective actions than districts that miss a lower percentage. Depending on the level of support designated for a district, required corrective actions may include the creation of district or building needs assessments, developing district and building leadership teams, or on-site reviews by a state diagnostic team. Additionally, districts in the medium and high support groups would be required to implement at least one corrective action from a list of options, some of which are similar to the sanctions formerly prescribed by law.¹⁰

Under the act, community (charter) schools and STEM schools also are subject to the model's corrective actions when they have failed to make AYP for two consecutive school years.¹¹

Background

Adequate yearly progress. AYP is a measure of performance used to determine whether all students are on track to be proficient in reading and math by the end of the 2013-2014 school year, as required by NCLB. AYP must be calculated for the total student population in a school district or building and for each of the following student subgroups: (1) major racial and ethnic groups, (2) economically disadvantaged students, (3) limited English proficient students, and (4) disabled students. Generally, a district or building does not make AYP unless (1) at least 95% of the students in each subgroup required to take a state standardized test in reading or math actually take the test and (2) a specified percentage of each subgroup of test takers attains scores set by the state Department of Education.¹² Therefore, there are three AYP indicators for each subgroup and for the total student population--test participation rate, passage rate on the state reading achievement test, and passage rate on the math achievement test. The percentage of the total number of AYP indicators that are missed

¹⁰ See "The Ohio Model of Differentiated Accountability: Proposal to United States Department of Education" (May 2, 2008) available at <http://education.ohio.gov/GD/Templates/Pages/ODE/ODEDetail.aspx?page=3&TopicRelationID=129&ContentID=47348&Content=56341>.

¹¹ In the case of a community school, the sponsor is responsible for taking all required corrective actions against the school (R.C. 3314.03(A)(24)).

¹² 20 U.S.C. 6311(b)(2)(E) to (J).

dictates which set of corrective actions a school district, community school, or STEM school must implement under the act.

Sanctions in former law. The following tables highlight the former statutory sanctions for school districts and buildings that consistently failed to make AYP.¹³ School buildings formerly were subject to sanctions after failing to make AYP for two consecutive school years. School districts, on the other hand, incurred sanctions only after they had missed AYP in the same subject area (reading or math) in all three grade spans (grades 3-5, 6-8, and 10-12) for two consecutive school years. Under the act, with two exceptions, these existing sanctions are no longer effective after June 30, 2008. The exceptions are the requirements for school buildings to provide public school choice and to offer supplemental educational services, both of which are federally mandated under NCLB and are retained under ODE's accountability model.

¹³ See R.C. 3302.04(E) and (F).

Consecutive years of failure to make AYP					
	2	3	4	5	6
Sanctions for school buildings, community schools, and STEM schools	<p>(1) Continue to implement building continuous improvement plan (CIP)</p> <p>(2) Notify the parents of students enrolled in the building in writing about the academic issues that led to the building's failure to make AYP. The notification must also describe actions being taken by the district or building to improve the building's academic performance and any progress achieved toward that goal in the previous school year.</p> <p>(3) Provide public school choice*</p>	<p>(1) Continue to implement building CIP</p> <p>(2) Provide public school choice*</p> <p>(3) Offer supplemental educational services*</p>	<p>(1) Continue to implement building CIP</p> <p>(2) Provide public school choice*</p> <p>(3) Offer supplemental educational services*</p> <p>(4) Take at least one of the following actions:</p> <p style="padding-left: 20px;">(a) Institute a new curriculum that is aligned with the statewide academic standards</p> <p style="padding-left: 20px;">(b) Decrease the building's authority to manage its internal operations</p> <p style="padding-left: 20px;">(c) Appoint an outside expert, which may include a state intervention team, to make recommendations to improve the building's academic performance</p> <p style="padding-left: 20px;">(d) Extend the length of the school day or year</p> <p style="padding-left: 20px;">(e) Replace the principal or other key staff</p> <p style="padding-left: 20px;">(f) Reorganize the building's administrative structure</p>	<p>(1) Continue to implement building CIP</p> <p>(2) Provide public school choice*</p> <p>(3) Offer supplemental educational services*</p> <p>(4) Develop a restructuring plan during the next school year to improve the building's academic performance. The plan must include at least one of the following options:</p> <p style="padding-left: 20px;">(a) Reopen the school as a conversion or new start-up community school</p> <p style="padding-left: 20px;">(b) Replace building staff</p> <p style="padding-left: 20px;">(c) Contract with a nonprofit or for-profit entity to operate the building</p> <p style="padding-left: 20px;">(d) Turn operation of the building over to the Department of Education</p> <p style="padding-left: 20px;">(e) Other significant restructuring of the building's governance</p>	<p>(1) Continue to implement building CIP</p> <p>(2) Provide public school choice*</p> <p>(3) Offer supplemental educational services*</p> <p>(4) Implement the restructuring plan developed during the previous school year</p>

* Applies only to buildings that receive federal Title I funds.



Consecutive years of identification for improvement*				
1	2	3	4	5
Sanctions for school districts	<p>(1) District must implement its continuous improvement plan (CIP)</p> <p>(2) District must provide a written description of the district's CIP to the parent of each student enrolled in the district</p>	<p>District must continue to implement its CIP</p> <p>(2) Department of Education must take at least one of the following corrective actions:</p> <p style="padding-left: 20px;">(a) Withhold a portion of the district's federal Title I funds</p> <p style="padding-left: 20px;">(b) Direct the district to replace key district staff</p> <p style="padding-left: 20px;">(c) Institute a new curriculum that is aligned with the statewide academic standards</p> <p style="padding-left: 20px;">(d) Establish alternative forms of governance for individual schools within the district</p> <p style="padding-left: 20px;">(e) Appoint a trustee to manage the district in place of the superintendent and board of education</p> <p>The Department must also conduct audits of a sampling of districts to monitor compliance with the corrective actions.</p>	<p>(1) District must continue to implement its CIP</p> <p>(2) Department must continue to monitor district compliance with the corrective action(s) taken in previous school year</p>	<p>(1) District must continue to implement its CIP</p> <p>(2) Department must take at least one corrective action that is different from the corrective action previously taken after three years of being identified for improvement</p>

* A school district was identified for improvement under former law when it failed to make AYP in the same subject area in all three recognized grade spans for two consecutive school years.

