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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

H.B. 45\*  
134<sup>th</sup> General Assembly

## Bill Analysis

[Click here for H.B. 45's Fiscal Note](#)

**Version:** As Reported by Senate Finance

**Primary Sponsors:** Reps. West and Roemer

Megan Cummiskey, Assistant Director, ORD

## SUMMARY

### Tax amnesty

- Allows the state to operate a two-month “amnesty” period in 2023 during which taxpayers owing past-due state and some local taxes and certain fees may discharge the debt by paying the delinquent tax or fee without having to pay the penalty and accrued interest normally due.
- Provides that, before the amnesty can proceed, the Director of Budget and Management must first determine that the state will need the projected revenue from the amnesty to meet GRF obligations in calendar year 2023.

### Delinquent tax list publication

- Authorizes the second publication of a county delinquent property tax list to be made online, provided the list’s first publication continues to be made in a newspaper of general circulation.

### Workforce incentive payments for freestanding dialysis centers

- Requires the Medicaid Director to make a one-time payment to each licensed freestanding dialysis center that is in good standing, to be used exclusively for direct care staff compensation.
- Specifies a formula to determine the amount of the payment.

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\* This analysis was prepared before the report of the Senate Finance Committee appeared in the Senate Journal. Note that the legislative history may be incomplete.

- Appropriates \$15.0 million of the enhanced federal medical assistance percentage enacted in the Families First Coronavirus Response Act to fund the one-time payment to dialysis centers.

### **Critical Access Pharmacy Grant program**

- Requires the Department of Medicaid to administer a Critical Access Pharmacy Grant program to award grants to pharmacies that are located within counties that have no more than one retail pharmacy that participates in the Medicaid program located within the county.
- Authorizes up to \$100,000 in FY 2023 to fund the grant program.

### **Department of Medicaid**

- Makes a FY 2023 appropriation of \$350 million in American Rescue Plan Act funds in FY 2023 to the Department of Medicaid for lump-sum payments to nursing facilities for workforce support.
- Requires the Department to distribute the funds between January 1, 2023, and January 31, 2023, as follows: (1) 40% as payments to nursing facilities based on each facility's total number of Medicaid days in calendar year 2021 and (2) 60% as payments to nursing facilities based on enumerated quality metrics.
- Specifies how each nursing facility's quality payment amount is to be calculated.
- Repeals existing language that requires nursing facility providers to spend 70% of any additional dollars received as a result of a rebasing on direct care costs.
- States that it is the General Assembly's intent to include a rebasing of the direct care, ancillary and support, and tax cost centers in the next main operating budget.
- States that it is the General Assembly's intent to require the Department and industry stakeholders to submit to the General Assembly legislative proposals to: (1) replace the capital costs center formula and (2) provide a private room incentive payment.

### **Hospital provider relief payments**

- Earmarks \$62 million of the enhanced Federal Medical Assistance Percentage under the federal "Families First Coronavirus Response Act" to the Department of Medicaid for health care provider relief payments for critical access and rural hospitals.
- Appropriates \$100 million in "American Rescue Plan Act" funds and authorizes the Medicaid Director and the Director of Budget and Management to make payments to critical access and rural hospitals that are Medicaid providers and requires that the payments be used exclusively for direct care staff compensation.
- Appropriates \$6.5 million (\$2.3 million state share) in FY 2023 in GRF to provide for one-time provider relief payments to hospitals located in counties with a population of 350,000 to 380,000, to be calculated based on Medicaid enrollee patient discharge.

## **PACE program**

- Requires the Department of Aging to expand to the following counties the existing Medicaid component known as the Program of All-inclusive Care for the Elderly (PACE): Franklin, Hamilton, Montgomery, Lorain, Lucas, and Summit.
- Appropriates \$50.0 million in FY 2023 to expand PACE in accordance with the bill.
- Regarding the existing Home First component of PACE, eliminates various references to documentation being “in writing.”

## **Ohio Adoption Grant Program**

- Establishes the Ohio Adoption Grant Program, administered by the Department of Job and Family Services (JFS), which provides one of the following as one-time payment to an adoptive parent for each eligible adopted child adopted on or after January 1, 2023: \$10,000, \$15,000 (if the adoptive parent was a foster caregiver for the child), or \$20,000 (if the child has diagnosed special needs).
- Authorizes an income tax deduction for grant payments.
- Requires the JFS director to adopt rules, exempt from the regulatory restriction reduction requirements under Ohio law, to administer and implement the Grant Program, including a rule to authorize federal income tax withholding.
- Prohibits an application fee being charged for the Grant Program.
- Permits the JFS director to require the submission of any court or legal document to prove the adoption and for any state agency or division to provide documents relating to the adoption, provided that such documents do not change public records status upon being submitted to JFS.
- Appropriates \$15 million from GRF in FY 2023 to administer grants under the Grant Program.

## **Adoption tax credit**

- Repeals the state’s existing income tax credit for the adoption of children.

## **Adoption petition fee**

- Reduces the probate court adoption petition fee to \$20 instead of \$50 in current law.

## **Putative father registry fund**

- Removes the requirement that a portion of the collected adoption petition fee be deposited into the Putative Father Registry Fund, and updates an incorrect cross-reference.
- Appropriates \$500,000 from GRF in FY 2023 to the fund.

## **Connect Our Kids Family Connections**

- Appropriates \$250,000 from GRF in FY 2023 to support the Connect Our Kids Family Connections training.

## **Ohio Parenting and Pregnancy Program**

- Appropriates \$3 million from GRF in FY 2023 to support the Ohio Parenting and Pregnancy Program.

## **College grant program for adopted Ohio residents**

- Establishes a grant program providing a one-time \$2,500 award to eligible adopted Ohio residents attending a state institution of higher education or private college in Ohio to apply toward the resident's cost of attendance.

## **Publicly funded child care – Step Up to Quality ratings**

- Establishes additional exceptions to the current law requirement that a licensed child care program be rated in the Step Up to Quality Program to provide publicly funded child care, including exempting a program that is a type A or licensed type B family day-care home.

## **Publicly funded child care – provider reimbursements**

- Eliminates the requirement that the JFS Director establish enhanced reimbursement rates for providers maintaining quality ratings under the Step Up to Quality Program.
- Eliminates the requirement that the JFS Director weigh any reductions in reimbursement more heavily against providers that do not participate in Step Up to Quality or do not maintain quality ratings under the program.

## **Activities to encourage family day-care home licensure**

- Requires JFS to engage in activities to encourage the establishment and licensure of family day-care homes and connect families and caretaker parents in need of child care with family day-care homes not meeting their license capacity.
- Permits the JFS Director to contract with third-party entities to assist the Director in performing the activities.
- Requires the JFS Director to submit – not later than May 30, 2023, and periodically thereafter – to the General Assembly a report documenting any barriers that may prevent the establishment or licensure of family day-care homes.

## **School raffles**

- Allows a school district, community school, STEM school, college-preparatory boarding school, or chartered nonpublic school to conduct a raffle to raise money for the school district or school.

## **Afterschool Child Enrichment Educational Savings Account Program**

- Extends operation of the Afterschool Child Enrichment Educational Savings Account Program (ACE) through FY 2024.
- Increases the amount that a student's account may be credited under the program from \$500 to \$1,000 for FY 2023 and FY 2024.
- Amends the eligibility requirements for a savings account.
- Unless funds are misused or the student graduates high school, prohibits the Department or vendor operating the program from reclaiming any funds credited to a student's account under the ACE Program.

## **Disadvantaged pupil impact aid phase-in**

- For FY 2023, increases the phase-in percentage for disadvantaged pupil impact aid from 14% to 33.33%.

## **School district transportation payment**

- Revises how the number of miles driven for school bus service are factored into the calculation of school district transportation payments.

## **Eliminate school storm shelter requirement**

- Prohibits the Board of Building Standards from requiring storm shelters in school buildings.

## **Prelicensure nursing bachelor's degree programs**

- Requires the Chancellor of Higher Education to approve a prelicensure nursing bachelor's degree program proposal submitted by a community, state community, or technical college prior to September 30, 2022.

## **Accrued vacation leave cash conversion**

- Beginning in December 2023, increases, from 40 to 80, the maximum hours of accrued unused vacation leave certain state employees exempt from collective bargaining may convert to cash, provided the employee has at least 200 hours of unused accrued vacation leave.
- Beginning in December 2023, allows an employee described above who has at least 100 hours of unused accrued vacation leave to convert 40 hours to cash.
- Exempts employees of the Supreme Court, the General Assembly, the Legislative Service Commission, the Secretary of State, the Auditor of State, the Treasurer of State, and the Attorney General from the cash conversion unless the employees' employer notifies the Director of Administrative Services in writing before October 1, 2023, that the employees are eligible.

## **Reimbursements for peace officer and trooper training**

- Regarding the current pilot program for providing state funding for the cost of continuing professional training programs for peace officers and Ohio State Highway Patrol troopers (which is scheduled to end on December 31, 2022), the bill:
  - Specifies that if a law enforcement agency that receives money under the current program does not use all of the money received for the salaries of its peace officers and troopers receiving training, the agency is to retain all of the money not used and use the retained money only for paying the cost of future continuing professional training programs;
  - Extends until June 30, 2023, the pilot program and modifies the mechanism for making the payments under it during the extension period.
- Appropriates an additional \$5 million to GRF appropriation item 055509, Law Enforcement Reimbursement Training Pilot Program, in FY 2023 to support reimbursements for peace officer and trooper continuing professional training and administrative costs related to the extended pilot program.

## **Low income housing tax credit properties**

- Prohibits a project involving the rehabilitation of federal low income housing tax credit (LIHTC) property from qualifying for an existing state tax credit for rehabilitating historic buildings.
- Authorizes a county auditor to value LIHTC property by using one or more of three existing appraisal methods.

## **Special improvement districts**

- Modifies the law that applies to an existing qualified nonprofit corporation that forms a special improvement district (SID) by limiting the circumstances under which the Ethics Law, the Open Meetings Law, and the Public Records Law apply to the corporation.
- Specifies that the corporation is considered a SID only when it acts with respect to a purpose for which the SID is created, and not when it acts with respect to any other purpose for which it is organized.

## **Timely recording of satisfaction of mortgages**

- Prohibits a mortgagor or current owner of real property from collecting, through a class action lawsuit, \$250 in damages for failure on the part of the mortgagee, during calendar year 2020, to record the satisfaction of a mortgage within 90 days of the mortgage's satisfaction.
- Specifies that this prohibition does not preclude or affect any other legal remedies or damages available to the mortgagor or current owner.

### Professional sports logo license plates

- Regarding a sports commission formed in order to create and receive contributions for a specialty license plate with a professional sports team logo, does both of the following:
  - Modifies the number of sports commission board members from 21 to at least 15; and
  - Eliminates the requirements specifying what person or entity appoints the members.

### Veterans Memorial and Museum

- Exempts, from Open Meetings Law, all meetings of the board of directors of the nonprofit corporation that operates the Veterans Memorial and Museum.
- Establishes that records of the board of directors and of the nonprofit corporation are not public records under Public Records Law.

### Art economic relief grant program

- Authorizes grants for certain performing arts organizations and operators of cultural arts museums.
- Limits the purposes for which those grants may be used.
- Appropriates \$50 million in FY 2023 to the Department of Development for the grant program from federal American Rescue Plan Act (ARPA) of 2021 funds.

### Boards and commissions

- Extends until December 31, 2024, authorization for the Chiropractic Loan Repayment Advisory Board and the Holocaust and Genocide Memorial Education Commission to operate.

### Appropriations

- Makes operating and capital appropriations.

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## DETAILED ANALYSIS

### Tax amnesty

The bill authorizes the state to operate a tax “amnesty” program in 2023, if the Director of Budget and Management determines that such a program is necessary. Under the bill, if the Director finds that additional revenue from an amnesty program will be needed to meet GRF obligations during calendar year 2023, the Director will direct the Tax Commissioner, the Governor, and leaders of the General Assembly to proceed with the amnesty.

If so directed, the Tax Commissioner would administer the amnesty program and determine the two-month period during 2023 in which the program would run. The program would cover delinquent state taxes and local sales and use taxes, as well as delinquent state

income tax withholding remittances by employers and certain fees administered by the Department of Taxation. (See below for a list of taxes and fees that would be covered under the amnesty.) The amnesty would apply only to taxes that were due and payable as of the provision's effective date and that were unreported or underreported. The amnesty would not apply to any tax for which a notice of assessment or audit has been issued, for which a bill has been issued, or for which an audit has been conducted or is pending.

If, during the amnesty, a person pays the full amount of delinquent taxes or fees owed, the Tax Commissioner must waive all penalties and accrued interest that are normally charged. The bill authorizes the Commissioner to require a person to file returns or reports, including amended returns or reports.

In addition to receiving a waiver of penalties and accrued interest, a person who pays the amount due is immune from criminal prosecution or any civil action with respect to the tax or fee paid, and no assessment may be issued against the person for that tax or fee.<sup>1</sup>

The most recent general tax amnesty was conducted in 2018.<sup>2</sup>

### **Covered taxes and fees**

The taxes and fees that would be covered under the amnesty are the following:

Income tax	Commercial activity tax
State sales and use taxes	Financial institutions tax
County sales and use taxes	Transit authority sales and use taxes
Public utility excise taxes	Kilowatt-hour tax
MCF (natural gas) excise tax	Alcoholic beverage taxes
Cigarette/tobacco/vaping excise taxes	Motor fuel excise tax
Fuel use tax	Petroleum activity tax
Casino wagering tax	Severance taxes
Wireless 9-1-1 charges	Tire fees
Horse racing taxes	

Other local taxes, such as school district income taxes, would not be covered.<sup>3</sup>

### **Administration, appropriations, and revenue disposition**

To promote and administer any authorized amnesty, the Commissioner must issue forms and instructions, publicize the amnesty so as to maximize public awareness and

<sup>1</sup> Section 757.01.

<sup>2</sup> Section 757.110 of H.B. 49 of the 132<sup>nd</sup> General Assembly.

<sup>3</sup> Section 757.01(A).

participation, and take any other action necessary to implement the amnesty.<sup>4</sup> The bill appropriates \$1 million in FY 2023 for use by the Commissioner for such tasks. The bill reappropriates any unspent amount remaining at the end of FY 2023 to FY 2024 for the same purpose.<sup>5</sup>

Taxes collected under the amnesty will be distributed in the same manner as the underlying tax liability would have been distributed had it been paid as required by law, except that up to the first \$1 million in collections must be used to reimburse the GRF for any appropriations used by the Commissioner to promote and administer the amnesty. Otherwise, collections related to state taxes will be credited to the GRF unless a different fund is specified by law (e.g., motor fuel taxes to the various highway funds).<sup>6</sup>

## **Delinquent tax list publication**

Each year, after the final day for paying property taxes, county auditors certify to county treasurers a list of properties in the county that still have unpaid taxes or assessments. Tax-delinquent properties are assessed penalties and interest.<sup>7</sup> Delinquencies, if not settled, may be enforced as a lien on the property by foreclosure in the courts or, under some circumstances, by an “expedited,” nonjudicial procedure conducted by the board of revision.<sup>8</sup> Alternatively, the right to collect the delinquent debt may be sold to a third party in a tax certificate sale, which may lead to the property’s foreclosure by the third party.<sup>9</sup>

Under current law, the county auditor is required to compile and publish a “delinquent tax list” identifying such lands in a newspaper of general circulation. The publication must appear in the newspaper twice within 60 days after the auditor certifies the list to the county treasurer. (Delinquent properties may be spared from appearing on the published list if the property owner pays the delinquency at least seven days before the list is first published.<sup>10</sup>) Publishing a list of delinquent properties, along with title searching and notification by mail or in person, is meant to fulfill the state’s obligation under the Due Process Clause to provide notice to property owners and lienholders of an impending action that may result in the property being taken and sold.