Former law also required ODE to conduct a site evaluation when a school district that received a performance rating of academic watch or academic emergency, or encompassed a building with one of those ratings, failed to show satisfactory improvement or to submit required information to ODE. The site evaluation had to determine whether the district was in compliance with minimum education standards, such as teacher licensing and instructional time requirements. As with the other existing sanctions, the act repeals the requirement for site evaluations as of June 30, 2008.¹⁴

Recalculation of local share for a second school facilities project

(Section 301)

Background

A school district's priority for state funds under the Classroom Facilities Assistance Program (CFAP) is based on the district's three-year average "adjusted valuation per pupil," as calculated by the Department of Education.¹⁵ Under that calculation, the district's taxable "valuation per pupil" is modified by a factor of the income of the district's taxpayers. All districts annually are ranked from lowest to highest average adjusted valuation per pupil and placed in percentiles. A district's percentile ranking determines when the district will be served by CFAP.

A district's share of a classroom facilities project is the *greater* of the following:

(1) The district's percentile ranking; or

(2) An amount that would raise the district's net bonded indebtedness to within \$5,000 of its "required level of indebtedness." The required level of indebtedness for districts in the first percentile is 5% of the district's valuation. For districts in subsequent percentiles, the required level of indebtedness is calculated under the following formula:

5% of the district's valuation + .0002 (the district's percentile ranking – 1).¹⁶

¹⁴ R.C. 3302.04(D)(2).

¹⁵ CFAP provides each city, exempted village, and local school district with partial funding to address all of the district's classroom facilities needs (R.C. 3318.01 to 3318.20, not in the act).

¹⁶ R.C. 3318.01(J), not in the act. No district's share of a project, however, may exceed 95% of the basic project cost (R.C. 3318.032(C), not in the act). A district's valuation is

A district's net bonded indebtedness is the difference between the district's existing debt and the amount held in the sinking fund and other debt retirement funds of the district. The value of voter-approved bonds used to pay a portion of the district's share of a prior state-assisted facilities project is not included in calculating the district's existing debt.¹⁷

Alternative formula for the local share of a second project. Am. Sub. H.B. 562 of the 127th General Assembly (effective June 24, 2008) established a slightly different formula for determining the local share of a new CFAP project for school districts that previously received state assistance under CFAP or the Exceptional Needs School Facilities Assistance Program¹⁸ within the 20-year period prior to the date on which the Controlling Board approves the new project. Under H.B. 562, the district's share of a second project is the *lesser* of the following:

- (1) The amount determined by the general formula described above; or
- (2) The *greater* of (a) the district's percentile ranking at the time of the second project or (b) the district's percentage share of the first project.

The act

The act applies the alternative formula for calculating the local share of a second school facilities project to certain school districts whose projects were approved prior to the effective date of Am. Sub. H.B. 562. Specifically, it directs the Ohio School Facilities Commission to recalculate the local share for each district that meets the following criteria:

- (1) The district received Controlling Board approval for a new CFAP project after July 1, 2007, and prior to June 24, 2008, and the project had not been completed as of this act's effective date;

the total value of all property in the district as assessed for tax purposes (R.C. 3318.01(P), not in the act).

¹⁷ R.C. 3318.01(F), not in the act. Notes issued for school buses, notes issued in anticipation of the collection of current revenues, bonds issued to pay final judgments, and debt arising from the acquisition of a site for a classroom facilities project also are not included in a district's net bonded indebtedness.

¹⁸ The Exceptional Needs Program provides low-wealth districts and geographically large districts with funding in advance of their district-wide CFAP projects to construct single buildings in order to address acute health and safety issues (R.C. 3318.37, not in the act).

(2) Within one year after the Controlling Board approved the new project, the district secured financing for its share of the basic project cost, either by passing a new levy or designating proceeds from an existing levy; and

(3) The district previously received state assistance for a classroom facilities project under CFAP or the Exceptional Needs Program within the 20-year period prior to the date the Controlling Board approved the new project.

In doing each recalculation, the Commission must use data for the district (such as the district's percentile ranking and net bonded indebtedness) that was current at the time the Controlling Board approved the district's new project. If the recalculation produces a lesser amount than the share previously calculated for the district, the lesser amount becomes the district's new local share.

The use of the alternative formula has the effect of lowering the local share of a second project for these districts if they were subject to the net bonded indebtedness calculation under the general formula. It particularly benefits districts in which, under the general formula, the district's share of the second project, as determined based on the district's net bonded indebtedness, is higher than both the district's percentile ranking at the time of the second project and the district's percentage under its previous project. In that case, the act removes net bonded indebtedness from the calculation and makes the district's share the higher of the district's percentile ranking or its previous share.

Financial aid for higher education

(R.C. 3333.375; 3333.12, 3333.122, and 3333.372 (not in the act))

Under continuing law, the Ohio Board of Regents administers the Ohio Outstanding Scholarship and Ohio Priority Needs Fellowship programs, which provide renewable scholarships to eligible undergraduate students and fellowships to eligible graduate students. These programs are funded with money in the Ohio Outstanding Scholarship Payment Fund and the Ohio Priority Needs Fellowship Programs Payment Fund, respectively. Those payment funds consist solely of all the money returned to the Treasurer of State as issuer of certain tax-exempt student loan revenue bonds from all indentures of trust created as a result of tax-exempt student loan revenue bonds issued under the law relating to the purchase of student loans by the state (Chapter 3366.), as well as money earned from allowable investments of the money payment funds. Continuing law requires the money in these payment funds to be used solely for the Ohio Outstanding Scholarship and Ohio Priority Needs Fellowship programs and necessary administrative expenses.

Continuing law also requires the Treasurer of State to provide the Board of Regents an annual statement indicating the money in these payment funds that is available to fund the Ohio Outstanding Scholarship and Ohio Priority Needs Fellowship programs for the upcoming academic year. The act permits the Chancellor of the Ohio Board of Regents to use those available funds to support the distribution of state need-based financial aid under the Ohio Instructional Grant Program (providing need-based tuition assistance to full-time undergraduates from low and moderate income families) and the Ohio College Opportunity Grant Program (providing need-based tuition assistance to Ohio students from low and moderate income families).

ASSISTED LIVING PROGRAM

Assisted Living Program

(R.C. 5111.89, 5111.891, and 5111.894)

Background

The Assisted Living Program is a component of the Medicaid program under which not more than 1,800 eligible individuals may receive assisted living services. Assisted living services consist of the following home and community-based services provided in a residential care facility: personal care, homemaker, chore, attendant care, companion, medication oversight, and therapeutic social and recreational programming.

Home first component

A component of the Assisted Living Program is popularly known as the home first component. The act revises the home first component by requiring each area agency on aging to determine monthly whether any individual who resides in the area the agency serves and is on a waiting list for the Assisted Living Program has been admitted to a nursing facility. If an agency determines that such an individual has been admitted to a nursing facility and that there is a vacancy in a residential care facility participating in the Assisted Living Program that is acceptable to the individual, the agency must notify a Long-Term Care Consultation Program administrator.¹⁹ Whereas former law required an

¹⁹ The Department of Aging is required to develop the Long-Term Care Consultation Program whereby individuals or their representatives are provided with long-term care consultations and receive through these professional consultations information about options available to meet long-term care needs and information about factors to consider in making long-term care decisions. The Department is required to administer the program but, in doing so, may enter into a contract with an area agency on aging or other entity selected by the Department under which the program for a particular area is

administrator to provide the individual or individual's representative information about how to apply for the Assisted Living Program and whether a waiting list existed for the program if the administrator determined that it was an appropriate program for the individual and that the individual would rather participate in the program than continue residing in a nursing facility, the act requires an administrator to notify the Department of Job and Family Services or Department of Aging, whichever administers the Assisted Living Program, if the administrator makes such a determination about the individual. (The act uses the term "state administrative agency" to refer to whichever of the two state agencies administers the Assisted Living Program.)²⁰ On receipt of the notice from the administrator, the state administrative agency is required to approve the individual's enrollment in the program regardless of any waiting list for the program, unless the enrollment would cause the program to have more than 1,800 enrollees. Each quarter, the state administrative agency is required to certify to the Director of Budget and Management the estimated increase in costs of the Assisted Living Program resulting from the enrollment of individuals in the program pursuant to the home first component.

The act requires the Director of Job and Family Services to submit to the General Assembly a report regarding the number of individuals enrolled in the Assisted Living Program pursuant to the home first component and the costs incurred and savings achieved as a result of the enrollments. The report is to be submitted not later than the last day of each calendar year.

Waiting lists

Waiting lists are referred to under the Assisted Living Program in the context of having a Long-Term Care Consultation Program administrator inform individuals about their existence. Unlike prior law, however, the act expressly authorizes the state administrative agency to establish one or more such waiting

administered by the area agency on aging or other entity pursuant to the contract. (Revised Code 173.42.) For purposes of the law governing the Assisted Living Program, "long-term care consultation program administrator" means the Department or, if the Department contracts with an area agency on aging or other entity to administer the Long-Term Care Consultation Program for a particular area, that agency or entity.

²⁰ Continuing law requires the Department of Job and Family Services to contract with the Department of Aging for the Department of Aging to administer the Assisted Living Program. However, the contract is subject to the Director of Budget and Management's approval. The law is silent as to what is to happen if the Director were to disapprove the contract but presumably, in that case, the Department of Job and Family Services would administer the program.

lists for the Assisted Living Program and provides that only Medicaid-eligible individuals may be placed on such a waiting list.

Requirement for residential care facility to have provider agreement

Continuing law requires an individual to reside in a residential care facility as a condition of participating in the Assisted Living Program. The act expressly requires that the residential care facility have a valid Medicaid provider agreement authorizing the facility's participation in the program.

MISCELLANEOUS PROVISIONS

Township use of tax increment financing revenue for public safety expenses

(R.C. 5709.75)

Previous law had authorized a board of township trustees to appropriate and expend certain funds on or before January 1, 2007. These boards were authorized to spend unencumbered money in the "township public improvement tax increment equivalent fund" to pay township public safety expenses. But in order to make such expenditures, certain conditions had to be met. The act, while retaining the conditions, authorizes the boards to again make such expenditures. It does not establish an end date for this authority.

The conditions necessary for these expenditures are as follows: (1) the board of township trustees must have adopted, on or before January 1, 1995, a resolution to pay the costs of certain public infrastructure improvements or housing renovations, (2) the board must be a party to a hold harmless agreement wherein the board agrees to compensate a school district for 100% of the tax revenue the district would have received from improvements to parcels designated in the resolution, and (3) the township must reimburse the fund for the sum so appropriated and expended not later than the day the exemption granted under the resolution expires.

Federal funding of retirement incentive plans

(R.C. 145.297)

Law generally retained by the act authorizes certain employing units of state and local government to establish a retirement incentive plan for its eligible employees. Under certain circumstances, federal funds may be used for such programs. Pursuant to Circular A-87, 05/10/04, of the federal Office of Management and Budget (OMB), abnormal or mass severance pay will be considered on a case-by-case basis, and is permissible use of such federal funds only if approved by the cognizant federal agency.

The act sets forth that the cost of a retirement incentive plan established by a county or county agency is an allowable cost for the purpose of federal funds and will be considered abnormal or mass severance only if 15% or more of the agency's employees participate in the plan in that year; however, the act prohibits interpreting this provision as relieving a county or county agency from seeking federal approval for any early retirement incentive plan that uses federal dollars in accordance with federal law.

Municipal energy conservation

The act changes municipal authority to implement energy conservation measures in municipal buildings.

"Energy conservation measures"

(R.C. 717.02(A))

The act broadens what qualifies as a municipal energy conservation measure. Under current law, an "energy conservation measure" is an installation in, installation modification to, or a remodeling of an existing building to reduce energy consumption. The act expands that definition to include also the energy conservation construction of a new building or infrastructure, or the installation or installation modification in, or remodeling of, existing infrastructure. Under the act, "infrastructure" includes, but is not limited to, any municipally owned, operated, or maintained (1) water, gas, or electric utility, (2) renewable energy system or technology, (3) traffic control signal, or (4) other asset.

Added to items that are expressly specified in statute as allowable municipal "energy conservation measures" are the following: (1) acquiring, constructing, furnishing, equipping, improving the site of, or otherwise improving a central utility plant to provide heating and cooling services to a building or building infrastructure, including distribution piping and ancillary distribution controls, equipment, and related facilities from the central utility plant to the building or building infrastructure, (2) meter replacement, installation of an automatic meter reading system, or any other construction, modification, installation, or remodeling of a water, electric, gas, or other municipally supplied utility system, and (3) any construction approved by the legislative authority of the municipal corporation as an energy conservation measure.