In addition to the list, the auditor also must arrange for the publication of a “display” notice in the newspaper in advance of each of the list’s publication dates. The notice states the potential consequences of not paying delinquencies (i.e., foreclosure), how an owner may

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<sup>4</sup> Section 757.01(B).

<sup>5</sup> Section 290.10.

<sup>6</sup> Sections 757.01(C) and 290.10.

<sup>7</sup> R.C. 323.121, not in the bill.

<sup>8</sup> R.C. 323.25, 323.65 to 323.79, 5721.14, and 5721.18, not in the bill.

<sup>9</sup> R.C. 5721.30 to 5721.43, not in the bill.

<sup>10</sup> R.C. 5721.02, not in the bill.

settle the owner's delinquency, and the manner in which interest on the delinquency will accrue.

The cost of publishing the list and display notice must be paid from the county treasury. The county's cost may be recovered by apportioning the cost among local taxing units in proportion to each unit's share of the delinquent taxes, or by imposing a fee on each listed property, which itself may become a lien on the property.<sup>11</sup>

The bill continues to require that the first publication of the list, and both publications of the display notice, to be made in a newspaper, but authorizes the second publication of the list to instead be made on a website maintained or approved by the county. If the second publication of the list is made online, the county auditor is required to remove the list from that website two weeks after it is initially posted.<sup>12</sup>

### **Workforce incentive payments for freestanding dialysis centers**

The bill requires the Medicaid Director to make a one-time payment to each licensed freestanding dialysis center that is in good standing with the Department of Health. The payment must be used exclusively for direct care staff compensation, including retention bonus payments, overtime pay and shift differential payments, staff recruitment costs, and incentive payments for new hires.<sup>13</sup> The payment cannot be used to pay contract workers; temporary staff supplied through or by a staffing agency; or facility administrators, executive staff, or owners.<sup>14</sup>

To determine each center's payment, the Department of Medicaid must calculate the total value of claims paid to all freestanding dialysis centers eligible under the bill, as compared to the total value of all claims paid to each eligible freestanding dialysis center, for services rendered during the period of July 1, 2020, through June 30, 2021. Based on those amounts, the Department must determine for each eligible freestanding dialysis center the percentage of services provided by each center. The Director must use that percentage in allocating funds appropriated under the bill.<sup>15</sup>

The bill appropriates \$15.0 million of the enhanced federal medical assistance percentage enacted in the Families First Coronavirus Response Act to fund the one-time payment to dialysis centers.<sup>16</sup>

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<sup>11</sup> R.C. 5721.04, not in the bill.

<sup>12</sup> R.C. 5721.03(B).

<sup>13</sup> Section 751.20(A).

<sup>14</sup> Section 751.20(B).

<sup>15</sup> Section 751.20(C).

<sup>16</sup> Section 270.14.

The Medicaid Director may adopt rules the Director considers necessary related to the one-time payment. Any rules must be adopted in accordance with the Administrative Procedure Act.<sup>17</sup>

## **Critical Access Pharmacy Grant program**

The bill requires the Department of Medicaid to administer a Critical Access Pharmacy Grant program to award grants to pharmacies that are located within counties that have no more than one retail pharmacy that participates in the Medicaid program located within the county. An eligible pharmacy may apply for grant funds through the program, which is to continue until the earlier of June 20, 2023, or the date that funds earmarked for the program are expended.

The bill authorizes up to \$100,000 in FY 2023 to fund the grant program, from appropriation item 651525, Medicaid Health Care Services.<sup>18</sup>

## **Department of Medicaid**

### **Workforce support**

The bill appropriates \$350 million in American Rescue Plan Act funds to be used by the Department of Medicaid to make lump-sum payments to nursing facilities for workforce relief payments. The Department must distribute the funds between January 1, 2023, and January 31, 2023, as follows:

- 40% of the appropriated funds must be made as payments to nursing facilities based on each facility's total number of Medicaid days in calendar year 2021.
- 60% of the appropriated funds must be made as quality payments to nursing facilities, as specified below.<sup>19</sup>

### **Quality payments**

A nursing facility's quality score, for purposes of the quality payment, is calculated as follows:

1. Calculate the sum of the total number of points that the U.S. Centers for Medicare and Medicaid Services (CMS) assigned to the nursing facility under its quality rating system for the following metrics based on the four-quarter average for calendar year 2021 in the CMS Care Compare database:
  - a. The percentage of its long-stay residents (those residents who have resided in the facility for at least 100 days) at high risk for pressure ulcers who had pressure ulcers;
  - b. The percentage of its long-stay residents who had a urinary tract infection;

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<sup>17</sup> Section 751.20(D).

<sup>18</sup> Section 270.16.

<sup>19</sup> Section 270.20.

- c. The percentage of its long-stay residents whose ability to move independently worsened;
  - d. The percentage of its long-stay residents who had a catheter inserted and left in their bladder.
2. If a facility was in the lowest percentile for any of those measures, reduce the facility's points to zero for that measure;
3. To the above sum, add 7 ½ points if the facility's occupancy rate during calendar year 2021 was 75% or more.

New nursing facilities receive a quality score that equals the median quality score for all nursing facilities for which a quality score was determined.

Nursing facilities may only use the funds for workforce expenses, which include its direct care costs and its ancillary and support costs, as reported in its cost reports filed with the Department.<sup>20</sup>

### **Rebasing**

The bill repeals existing language that requires nursing facility providers to spend 70% of any additional dollars received as a result of a rebasing on direct care costs. Under continuing law, a nursing facility's payment from ODM for Medicaid residents is calculated using a formula that includes four cost components (referred to as "cost centers:" ancillary and support costs, capital costs, direct care costs, and tax costs. At least every five years, ODM must redetermine the cost centers (referred to as a "rebasing").<sup>21</sup>

The bill states the General Assembly's intent to include a rebasing of the direct care, ancillary and support, and tax cost centers in the next main operating budget. In the rebasing, the Department will use nursing facility cost reports from calendar year 2022.<sup>22</sup>

### **Reports**

The bill states the General Assembly's intent to require the Department of Medicaid and industry stakeholders to develop both of the following legislative proposals and submit them to the General Assembly:

1. Not later than October 1, 2023, a proposal to replace the current formula for calculating nursing facility's capital costs with a formula that utilizes a fair rental value methodology;

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<sup>20</sup> Section 270.20.

<sup>21</sup> R.C. 5161.01, not in the bill, and 5165.36.

<sup>22</sup> Section 751.30.

2. Not later than June 1, 2023, a proposal to provide a reimbursement incentive for nursing facility providers utilizing private rooms for their residents.<sup>23</sup>

### **Hospital provider relief payments – enhanced FMAP**

The bill earmarks certain federal COVID-19 funds under the “Families First Coronavirus Response Act” (FFCRA) and requires the Department of Medicaid to use a portion of those funds for hospital provider relief payments. The federal share of Medicaid spending is referred to as the Federal Medical Assistance Percentage (FMAP) and is based on a state’s per capita income. Effective January 1, 2020, the FFCRA provided a temporary 6.2% increase to each qualifying state’s FMAP. States must meet certain requirements to qualify for the enhanced FMAP. The bill requires the Department of Medicaid to use up to \$62 million of those funds in FY 2023 for provider relief payments to critical access hospitals and rural hospitals, as determined by the Medicaid Director.<sup>24</sup>

### **Hospital provider relief payments – ARPA funds**

Also, the bill permits the e Director of Budget and Management to make provider relief payments to hospitals using “American Rescue Plan Act” funds. Eligible hospitals are Medicaid providers that are general, acute-care hospitals in good standing with the Department of Medicaid and are categorized by that Department as critical access hospitals or rural hospitals. A hospital must use the payments exclusively for direct care staff compensation, including staff retention bonus payments, overtime pay and shift differential payments, staff recruitment costs, and new hire incentive payments. The bill prohibits the funds from being used for contract workers, staff from a staffing agency, administrators, executive staff, or owners and permits the Director of Budget and Management to recover any funds used in violation of these provisions. The bill appropriates \$100 million in “American Rescue Plan Act” federal funds for the Director of Budget and Management to make the payments.<sup>25</sup>

### **Urban hospital relief payments**

The bill appropriates \$6.5 million GRF (\$2.34 million state share and \$4.16 million federal share) as a supplemental appropriation for the Department of Medicaid to make a one-time payment to certain hospitals for provider relief payments. The payment amount is calculated at a rate of \$800 for each discharge of a patient during calendar year 2022 who is a Medicaid enrollee. No hospital shall receive more than \$4 million in payment, and the total payments made by the Department cannot exceed \$6.5 million. A hospital is eligible for the payment if it is located in a county with a population between 350,000 and 380,000 individuals and has been impacted by the COVID-19 pandemic.<sup>26</sup>

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<sup>23</sup> Section 751.30.

<sup>24</sup> Section 270.15.

<sup>25</sup> Sections 285.14 and 750.14.

<sup>26</sup> Section 270.12.

## **PACE program**

The bill requires the Department of Aging to expand an existing Medicaid component known as the Program of All-inclusive Care for the Elderly (PACE). PACE is a managed care model that provides participants with needed health care, medical care, and ancillary services in acute, sub-acute, institutional, and community settings. Currently, Ohio's only PACE site is in Cleveland.<sup>27</sup>

### **Expansion locations**

Under the bill, within 120 days of the bill's effective date, the Department must issue a request for proposals (RFP) from entities interested in becoming PACE organizations, including for service areas in the counties, or contiguous zip codes within the counties, or extending from the counties, of: Franklin, Hamilton, Montgomery, Lorain, Lucas, and Summit. Proposals must be submitted to the Department within 90 days of the RFP.<sup>28</sup>

The bill states that the expansion described above does not prevent the Department from expanding PACE outside of the bill's process, including by issuing other requests for proposals.<sup>29</sup>

### **Entity eligibility**

To be eligible for approval to become a PACE organization, an entity must meet all of the following:<sup>30</sup>

- Provide a feasibility study of its proposed service area to the Department;
- Have a current, valid Medicaid provider agreement or be eligible to enter into a provider agreement;
- Meet all federal requirements applicable to PACE providers;
- Have experience providing health care services to frail older adults, and demonstrate that each member of the entity's staff complies with federal PACE regulations applicable to direct care staff;
- Have a facility suitable to be a PACE center, or plans to acquire, build, or expand a facility suitable to be a PACE center before beginning services;
- Any additional requirements established in rules.

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<sup>27</sup> [PACE](https://aging.ohio.gov), which may be accessed by conducting a search for "PACE" on the Ohio Department of Aging's website: [aging.ohio.gov](https://aging.ohio.gov).

<sup>28</sup> Section 751.10(B)(1).

<sup>29</sup> Section 751.10(B)(2).

<sup>30</sup> Section 751.10(C).

## **Department and CMS approval; provision of services**

The Department must review all proposals submitted and, within 9 months after the RFP was issued, determine which entities it considers qualified to become PACE organizations for each of the service areas identified above.<sup>31</sup> An entity the Department considers qualified to become a PACE organization may apply to CMS to become a PACE organization. The Department must provide support to any such organization that applies to CMS by complying with federal requirements.<sup>32</sup>

Each entity approved by CMS must begin providing services to PACE participants within two years, so long as adequate federal financial participation is available.<sup>33</sup>

## **Rulemaking**

The Director of Aging is authorized to adopt rules to implement the PACE expansion. Any rules must be adopted in accordance with the Administrative Procedure Act.<sup>34</sup>

## **Appropriation**

The bill appropriates \$50.0 million in FY 2023 to fund the PACE expansion.<sup>35</sup>

## **Home First component**

Regarding the Home First component of PACE, which is established under existing law, the bill eliminates various references to documentation being “in writing.”<sup>36</sup>

## **Ohio Adoption Grant Program**

### **Administration**

The bill requires the Director of Job and Family Services (JFS) to establish and administer the Ohio Adoption Grant Program (Grant Program). To administer and implement the Grant Program, the JFS Director must adopt rules. Additionally, the Director, in consultation with the Tax Commissioner, must adopt rules to authorize JFS to withhold federal income tax from grant payments, and remit it to the Internal Revenue Service (IRS), provided the withholding is authorized by federal law or approved by the IRS. All the rules are exempt from the regulatory restrictions limitation<sup>37</sup> in existing law.

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<sup>31</sup> Section 751.10(D).

<sup>32</sup> Section 751.10(E).

<sup>33</sup> Section 751.10(F).

<sup>34</sup> Section 751.10(G).

<sup>35</sup> Section 270.22.

<sup>36</sup> R.C. 173.501.

<sup>37</sup> See the LSC [Final Analysis for S.B. 9 \(PDF\)](#), which is available on the General Assembly’s website: <https://www.legislature.ohio.gov/>. R.C. 121.95 to 121.954.

The director may require, as necessary to administer the Grant Program, the submission of any court or legal document necessary to prove a final adoption order, interlocutory order of adoption, or recognition of the adoption in Ohio, or any department, agency, or division of the state, including the Department of Health, to provide any document related to the adoption. Any such document provided to JFS remains a public record if it was a public record before being provided to JFS.

JFS is prohibited from charging an application fee for the Grant Program.

### **Grant amounts**

The bill requires a one-time payment under the Grant Program to an adoptive parent in the following amounts when all eligibility requirements (See “**General grant eligibility**” below) are satisfied for an adopted child:

- \$10,000;
- \$15,000, if the parent was a certified foster caregiver who cared for the child prior to adoption;
- \$20,000, if the child was diagnosed with special needs before the adoption (See “**Special needs grant eligibility**” below).

A state income tax deduction is authorized for adoption grant payments under the Grant Program. To be an “adopted child” under the bill, the adopted person must be less than 18 years old when the person becomes subject to a final adoption order, an interlocutory order of adoption, or when the adoption is recognized in Ohio. “Adoption” covered by the bill includes any in-state, interstate, and international or foreign adoption.

### **General grant eligibility**

The bill requires all of the following to be satisfied to be eligible for any payment under the Grant Program:

1. The adoptive parent has not previously received a grant payment from the Grant Program for the adopted child for whom the parent is seeking payment;
2. The adoptive parent does not also currently claim an adoption tax credit under former law, repealed by the bill, for the adopted child for whom the parent is seeking payment;
3. The adoptive parent applies for the grant not later than one year after the final adoption order, interlocutory order of adoption, or recognition of the adoption in Ohio for the adopted child for whom the grant payment is sought;
4. The adoption was not by a parent whose spouse is a parent of the child prior to the adoption for which the payment is sought;
5. The adoption is finalized on or after January 1, 2023.