New, statutory procurement procedures

(R.C. 717.02(B) and (C))

The act states that a municipal corporation may procure energy conservation measures in any manner authorized under its charter or ordinances or

under other existing authority. Additionally, it specifies two statutory procurement procedures for energy conservation measures: (1) competitive bidding and (2) issuing an RFP. The act states that its competitive bidding and RFP provisions do not prohibit a legislative authority from rejecting all submitted bids or proposals or selecting more than one bid or proposal.

Competitive bidding process. The act provides that a municipal corporation opting for competitive bidding is subject to all statutory requirements concerning such bidding, except as otherwise provided in the municipal energy conservation measure provisions of the act. Apparently, the exception refers to the act's provisions regarding the interest charges and financing terms of an installment payment contract for the procurement of energy conservation measures, further explained in the "**Installment payment contracts**" portion of this final analysis, below.

For competitive bidding, the municipal corporation must identify the energy conservation measures to be bid using all or any part of an energy conservation report that is produced pursuant to municipal contract with an architect, professional engineer, energy services company, contractor, or other person experienced in the design and implementation of energy conservation measures. The report must evaluate buildings owned by the municipal corporation for energy conservation measures and include all of the following: (1) an analysis of each building's energy needs and recommendations for building installations, modifications of existing installations, or building remodeling that would significantly reduce energy consumption in the buildings, (2) estimates of all costs of those energy conservation measures, including the costs of design, engineering, installation, maintenance, and repair, (3) estimates of the amounts by which energy consumption could be reduced, (4) the interest rate used to estimate the costs of any energy conservation measures that are to be financed by the municipal corporation, (5) the average system life of the energy conservation measures, (6) estimates of the likely savings that will result from the reduction of energy consumption over the average system life of the energy conservation measures, including the methods used to estimate the savings, and (7) a certification under the seal of a registered professional engineer that the energy conservation report uses reasonable methods of analysis and estimation.

RFP process. The act authorizes a municipal corporation, notwithstanding any provision in the Revised Code that requires competitive bidding or specifies bidding procedures, to request proposals from at least three vendors for the implementation of energy conservation measures. Before sending any vendor a copy of the RFP, the legislative authority of the municipal corporation must publish a notice in a newspaper of general circulation in the municipal corporation, once a week for two consecutive weeks. The notice must state the

municipality's intent to issue the RFP; must state also that any vendor interested in receiving the RFP must submit written notice to the legislative authority not later than noon of the day on which the RFP will be mailed; and must specify that mailing date, which must be at least ten days after the date of the second newspaper publication.

Contract approval standards

(R.C. 717.02(C))

For competitive bidding, the act requires the legislative authority of a municipal corporation to select the lowest and best bid or bids that are most likely to result in the greatest energy savings considering the cost of the project and the legislative authority's ability to pay for the improvements with current revenues or by financing the improvements.

Under the RFP process, a legislative authority must analyze the vendor's qualifications, as well as the submitted proposals, and select the most qualified vendor to prepare an energy conservation report of the type described above under "**Competitive bidding process.**" After reviewing that report, the legislative authority may award a contract to that same vendor to install those energy conservation measures that are most likely to result in the greatest energy savings considering the cost of the project and the legislative authority's ability to pay for the improvements with current revenues or by financing the improvements.

Additionally, under either the competitive bid or RFP process, the contracting authority must find that the amount of money spent on energy conservation measures is not likely to exceed the amount of money the municipal corporation would save in energy, operating, maintenance, and avoided capital costs over the average system life of the energy conservation measures as specified in the applicable energy conservation report. In making such a finding, the contracting authority may take into account the increased costs due to inflation as shown in the energy conservation report.

Installment payment contracts

(R.C. 717.02(D))

Law largely retained by the act authorizes the legislative authority of a municipal corporation to enter into an installment payment contract for the purchase and installation of energy conservation measures. The act modifies this authority by stating that installment payment contract provisions dealing with interest charges and financing terms are not subject to any statutory competitive bidding requirements.

In addition, those particular contract provisions must include both of the following terms: (1) not less than a specified percentage of the costs of the contract need be paid within two years after the date of purchase of the energy conservation measures and (2) the remaining balance of those costs must be paid within the lesser of the average system life of the energy conservation measures as specified in the pertinent energy conservation report or 30 years.

Municipal energy conservation measure securities

(R.C. 133.20 and 717.02(E))

Under law largely retained by the act, the legislative authority of a municipal corporation may issue notes of the municipal corporation specifying the terms of the purchase of energy conservation measures and securing deferred payments provided for in an installment payment contract. The act authorizes the issuance of such notes (1) for the purchase of energy conservation measures under the act's municipal energy conservation provisions and (2) for securing any deferred payments provided for under the authorized procurement procedure provisions.

Under law largely retained by the act, revenues derived from local taxes or otherwise, for the purpose of conserving energy or for defraying the current operating expenses of the municipal corporation, can be applied to the payment of interest and the retirement of such notes. The act specifies that those revenues may be *pledged and applied* for those purposes.

The act also changes the allowable maximum maturity of general obligation bonds that a municipal corporation may issue for the purpose of procuring energy conservation measures. Under prior law, such maturity was ten years. The act changes the maximum maturity for municipal energy conservation bonds from the current ten years, to a range of 5-30 years as the municipal fiscal officer determines is the estimated life or period of usefulness of the improvements.

Governor's Policy Information Working Group

(Section 313)

The act states that the General Assembly finds that the effectiveness of state programs can be better evaluated by the collection of relevant information pursuant to the programs' implementation and that Ohio citizens will benefit from useful data about state programs becoming available for public policy research. As a response to the findings, the act establishes the Governor's Policy Information Working Group and charges the group to consider and recommend policies and procedures that may be adopted by state agencies regarding the

identification and collection of program information and its dissemination to the public. These policies and procedures must include, but are not limited to, the manner in which program information is to be collected and retained during the implementation of a program and policies to ensure that program information can be easily accessed by the public.

The Working Group will consist of the following members: (1) the Director of Administrative Services, or the Director's designee, (2) the Director of Aging, or the Director's designee, (3) the Director of Agriculture, or the Director's designee, (4) the Chancellor of the Board of Regents, or the Chancellor's designee, (5) the Director of Budget and Management, or the Director's designee, (6) the Director of Commerce, or the Director's designee, (7) the Director of Development, or the Director's designee, (8) the Director of Environmental Protection, or the Director's designee, (9) the Director of Health, or the Director's designee, (10) the Director of Job and Family Services, or the Director's designee, (11) the Director of Mental Health, or the Director's designee, (12) the Director of Public Safety, or the Director's designee, (13) the Director of Rehabilitation and Correction, or the Director's designee, (14) the Tax Commissioner, or the Tax Commissioner's designee, (15) the Director of Transportation, or the Director's designee, (16) the Governor, or the Governor's designee, and (17) any additional members as deemed necessary and useful by the Working Group.

The Governor must summon the Working Group to convene for its inaugural meeting before March 1, 2009. The Director of Budget and Management and the Tax Commissioner, or their designees, are to serve as co-chairpersons of the Working Group. The Working Group must meet not less than four times per fiscal year, commencing with fiscal year 2010. Not later than December 1, 2009, the Working Group must deliver an interim report of its activities, findings, and recommendations to the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the President of the Senate, the Minority Leader of the Senate, and the Governor. In addition, the Working Group must make annual reports in August 2010 and 2011 to the same leaders summarizing the prior fiscal year's activities, findings, and recommendations. The Working Group shall cease to exist after making its report in 2011.

Salary of certain Senate leadership positions

(Section 303)

Law largely retained by the act prescribes the salary of members of the Senate and of the House of Representatives, including those members who are

elected to leadership positions.²¹ The Senate is required to elect a President, President Pro Tempore, and Assistant President Pro Tempore, and the salaries of those officers, as well as that of the Senate Majority Whip, are set forth in statute (along with the salaries of the Senate minority leaders and the leaders elected by the House of Representatives). (R.C. 101.02 and 101.27, not in the act.)

The act states that, despite the above, the members of the Senate elected President, President Pro Tempore, Majority Floor Leader, Majority Whip, Minority Leader, Assistant Minority Leader, Minority Whip, and Assistant Minority Whip, during calendar years 2009 and 2010, are to receive salary payments equal to the amounts paid under continuing law to the members of the House of Representatives elected Speaker, Speaker Pro Tempore, Majority Floor Leader, Assistant Majority Floor Leader, Minority Leader, Assistant Minority Leader, Minority Whip, and Assistant Minority Whip, respectively. The act also makes this salary provision effective immediately through the application of the emergency clause and because it relates to an appropriation for current expenses.

Nominations of judges for Portage County Municipal Court

(R.C. 1901.07)

Under law largely retained by the act, municipal court judges in several Ohio counties, including Portage County, may be nominated only by a petition signed by at least 50 electors of the court's territory. The act provides that in Portage County, judges can be nominated by either nominating petition or by primary election. If a person seeks nomination for a seat on the court by primary election, the person must comply with all requirements otherwise applicable to municipal court judge candidates participating in a primary election.

Hillsboro Municipal Court Judge

(R.C. 1901.08)

Under prior law, the Hillsboro Municipal Court had one part-time judge. The act requires that, starting in 2011, one full-time judge is to be elected. On and after the act's effective date, the part-time judge of the Hillsboro Municipal Court who was elected in 2005 must serve as a full-time judge until the end of the judge's term on December 31, 2011.

²¹ Prescribing members' compensation by statute is required by Article II, Section 31 of the Ohio Constitution, which states "[t]he members and officers of the general assembly shall receive a fixed compensation, to be prescribed by law, and no other allowance or perquisites, either in the payment of postage or otherwise; and no change in their compensation shall take effect during their term of office."

Alcoholic beverage franchises

(R.C. 1333.851)

Continuing law sets forth certain responsibilities for manufacturers of alcoholic beverages with respect to dealings with their distributors in this state. A manufacturer that acquires all or substantially all of the stock or assets of another manufacturer through merger or acquisition, or acquires or is the assignee of a particular product or brand of alcoholic beverage from another manufacturer, may give written notice of termination, nonrenewal, or renewal of the franchise to a distributor of the acquired product or brand. But the notice must be received by the distributor within 90 days of the date of the merger, acquisition, purchase, or assignment. If it is not, a franchise relationship is established between the parties.

A successor manufacturer that terminates or does not renew the franchise arrangement must compensate the distributor for the diminished value of the distributor's business directly related to the sale of the product or brand and must purchase the distributor's inventory of that product or brand.

The act requires, with respect to any merger, acquisition, purchase, or assignment, that the successor manufacturer compensate the terminated or nonrenewed distributor for the diminished value of the distributor's business before assigning the distributor's territories for the particular product or brand of alcoholic beverage to another distributor. The act also provides that when a distributor receives written notice of termination or nonrenewal of its franchise, the distribution of beer or wine for 90 days or more without a written contract does not establish a franchise relationship between the successor manufacturer and the distributor.

Sales and use tax exemption: aircraft repair services

(R.C. 5739.02(B)(49); 5741.02 (not in the act))

Under law largely retained by the act, sales of materials, parts, equipment, or engines used in the repair or maintenance of an aircraft or aircraft avionics systems are exempt from the sales and use tax. The exemption includes repair, remodeling, replacement, and maintenance services for aircraft or an aircraft's avionics, engine, component materials, or parts if the services are performed at a Federal Aviation Administration certified repair station. The exemption applies only to an aircraft of more than 6,000 pounds maximum certified takeoff weight or an aircraft used only in general aviation.

The act removes the limitation that the aircraft repair be performed at a Federal Aviation Administration certified repair station, effective February 1, 2009.

Attest service contract arbitration provisions

(R.C. 117.11)

Under continuing law, a contract for attest services with an independent accountant employed to audit a public office in place of the Auditor of State may include binding arbitration or alternative dispute resolution procedures to be followed in the event a dispute arises between the state or public office and the accountant regarding terms of the contract or a contract breach. These procedures are to be followed after other administrative procedures of the contract have been exhausted.

The act provides that the arbitration and alternative dispute resolution procedures that may be included in an attest contract may be applied to disputes concerning services under the contract, and not just to the terms of the contract or a contract breach.