### **Special needs grant eligibility**

To be eligible for a \$20,000 payment under the Grant Program, in addition to the requirements discussed immediately above, the adopted child must also be diagnosed with one

or more special needs prior to the final order of adoption, interlocutory order of adoption, or recognition of the adoption in Ohio, by a qualified professional (such as, for example, a physician, psychiatrist, or psychologist) who does not provide casework services (services by certain agencies to supervise and protect children) to the child. “Special needs” are defined as any of the following:

1. A developmental disability;
2. A physical or mental impairment that substantially limits one or more major life activities;
3. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems;
4. Any mental or psychological disorder;
5. A medical condition causing distress, pain, dysfunction, or social problems as diagnosed by a qualified professional that results in ongoing medical treatment.

### **Appropriation**

The bill appropriates \$15 million from GRF in FY 2023 to administer grants to adoptive parents through the Grant Program. If the JFS Director determines that there are insufficient funds in FY 2023, the Director may certify the additional amount necessary to fund the Grant Program to the Director of Budget and Management. This certified amount is appropriated to the Grant Program.<sup>38</sup>

### **Adoption petition fee**

The bill reduces the probate court fee for an adoption petition from \$50 to \$20. Current law, which is unchanged by the bill, provides that this fee must be charged and collected, if possible, by the probate judge for all services rendered in the respective proceedings.<sup>39</sup>

### **Putative father registry fund**

The bill eliminates amounts required to be deposited into the Putative Father Registry Fund from a portion of the adoption petition fee collected by probate courts, and instead appropriates \$500,000 from GRF in FY 2023 to the Fund. Existing law provides that \$30 of the \$50 adoption petition fee be deposited into the Putative Father Registry Fund. The Putative Father Registry Fund is used by JFS to fund its costs for performing duties related to the Putative Father Registry. The Putative Father Registry is a list that allows putative fathers (a man who may be the child’s father that meets other eligibility criteria) to receive notice of an adoption petition being filed for a minor child claimed by the putative father and preserves the requirement of the putative father’s consent to the adoption.

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<sup>38</sup> R.C. 5101.19, 5101.191, 5101.192, 5101.193, 5101.194, and 5747.01(A)(38), and Section 265.10.

<sup>39</sup> R.C. 2101.16(A)(3).

The bill also updates an incorrect cross-reference in current law regarding surplus funds in the Putative Father Registry Fund to be used for costs related to the distribution of medical information forms and written materials to assist certain deserted children.<sup>40</sup>

## **Connect Our Kids Family Connections**

The bill appropriates \$250,000 from GRF in FY 2023 to support the Connect Our Kids Family Connections training.<sup>41</sup>

## **Ohio Parenting and Pregnancy Program**

The bill appropriates \$3 million from GRF in FY 2023 to the Ohio Parenting and Pregnancy Program. Current law, unchanged by the bill, specifies that the Ohio Parenting and Pregnancy Program provides certain services to pregnant women and relatives caring for children 12 months old or younger.<sup>42</sup>

## **College grant program for adopted Ohio residents**

### **Grant program established**

The bill requires the Chancellor of Higher Education to establish and administer a grant program for eligible college students who are adopted. Under the program, the Chancellor must award a one-time grant of \$2,500 to each student approved to participate.

### **Student eligibility**

Students must apply in the form and manner set by the Chancellor. A student is eligible for the program if the student:

1. Is an Ohio resident;
2. Was adopted not by a stepparent but through any of the following:
  - a. An adoption arranged by an attorney;
  - b. An adoption arranged by a public children services agency, private child placing agency, or private noncustodial agency;
  - c. Interstate adoption;
  - d. Foreign adoption.
3. Was adopted on or after January 1, 2023; and
4. Is enrolled at a qualifying institution.

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<sup>40</sup> R.C. 2101.16(F) and Section 265.10; R.C. 5151.3535, not in the bill.

<sup>41</sup> Section 265.10.

<sup>42</sup> Section 265.10; R.C. 5101.804, not in the bill.

For the purposes of the program, a qualifying institution is a state university or college, community college, state community college, university branch, or technical college, a private nonprofit college or university, a private for-profit career college, or a proprietary school.

### **Distribution of grant awards**

The Chancellor must pay grants to the institution in which a participating student is enrolled in the academic year in which the student's application is approved. The institution must apply the grant to the participant's cost of attendance for that year. If any amount of the grant remains after it is applied to the student's cost of attendance for that year, the institution must apply the remaining grant amount to the student's cost of attendance for any other academic year in which the student is enrolled in the institution. The institution must return to the Chancellor any grant amount remaining after the participant graduates or disenrolls from the institution. Grant amounts received through the program are exempt from state income tax.

If, for any academic year, the amounts available to support the program are inadequate to provide grants to all approved students, the Chancellor must determine a method to select which applications to approve.<sup>43</sup>

### **Adoption tax credit repeal**

The bill repeals Ohio's existing nonrefundable child adoption income tax credit. Under current law, that credit reduces the income tax liability for a taxpayer who legally adopts a child by the greater of \$1,500 or the taxpayer's actual expenses to complete the adoption, up to \$10,000. If the credit amount is greater than the taxpayer's income tax liability for a given year, the remaining credit may be carried forward and used for up to five taxable years.

Under the bill, the credit remains available to a taxpayer who completes the legal adoption of a minor child by December 31, 2022. Adoptions occurring after that date qualify for the bill's Ohio Adoption Grant Program (see above).<sup>44</sup>

### **Publicly funded child care – Step Up To Quality ratings**

Under current law, a licensed child care program, defined to include a child day-care center, family day-care home, preschool program, or school child program, must be rated in the Step Up to Quality Program in order to be eligible to provide publicly funded child care. Existing law, however, establishes several exceptions to the requirement, including, for example, a program that operates only during summer or school breaks. Under the bill, each of the following also is exempt from the Step Up to Quality ratings requirement:

- A program that is a type A family day-care home or licensed type B family day-care home;

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<sup>43</sup> R.C. 3333.128 and 5747.01(A)(37).

<sup>44</sup> R.C. 5727.37, repealed, and 5747.98; Section 107.10.

- A program that provides publicly funded child care to less than 25% of the program's license capacity.<sup>45</sup>

## **Publicly funded child care – provider reimbursements**

With respect to the requirement that the JFS Director adopt rules governing the reimbursement of publicly funded child care providers, the bill makes the following three changes. First, it removes references to publicly funded child care reimbursement ceilings and refers instead to reimbursement rates.<sup>46</sup> Second, the bill eliminates the requirement that the Director establish enhanced reimbursement rates for providers maintaining quality ratings under the Step Up to Quality program.<sup>47</sup> And third, it eliminates the requirement that the Director weigh any reductions in reimbursement more heavily against providers that do not participate in Step Up to Quality or do not maintain quality ratings.<sup>48</sup>

## **Activities to encourage family day-care home licensure**

The bill requires JFS to engage in activities to encourage the establishment and licensure of family day-care homes and to connect families and caretaker parents in need of child care with family day-care homes not meeting their license capacity.<sup>49</sup> It also authorizes the JFS Director to contract with third-party entities to assist the Director in performing these activities.

The bill further requires the Director – not later than May 30, 2023, and periodically thereafter – to submit to the General Assembly a report documenting any barriers that may prevent the establishment or licensure of family day-care homes.<sup>50</sup>

## **Raffles as fundraisers for schools**

The bill allows a school district, community school established under R.C. Chapter 3314, STEM school established under R.C. Chapter 3326, college-preparatory boarding school established under R.C. Chapter 3328, or chartered nonpublic school to conduct a raffle to raise money for the school district or school. Under the bill, these types of schools would no longer have to be eligible for tax-exempt status under subsection 501(c)(3) of the Internal Revenue Code in order to conduct a raffle not for profit.<sup>51</sup>

Continuing law requires that a person or entity described under subsection 501(c)(4), 501(c)(6), 501(c)(7), 501(c)(8), 501(c)(10), or 501(c)(19) of the Internal Revenue Code who conducts a raffle for charitable purposes to distribute at least 50% of the net profit from the

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<sup>45</sup> R.C. 5104.31.

<sup>46</sup> R.C. 5104.30, 5104.32, and 5104.38.

<sup>47</sup> R.C. 5104.32.

<sup>48</sup> R.C. 5104.32.

<sup>49</sup> R.C. 5104.37.

<sup>50</sup> R.C. 5104.37 and 101.68, not in the bill.

<sup>51</sup> R.C. 2915.092.

raffle to a “charitable purpose” or to a department or agency of the federal government, the state, or any political subdivision.<sup>52</sup> Under the bill, the aforementioned types of schools are exempt from this requirement. Instead, like a person or entity described under subsection 501(c)(3) of the Internal Revenue Code under continuing law, these types of schools are not obligated to distribute any of the net profit from a raffle.

Current law specifies that an organization must be exempt from federal income taxation under subsection 501(a) and be described under subsection 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7), 501(c)(8), 501(c)(10), or 501(c)(19) of the Internal Revenue Code to be eligible to conduct a raffle for charitable purposes in Ohio.<sup>53</sup>

## **Afterschool Child Enrichment Educational Savings Account**

The bill extends operation of the Afterschool Child Enrichment Educational Savings Account Program (ACE) for an additional year, through FY 2024.<sup>54</sup>

The bill increases the amount that a student’s account may be credited under the program from \$500 to \$1,000 for both FY 2023 and FY 2024.<sup>55</sup> For students who already received an award in FY 2023, it requires the Department of Education to credit an additional \$500 to each account, but limits to \$1,000 the total amount that may be credited to an account for that fiscal year.

The bill changes the eligibility requirements for an account as follows:

1. Increases the family income threshold to qualify for an account from at or below 300% of the federal poverty level to at or below 400% and uses the family’s adjusted gross income to determine eligibility;
2. Qualifies a student whose resident district ranked in the highest 10% of school districts according to the chronic absenteeism rate in the most recent school year;
3. Qualifies a student whose resident district operates one or more school buildings designated as low performing under the Educational Choice Scholarship Program;
4. Qualifies a student whose resident district is the Cleveland Municipal School District.<sup>56</sup>

The bill permits a student’s parent or guardian to certify income eligibility for an account to the Department of Education by submitting: (1) an affidavit affirming that the student’s

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<sup>52</sup> “Charitable purpose” is defined in R.C. 2915.01(V), not in the bill. Therein, the following entities, with certain stipulations, are generally considered charitable purposes with regard to raffles conducted not for profit: 501(c)(3) nonprofits, governmental entities, veterans’ organizations, fraternal organizations, and volunteer firefighters’ organizations.

<sup>53</sup> R.C. 2915.092.

<sup>54</sup> R.C. 3310.70.

<sup>55</sup> R.C. 3310.70(D)(2).

<sup>56</sup> R.C. 3310.70(A).

family income meets the income requirement, (2) proof of income eligibility under another state or federal program, or (3) other evidence determined appropriate by the Department.

Finally, unless funds are misused or the student graduates high school, the bill prohibits the Department or vendor operating the program from reclaiming any funds credited to a student's account under the ACE Program.<sup>57</sup>

### **Background on the ACE program**

H.B. 110 enacted by the 134<sup>th</sup> General Assembly established the Afterschool Child Enrichment (ACE) Educational Savings Account Program to provide eligible students, upon the request of their parents or guardians, with educational savings accounts to use for prescribed purposes. As enacted, the program is financed with federal coronavirus relief funds. Each account established for a student could be credited with \$500 for each of FY 2022 or FY 2023.

### **Disadvantaged pupil impact aid phase-in**

For FY 2023, the bill increases the phase-in percentage for disadvantaged pupil impact aid from 14% to 33.33%.

H.B. 110 as enacted by the 134<sup>th</sup> General Assembly established a mechanism by which most of a district's foundation funding payments would be phased in over a period of time to be determined by the General Assembly. That act specifically established a "general phase-in percentage" of 16.6% for FY 2022 and 33.33% for FY 2023. That act also establishes the "phase-in percentage" for "disadvantaged pupil impact aid" at 0% for FY 2022 and 14% for FY 2023.<sup>58</sup>

### **School district transportation payment**

Under continuing law, school district transportation payments are calculated using the greater of either the number of school bus riders or the number of miles driven for school bus service. The bill revises how the number of miles driven are factored into that calculation by adding the following weights:

1. 1.5 to the number of miles driven for community school and STEM school students for the current fiscal year; and
2. 2.0 to the number of miles driven for nonpublic school students for the current fiscal year.

Similar weights are assigned under continuing law to community, STEM, and nonpublic school riders. Under current law, number of miles is determined by multiplying the state transportation cost per mile by the district total miles driven for school bus service.<sup>59</sup>

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<sup>57</sup> R.C. 3310.70(B)(1).

<sup>58</sup> Section 605.01, amending Section 265.220 of H.B. 110 of the 134<sup>th</sup> General Assembly.

<sup>59</sup> R.C. 3317.0212(E).

## **Eliminate school storm shelter requirement**

The bill prohibits the Board of Building Standards from requiring the installation of storm shelters in school buildings operated by public or private schools or undergoing or about to undergo construction, alteration, repair, or maintenance.<sup>60</sup>

Under continuing law, the Board of Building Standards is empowered to formulate and adopt rules governing the erection, construction, repair, alteration, and maintenance of school buildings.<sup>61</sup> Current law includes a moratorium on requiring storm shelters in school buildings that expired on November 30, 2022.<sup>62</sup>

## **Prelicensure nursing bachelor's degree programs**

The bill requires the Chancellor of Higher Education to establish a program under which a community, state community, or technical college may apply for a prelicensure nursing bachelor's degree. It further requires the Chancellor to approve a prelicensure nursing bachelor's degree program proposal submitted by such a college prior to September 30, 2022. The Chancellor also must transmit that proposal and approval to appropriate accreditation bodies.<sup>63</sup>

## **Accrued vacation leave cash conversion**

Beginning in December 2023, the bill increases, from 40 to 80, the maximum hours of accrued unused vacation leave that an employee described below may convert to cash, provided the employee has at least 200 hours of unused accrued vacation leave. Beginning in December the same year, the bill also allows an employee described below who has at least 100 hours of unused accrued vacation leave to convert 40 hours to cash.

Under continuing law, part-time and full-time state employees who are exempt from the Public Employee Collective Bargaining Law<sup>64</sup> (PECBL) are generally eligible to convert vacation leave to cash. However, similar to current law with respect to vacation leave conversion, PECBL-exempt employees of the Supreme Court, the General Assembly, the Legislative Service Commission, the Secretary of State, the Auditor of State, the Treasurer of State, and the Attorney General are ineligible unless the employer decides that its employees should be eligible and notifies the DAS Director in writing before October 1, 2023.

After the employer notifies the DAS Director, the employees remain eligible until the employer notifies the DAS Director in writing on or before October 1 that the employees are ineligible. If an employer notifies the DAS Director that its employees are ineligible during any

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<sup>60</sup> R.C. 3781.1010(A).

<sup>61</sup> R.C. 3781.10(A)(1), not in the bill.

<sup>62</sup> R.C. 3781.1010(A).

<sup>63</sup> R.C. 3333.051.

<sup>64</sup> R.C. Chapter 4117.

calendar year, similar to current law, those employees remain ineligible until the employer notifies the DAS Director in writing on or before October 1 that the employees are eligible.