North Olmsted Welcome House

(Sections 205.01 and 205.02)

Continuing law imposes numerous restrictions and requirements on the making of public improvements in the state's Public Improvements Law (Revised Code Chapter 153.). Contractor participation in a drug-free workplace program is an example of such a requirement. The act, in earmarking \$250,000 for the North Olmsted Welcome House from capital appropriations made to the Department of Mental Retardation and Developmental Disabilities under Am. Sub. H.B. 562 of the 127th General Assembly, provides that the Welcome House is not subject to any of those restrictions and requirements.

Conveyance to Williamsburg Local School District, Clermont County

(Section 401)

Authorization and consideration

The act authorizes the Governor to execute a deed in the name of the state conveying to the Williamsburg Local School District, and its successors and assigns, all of the state's right, title, and interest in certain state-owned real estate in Clermont County. The act states that the real estate was originally conveyed from Ronald H. Stern, Trustee, on behalf of the Williamsburg Local School

District to the state as collateral for issued school construction facility bonds. Once the construction project was completed, the state was to have conveyed title to the real estate back to the Williamsburg Local School District. That conveyance never occurred.

Prior to the transfer, possession of the real estate is to be governed by an existing interim lease between the state and the Williamsburg Local School District.

Consideration for the conveyance is the purchase price of \$10. The net proceeds of the sale are to be deposited into the state treasury to the credit of the General Revenue Fund.

Preparation of the deed and costs of conveyance

The act specifies the procedures for the preparation, execution, and recording of the deed to the real estate. The Williamsburg Local School District is required to pay all costs associated with the purchase and conveyance of the real estate, including recordation costs of the deed.

Expiration date

The above provisions dealing with Clermont County real estate expire one year after their effective date.

Conveyance to Res-Care Ohio, Inc.

(Section 403)

Authorization and consideration

The act authorizes the Governor to execute a deed in the name of the state conveying to Res-Care Ohio, Inc., of Ohio (hereafter "Res-Care Ohio"), and its successors and assigns, all of the state's right, title, and interest in certain state-owned real estate in Franklin County. The deed must contain all of the following:

- (1) A restriction that Res-Care Ohio continue to operate an existing residential facility located on the real estate for individuals with mental retardation and developmental disabilities for at least five years from the date of closing;
- (2) A restriction that prohibits Res-Care Ohio from selling, conveying, or transferring ownership of the real estate for at least five years from the date of closing;

(3) A provision that, in the event of default or breach by Res-Care Ohio on either (1) or (2), above, Res-Care Ohio must immediately pay to the Department of Mental Retardation and Developmental Disabilities \$1,008,866.66--the sum equal to the Department's investment in the premises.

Prior to the execution of the deed, possession of the real estate is to be governed by an existing interim lease between the state and Res-Care Ohio.

The consideration for the conveyance is the purchase price of \$112,096. The net proceeds of the sale are to be deposited into the state treasury to the credit of the Miscellaneous Revenue Fund within the Department of Mental Retardation and Developmental Disabilities.

Preparation of the deed and costs of conveyance

The act specifies the procedures for the preparation, execution, and recording of the deed to the real estate. Res-Care Ohio is required to pay the costs of the conveyance.

Expiration date

The above provisions dealing with Franklin County real estate expire one year after their effective date.

Conveyance of land in Gallia County no longer needed for state purposes

(Section 405)

Authorization and consideration

The act authorizes the Governor to execute a deed in the name of the state conveying all of the state's right, title, and interest in certain state-owned real estate in Gallia County that the Director of Administrative Services has determined is no longer required for state purposes. The Department of Mental Retardation and Developmental Disabilities, with the assistance of the Department of Administrative Services, is required to have the parcel appraised by one or more disinterested persons. The Director of Administrative Services is to offer for sale, "as is," the real estate, improvements, and chattels located on the parcel, in accordance with the following process:

(1) The Director of Administrative Services must first offer the parcel for sale at its appraised value to the Board of County Commissioners of Gallia County.

(2) If, after 30 days, the County Commissioners have declined the offer, or if the County Commissioners have accepted the offer but have failed to complete the purchase, the Director of Administrative Services must offer the real estate at the appraised value to the Board of Trustees of Addison Township.

(3) If, after 30 days, the Addison Township Trustees have declined the offer, or if the East Union Township Trustees²² have accepted the offer but have failed to complete the purchase, the Director of Administrative Services must conduct, after advertising it for three weeks, a public auction and sell the parcel to the highest bidder at a price acceptable to both the Director of Administrative Services and the Director of Mental Retardation and Developmental Disabilities. The terms of sale are to be payment of 10% of the purchase price in cash, bank draft, or certified check on the date of the sale, with the balance payable within 60 days.

A purchaser who does not complete the conditions of the sale forfeits to the state the 10% paid on the date of sale. In that event, the Director of Administrative Services is authorized to accept the next highest bid from the auction following the same terms applicable to the sale as described above.

The net proceeds of the sale of the parcel are to be deposited into the state treasury to the credit of Fund 1520, Miscellaneous Revenue.

Preparation of the deed and costs of conveyance

The act specifies the procedures for the preparation, execution, and recording of the deed to the real estate. The Department of Mental Retardation and Developmental Disabilities is required to pay all costs incident to the sale of the real estate.

Expiration date

The above provisions dealing with the conveyance of land in Gallia County expire three years after their effective date.

²² It is not clear why the East Union Township Trustees are involved in this aspect of the transaction.

Conveyance to the City of Gallipolis

(Section 407)

Authorization and consideration

The act authorizes the Governor to execute a deed in the name of the state conveying to the City of Gallipolis, and its successors and assigns, all of the state's right, title, and interest in state-owned real estate in Gallia County. The act states that these provisions are "curative in nature" and intended to redraw boundary lines and correct title encroachment issues between the state property and the City of Gallipolis property near the Gallipolis Developmental Center under the jurisdiction of the Department of Mental Retardation and Developmental Disabilities. In exchange for the conveyance, the City of Gallipolis must convey to the state real property owned by the city and identified in the conveyance as the city's portion of the encroachment issue.

Consideration for the conveyance is the mutual benefit derived by both the state and the City of Gallipolis through correcting the title encroachments.

Preparation of the deed and costs of conveyance

The act specifies the procedures for the preparation, execution, and recording of the deed to the real estate. The City of Gallipolis is required to pay the costs of the conveyance, including recordation costs of the deed.

Expiration date

The above provisions dealing with the conveyance of land to the City of Gallipolis expires one year after their effective date.

Conveyance to Tawawa Community Development Corporation

(Section 409)

Authorization and consideration

The act authorizes the Governor to execute a deed in the name of the state conveying to the Tawawa Community Development Corporation, and its successors and assigns, all of the state's right, title, and interest in state-owned real estate in Xenia Township, Greene County. Consideration for the conveyance is the mutual benefit accruing to the state and Tawawa Community Development Corporation for a student and community convenience center.

Preparation of the deed and costs of conveyance

The act specifies the procedures for the preparation, execution, and recording of the deed to the real estate. The Tawawa Community Development Corporation is required to pay the costs of the conveyance.

Expiration date

The above provisions dealing with the conveyance of land in Greene County expire one year after their effective date.

Conveyance of land to the Board of Trustees of Cambridge Township

(Section 411)

Authorization and consideration

The act authorizes the Governor to execute a deed in the name of the state conveying to the Board of Trustees of Cambridge Township all of the state's right, title, and interest in certain state-owned real estate in Guernsey County that the Director of Administrative Services has determined is no longer required for the use and benefit of the state. As stated by the act, the General Assembly finds that the mutual benefit and exchange of services accruing to the state from the conveyance of this real estate is in the best interests of the state and specifically beneficial to the Department of Mental Retardation and Developmental Disabilities.

Following the conveyance, the Board of Trustees of Cambridge Township assumes responsibility for all maintenance of the roadways on the property and agrees to perpetually dedicate the roadways to the public's use.

Preparation of the deed and costs of conveyance

The act specifies the procedures for the preparation, execution, and recording of the deed to the real estate. The Board of Trustees of Cambridge Township is required to pay the costs of the conveyance.

Expiration date

The above provisions dealing with the conveyance of land in Guernsey County expire two years after their effective date.

Conveyance of land in Guernsey County to Cambridge Real Estate Holdings, LLC.

(Section 413)

Authorization and consideration

The act authorizes the Governor to execute a deed in the name of the state conveying to Cambridge Real Estate Holdings, LLC. ("Grantee"), and its successors and assigns, all of the state's right, title, and interest in certain state-owned real estate in Guernsey County. The deed must contain two deed restrictions--one that the Grantee grant the state a permanent access easement and another that the Grantee not use, develop, or sell the premises if it will interfere with the quiet enjoyment of the neighboring state-owned land.

Consideration for the conveyance is the purchase price of \$3.2 million, less the aggregate amount of monthly rental payments paid from October 1, 2008, through the date of closing and less one-half of the cost of surveying the premises. The net proceeds of the sale are to be deposited into the state treasury to the credit of the Department of Mental Health Trust Fund, after payment of the remaining capital debt of the property.²³

Preparation of the deed and costs of conveyance

The act specifies the procedures for the preparation, execution, and recording of the deed to the real estate. The Grantee is required to pay all costs associated with the purchase and conveyance, including recordation costs of the deed.

Expiration date

The above provisions dealing with the conveyance of land in Guernsey County expire one year after their effective date.

Conveyance to the City of Norwalk

(Section 415)

Authorization and consideration

The act authorizes the Governor to execute a deed in the name of the state conveying to the City of Norwalk, and its successors and assigns, all of the state's

²³ Continuing law requires the Department of Health Trust Fund to receive all amounts from the sale of lands and facilities by the Department (R.C. 5119.18).

right, title, and interest in certain state-owned real estate in Huron County. Prior to the execution of the deed, possession of the real estate is to be governed by an existing interim lease between the Department of Administrative Services and the City of Norwalk.

Consideration for the conveyance is \$55,000 paid to the state in accordance with the following schedule:

- (1) \$20,000 at closing and transfer of title;
- (2) \$25,000 credited at closing for tenant improvements the City of Norwalk has made to the real estate; and
- (3) \$10,000 due on the initial anniversary of the closing date.

The net proceeds of the sale are to be deposited into the state treasury to the credit of the Armory Improvements Fund (R.C. 5911.10).

Preparation of the deed and costs of conveyance

The act specifies the procedures for the preparation, execution, and recording of the deed to the real estate. The act also requires the deed to include a clause providing for the reversion of the premises to F.B. Case or his heirs and assigns if the land ceases to be used as an Armory or other public building. The City of Norwalk is required to pay the costs of the conveyance, including recording costs of the deed.

Expiration date

The above provisions dealing with the conveyance of the Huron County real estate expire one year after their effective date.

Conveyance to The University of Toledo Foundation

(Section 417)

Authorization and consideration

The act authorizes the Governor to execute a deed in the name of the state conveying to The University of Toledo Foundation ("Grantee"), a not-for-profit corporation, all of the state's right, title, and interest in state-owned real estate in Lucas County.

The consideration for the conveyance is the mutual benefit accruing to the state and the Grantee for a new parking structure. The following conditions apply to the transaction:

(1) The Grantee will facilitate development on the real estate pursuant to a request for proposal issued by the Grantee;

(2) The Grantee must construct a parking structure on the real estate in the initial phase of the development. The University of Toledo is to have use of the parking structure, but is not to be financially responsible for construction of or any maintenance to the structure.

(3) A condition precedent to the delivery of the deed is approval by the Attorney General's Office of a lease agreement between the University of Toledo and the Grantee affecting the proposed parking structure.

(4) The real estate closing for delivery of the deed must be simultaneous to the closing of construction financing by the Grantee or the Grantee's developer for the first phase of construction.

Prior to the execution of the deed, possession of the real estate is to be governed by an existing interim lease between the Department of Administrative Services and the Grantee.

Preparation of the deed and costs of conveyance

The act specifies the procedures for the preparation, execution, and recording of the deed to the real estate. The Grantee is required to pay the costs of the conveyance of the real estate, including recordation costs of the deed.

Expiration date

The above provisions dealing with the conveyance of the Lucas County real estate expire two years after their effective date.

Conveyance to Mr. Charles Knapke

(Section 419)

Authorization and consideration

The act authorizes the Governor to execute a deed in the name of the state conveying to Mr. Charles Knapke, and his successors and assigns, all of the state's right, title, and interest in two parcels of state-owned real estate in Mercer County. The sale cannot occur, however, until the MARCS Celina Tower in Mercer County is fully functioning.