Under continuing law, vacation leave converted to cash is paid in the first paycheck of December at the employee's base rate of pay for every hour of leave that the employee converts. An employee serving in a temporary work level who elects to convert vacation leave to cash must do so at the employee's base rate of pay for the employee's normal classification. An employee who separates from state employment during the year is not eligible for the cash conversion. The cash provided pursuant to the conversion is not subject to contributions to any retirement system.

Under continuing law the DAS Director establishes procedures implementing the conversion. The procedures must include a final date by which an employee must notify the DAS Director of the amount of vacation leave to be converted to cash. Subject to continuing law limits on total accrued vacation leave, an employee's unused accrued vacation leave balance automatically carries forward if the employee does not notify the Director of the employee's decision to make a conversion.<sup>65</sup>

Accrued unused vacation leave converted to cash is paid from the Accrued Leave Liability Fund.<sup>66</sup>

## **Reimbursements for peace officer and trooper training**

### **Current law**

#### **Creation of pilot program; background on training requirements**

Under current law, the Attorney General (the AG) was required, not later than December 1, 2021, to create a pilot program for state funding of the training of peace officers and troopers that is required under R.C. 109.803. The program is administered by the AG's office. As used in these provisions, a "peace officer" is a person under the definition of that term set forth in R.C. 109.71 and a "trooper" is an individual appointed as a State Highway Patrol Trooper. The program is a one-year program, operating in calendar year 2022. The R.C. 109.803 training requirements specify that, with limited exceptions, every appointing authority must require its appointed peace officers and troopers to complete up to 24 hours of continuing professional training each calendar year, as directed by the Ohio Peace Officer Training Commission (the OPOTC). Under the pilot program, not later than December 2, 2021, each law enforcement agency with peace officers or troopers who are subject to the R.C. 109.803 training requirement was required to certify to the AG the total of all salaries to be paid in calendar year 2022 to the agency's officers or troopers who would receive that training in calendar year 2022 and their hourly rates of pay.

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<sup>65</sup> R.C. 124.134.

<sup>66</sup> R.C. 125.211, not in the bill.

## Operation of pilot program and payments

Not later than January 1, 2022, the AG was to begin the pilot program's operation. Prior to that date, the AG was to establish rules for the program's operation and administration, for determining eligibility for funding and payments, and for providing the funding and payments. From money appropriated for the pilot program, the AG is required to pay each law enforcement agency with peace officers or troopers who are subject to the R.C. 109.803 training requirement an amount to cover up to 50% of the total cost of the salaries of the officers or troopers who receive that training in calendar year 2022, as certified by the agency, during the training period. The amount paid may cover only the period when the officers or troopers received that training, and may not exceed an amount covering 24 hours of the training. If the amount appropriated for the pilot program is insufficient to pay 50% of the total cost of the salaries of the peace officers or troopers of all law enforcement agencies to be paid in calendar year 2022, the amount paid to each agency must be reduced so that each agency is paid an equal percentage of its 2022 cost for the training. No payment may be made under the program after January 1, 2023. If a law enforcement agency does not use all of the money for the salaries it certified, it must return the unused money to the AG. A law enforcement agency that receives payments under the pilot program is responsible for paying the cost of training required under R.C. 109.803 that exceeds the amount of the payment.<sup>67</sup>

Current law specifies that state funding for the training of peace officers or troopers that is required under R.C. 109.803 will be provided in calendar year 2022 only in accordance with the pilot program, notwithstanding any other provision of law regarding any alternative method of state funding for such training – but this limitation does not apply with respect to direct appropriations made to a state law enforcement agency. Each law enforcement agency that receives money under the pilot program must submit to the AG, by the date the AG specifies, a report that states the amount of money the agency received, how and when that money was used, and any other information the AG requires with respect to the use of the money. The AG must prepare a report that compiles the information in the agency reports and submit it to the General Assembly and the Legislative Service Commission.

## Operation of the bill

Regarding the current pilot program for providing state funding for the cost of continuing professional training programs for peace officers and Ohio State Highway Patrol troopers, as described above and which is scheduled to end on December 31, 2022, the bill does the following:

1. It specifies that if a law enforcement agency that receives money under the current program does not use all of the money received for the salaries of its peace officers and troopers receiving training, as certified by the agency under the program, the agency is to retain all of the money not used and must use the retained money only for paying the

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<sup>67</sup> Section 605.01, amending Section 701.70 of H.B. 110 of the 134<sup>th</sup> General Assembly.

cost of future continuing professional training programs for its peace officers and troopers. Currently, the agency must return all of the unused money to the AG.

2. It extends until June 30, 2023, the pilot program and modifies the mechanism for making the payments under the program during the period of the extension (hereafter, the modified mechanism is referred to as “the new mechanism”). Under the new mechanism:
  - a. From money appropriated to the AG for the purposes of payments under the new mechanism, the AG must pay reimbursements in accordance with the new mechanism for continuing professional training programs for peace officers and troopers as provided in R.C. 109.803. The AG must establish rules, under R.C. 111.15, specifying application procedures, standards, and guidelines, and prescribing an application form, for the reimbursement under the new mechanism of law enforcement agencies for the cost of continuing professional training programs for their peace officers and troopers required under R.C. 109.803. The rules must include the date by which applications must be made and the documentation required to substantiate any costs for which the applicant seeks reimbursement, procedures for making reimbursements from the fund and standards for determining the amounts of those reimbursements, and any other requirements necessary for the proper administration of the reimbursement program under the new mechanism.
  - b. Each law enforcement agency may apply to the AG for reimbursement under the new mechanism for the costs of continuing professional training programs successfully completed by the agency’s peace officers or troopers, to be made in accordance with, on an application form prescribed in, and supported by the documentation required by, the rules adopted by the AG.
  - c. The AG must review each application for reimbursement made as described above in (b) to determine if the applicant is entitled to reimbursement for the training programs for which reimbursement is sought. A law enforcement agency that complies with R.C. 109.761(B) and applies as described above in (b) is entitled to reimbursement for each of its peace officers or troopers who timely complies with the continuing professional training requirement specified in R.C. 109.803(A)(1) by completing the minimum number of hours of training directed by the OPOTC under that division and with the other requirements described in that division.
  - d. If a law enforcement agency that applies as described above in (b) for reimbursement is entitled to reimbursement as described above in (c) for each peace officer and trooper who successfully completes a training program, OPOTC must approve reimbursing the agency for the cost of that program. The actual amount of reimbursement for each authorized training program will be determined by rules adopted by the AG.
  - e. Each law enforcement agency that receives funds as described above in (c) must keep those funds separate from any other funds of the agency and use those funds

- only for paying the cost of continuing professional training programs. If a law enforcement agency that receives funds for reimbursement for peace officers or troopers who successfully complete a training program does not use all of the funds received for such a reimbursement, the agency must retain all of the funds not used and use the retained funds only for paying the cost of future continuing professional training programs for its peace officers and troopers.
- f. A law enforcement agency that receives funds for reimbursement as described above in (c) is responsible for paying the cost of training of its peace officers or troopers required under R.C. 109.803 that exceeds the amount of the payment received under the new mechanism.

### **Pilot program appropriation**

The bill appropriates an additional \$5 million to GRF appropriation item 055509, Law Enforcement Reimbursement Training Pilot Program, in FY 2023 to support reimbursements for peace officer and trooper continuing professional training and administrative costs related to the extended pilot program. The existing appropriation in FY 2023, limited to the current calendar year 2022 pilot program (scheduled to end on December 31, 2022), is permitted to be used during the extension period (from January 1, 2023, until June 30, 2023).<sup>68</sup>

### **Low income housing tax credit properties**

Federal law authorizes a low income housing tax credit (LIHTC). The LIHTC is a federal income tax credit that offsets a portion of a developer's construction costs in exchange for reserving a certain number of rent-restricted units for lower-income households in a new or rehabilitated facility.<sup>69</sup> The bill prohibits LIHTC property from qualifying for the state historic rehabilitation tax credit and specifies how such property may be valued for property tax purposes.