Consideration for the conveyance is the purchase price of \$20,718.50. The net proceeds of the sale are to be deposited into the state treasury to the credit of the General Revenue Fund.

Preparation of the deed and costs of conveyance

The act specifies the procedures for the preparation, execution, and recording of the deed to the real estate. Mr. Knapke is required to pay the costs of the conveyance, including recordation costs of the deed.

Expiration date

The above provisions dealing with the conveyance of the Mercer County real estate expire two years after their effective date.

Conveyance to the Scioto Township Board of Trustees

(Section 421)

Authorization and consideration

The act authorizes the Governor to execute a deed in the name of the state conveying to the Scioto Township Board of Trustees ("Grantee"), and its successors and assigns, all of the state's right, title, and interest in state-owned real estate in Scioto Township, Pickaway County. The deed must contain the following:

(1) A restriction that the Grantee use the real estate solely for fire station, emergency medical services and its employee training, law enforcement and other criminal justice purposes, or governmental functions and offices of the Villages of Orient. Those uses cannot adversely affect the operation of the Multi-Agency Radio Communication System located adjacent to the property.

(2) A restriction that the Grantee initiate construction within five years of the effective date of this provision. If the Grantee fails to do so, title to the real estate may revert to the state, at the sole discretion of the Director of Administrative Services and the Department of Rehabilitation and Correction, for the jurisdictional use of the Department. The Department must reimburse the Grantee the purchase price (see below).

Consideration for the conveyance is the purchase price of \$5,000. The net proceeds of the sale are to be deposited into the state treasury to the credit of the General Revenue Fund.

Preparation of the deed and costs of conveyance

The act specifies the procedures for the preparation, execution, and recording of the deed to the real estate. The Grantee is required to pay the costs of the conveyance, including recordation costs of the deed.

Expiration date

The above provisions dealing with the conveyance of the Pickaway County real estate expire one year after their effective date.

Conveyance to Preble Shawnee Local School District

(Section 423)

Authorization and consideration

The act authorizes the Governor to execute a deed in the name of the state conveying to the Preble Shawnee Local School District, and its successors and assigns, all of the state's right, title, and interest in certain state-owned real estate in Preble County. The act states that the real estate was originally conveyed to the state as collateral for school construction facility bonds issued. Once the construction project was completed, the state was to have conveyed title to the real estate back to the Preble Shawnee Local School District. That conveyance never occurred.

Prior to the transfer, possession of the real estate is to be governed by an existing interim lease between the state and Preble Shawnee Local School District.

The consideration for the conveyance is the purchase price of \$10. The net proceeds of the sale are to be deposited into the state treasury to the credit of the General Revenue Fund.

Preparation of the deed and costs of conveyance

The act specifies the procedures for the preparation, execution, and recording of the deed to the real estate. The Preble Shawnee Local School District is required to pay all costs associated with the purchase and conveyance of the real estate, including the recordation costs of the deed.

Expiration date

The above provisions dealing with the conveyance of the Preble County real estate expire one year after their effective date.

Delaware, Ashland, and Mansfield Armories land conveyances

(Section 425)

Authorization and consideration

The act authorizes the Governor to execute a deed in the name of the state conveying to future buyers all of the state's right, title, and interest in certain state-owned real estate in Delaware County, Ashland County, and Mansfield County that the Adjutant General has determined are no longer needed by the Ohio National Guard for armory or military purposes. The Adjutant General is required to appraise the parcels or have them appraised by one or more disinterested persons, and offer the parcels for sale in their "as is" condition, as follows:

(1) The Adjutant General first must offer a parcel for sale at its appraised value to the municipal corporation or township in which it is located.

(2) If, after 60 days, the municipal corporation or township has not accepted the offer, or has accepted the offer but has failed to complete the purchase, the Adjutant General must offer the parcel at its appraised value to the county in which it is located.

(3) If, after 60 days, the county has not accepted the offer, or has accepted the offer but has failed to complete the purchase, the Adjutant General--in concert with the Department of Administrative Services--must conduct, after advertising it for three weeks, a public auction and sell the parcel to the highest bidder at a price acceptable to the Adjutant General. The terms of sale are to be payment of 10% of the purchase price in cash, bank draft, or certified check on the date of the sale, with the balance payable within 60 days. A purchaser who does not complete the conditions of the sale must forfeit to the state the 10% paid on the date of sale. In that event, the Adjutant General is authorized to accept the next highest bid from the auction following the same terms applicable to the sale as described above.

The net proceeds of the sales of the parcels are to be deposited into the state treasury to the credit of the Armory Improvements Fund (R.C. 5911.10). If, within two years after purchasing any of the parcels described above, a municipal corporation, township, or county sells the parcel, the political subdivision must pay to the state an amount representing one-half of any net profit derived from the subsequent sale. The amount also is to be deposited into the state treasury to the credit of the Armory Improvements Fund.

Preparation of the deed and costs of conveyance

The act specifies the procedures for the preparation, execution, and recording of the deed to the real estate. The Adjutant General is required to pay all costs of the sale of the parcels.

Expiration date

The above provisions dealing with the conveyance of the Delaware Armory, Ashland Armory, and Mansfield Armory properties expire five years after their effective date.

Conveyance of armory property in Ashtabula County

(Sections 207.01 and 207.02)

Under law generally retained by the act, the Governor is authorized to convey to future buyers the state's right, title, and interest in certain armory property in Ashtabula County that the Adjutant General has determined is no longer required for armory or military purposes. The act revises the legal description of that property.

Emergency clause; immediate and delayed effective dates

(Sections 501, 503, and 505)

The act takes effect immediately under its emergency clause. In addition, the act declares certain of its provisions take effect immediately because they relate to an appropriation for current expenses. However, the act delays the effective dates of certain sections of the act, as discussed above, dealing with county law libraries and the sales and use tax exemption for aircraft repair services.

HISTORY

ACTION	DATE
Introduced	12-21-07
Reported, H. State Gov't & Elections	04-14-08
Passed House (94-0)	05-06-08
Reported, S. Finance & Financial Institutions	11-24-08
Passed Senate (30-0)	12-02-08
House concurred in Senate amendments (95-1)	12-17-08

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