### **Historic rehabilitation tax credit eligibility**

Continuing law authorizes a historic rehabilitation tax credit (HRTC) equal to a percentage, generally 25%, of the qualified expenditures incurred by the owner or, in some cases, lessee of a building of historical significance to rehabilitate the building in accordance with certain preservation criteria. Credits are awarded through a competitive application process administered by the Director of Development (DEV) in consultation with the State Historic Preservation Officer. Credit recipients are issued a rehabilitation tax credit certificate, which may be used to claim a credit against the income tax, financial institutions tax, or insurance premiums taxes.

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<sup>68</sup> Section 205.10.

<sup>69</sup> 26 U.S.C. 42; Congressional Research Service, [An Introduction to the Low-Income Housing Tax Credit \(PDF\)](#), which may be accessed by conducting a keyword search for "An Introduction to the Low-Income Housing Tax Credit" on the Congressional Research Service's website: [crsreports.congress.gov](https://crsreports.congress.gov).

The bill makes historic buildings that are part of projects that have been allocated a LIHTC ineligible for the HRTC. It does so by requiring the Director of DEV to make a threshold determination, when reviewing HRTC applications, that the historic building covered by the application is not, and will not upon completion of the rehabilitation project be, part of a LIHTC project. The bill also requires the Director to rescind the approval of any application for an HRTC if the building covered by the application is part of a project awarded a LIHTC at any time before the building's rehabilitation is completed.<sup>70</sup> These restrictions apply to HRTC applications filed after the restrictions' effective date.<sup>71</sup>

### **Tax valuation of LIHTC property**

The bill, beginning for tax year 2023, explicitly authorizes county auditors to LIHTC properties for tax purposes by employing one or more of three existing methods available under current law and practice to appraise real property – the income, cost, or comparable sales method.<sup>72</sup> Currently, all three methods are available to use when valuing real property, including LIHTC property. Each method is described in detail in rules adopted by the Tax Commissioner, but below is a brief summary of each appraisal method:

- Income method: valuation based on the property's anticipated net income;
- Cost method: valuation based on the replacement or reproduction cost of improvements, with deductions for depreciation, added to the value of the land;
- Comparable sales method: valuation based on market sales of similar, comparable properties.<sup>73</sup>

All three methods are employed to value real property at its true, or fair market value, which is the uniform standard that all real property, except certain agricultural property, must be valued at, as required by the Ohio Constitution.<sup>74</sup> In the context of federally subsidized housing, such as LIHTC property, courts have generally held that using the income approach is superior to the other two approaches when determining such property's fair market value. These cases generally result in subject property's fair market value being determined on the basis of its market rent, rather than any subsidized contract rent.<sup>75</sup> Courts and continuing law additionally require any valuation to take into account the effect of limitations on the

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<sup>70</sup> R.C. 149.311(C)(4) and (D)(9).

<sup>71</sup> Section 701.30.

<sup>72</sup> R.C. 5713.03; Section 757.20.

<sup>73</sup> Ohio Administrative Code 5703-25-05 and 5703-25-07.

<sup>74</sup> Ohio Const., art. XII, sec. 2.

<sup>75</sup> See, e.g., *Alliance Towers v. Stark Cty. Bd. of Revision*, 37 Ohio St.3d 16, 23 (1988).

property's value due to involuntary, governmental actions, such as the rent restrictions LIHTC imposes.<sup>76</sup>

The bill's explicit authorization appears to empower the county auditor to select any method to value LIHTC property, but it is unclear how or whether this would ultimately change appraisal practices for such property. Property owners, under continuing law, are able to challenge county auditors' valuations on the basis that the valuation does not properly reflect the property's fair market value, so a county auditor would still be required to value such property according to that standard, no matter which appraisal method or methods the auditor employs.<sup>77</sup> Nor does the bill change the requirement that the valuation must account for the effect of governmental actions, so presumably the auditor would still have to account for LIHTC rent restrictions regardless of the appraisal method the auditor employs to value the property.

## Special improvement districts

The bill modifies the law that applies to an existing qualified nonprofit corporation that forms a special improvement district (SID) by limiting the circumstances under which the Ethics Law, the Open Meetings Law, and the Public Records Law apply to the corporation and its members, officers, and directors.<sup>78</sup>

### Background

Continuing law allows a nonprofit corporation to form a SID in a local geographic area in order to develop and implement public improvements and services in the district. To fund the improvements and services, the SID may collect special assessments from the district's property owners, who are considered members of the SID.

The law governing SIDs includes special provisions concerning an existing qualified nonprofit corporation that forms a SID. An "existing qualified nonprofit corporation" is one to which all of the following apply:<sup>79</sup>

- It existed before the SID was created.
- It is composed of members located within or adjacent to the district.
- It has established a police department.
- It is organized for purposes that include the following:

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<sup>76</sup> R.C. 5713.03; *Woda Ivy Glen L.P. v. Fayette Cty. Bd. of Revision*, 121 Ohio St.3d 175, 2009-Ohio-762, ¶¶ 17, 23-24.

<sup>77</sup> R.C. 5715.19, not in the bill.

<sup>78</sup> R.C. 1710.02 and conforming changes in R.C. 102.01, 121.22, and 149.43.

<sup>79</sup> See also R.C. 1710.01(J)(1), 1710.02, 1710.03 and 1710.06, not in the bill.

- Acquiring, holding, and maintaining real property exclusively for charitable, scientific, literary, or educational purposes and transferring that property to its members for those purposes;
- Planning for and assisting in its members' development;
- Providing for the relief of the poor and distressed or underprivileged in the area and adjacent areas;
- Combating community deterioration and lessening the burdens of government;
- Providing or assisting others in providing housing for low- or moderate-income persons;
- Assisting its members by providing public safety and security services, parking facilities, transit services, landscaping, and parks.

### **New provisions for existing qualified nonprofit corporations**

Although a SID generally is not considered a political subdivision, a SID and its leaders are subject to the Ethics Law, the Open Meetings Law, and the Public Records Law. The bill limits the circumstances under which those laws apply to an existing qualified nonprofit corporation that forms a SID by specifying that the corporation is considered a SID only when it acts with respect to a purpose for which the SID is created, and not when it acts with respect to any other purpose for which it is organized.

For example, an existing qualified nonprofit corporation might originally form in order to operate a community center. If the corporation then creates a SID in its neighborhood for the purpose of improving the local landscape, the corporation would be subject to legal requirements when planning and executing those SID activities and collecting special assessments to fund them, but not when conducting the business of operating the community center.

### **Ethics Law**

Under continuing law, membership on a SID's board of directors is not considered holding a public office, and district officers and members are not required to file financial disclosure statements with the Ohio Ethics Commission. However, each member of the board, each member's designee or proxy, and each officer or employee of a SID is a public official or employee under the Ethics Law, which prohibits public officials and employees from engaging in activities such as bribery and having an unlawful interest in a public contract.

The bill adds that in the case of an existing qualified nonprofit corporation that forms a SID, the corporation's officers, members, and directors and their designees or proxies are considered public officials and employees under that law by virtue of their positions with the corporation only when they act with respect to a purpose for which the SID is created. Using the example above, if the corporation's directors awarded a landscaping contract for the SID to a company in which they had a financial interest, they would be in violation of the Ethics Law, but if they awarded a vendor contract for the community center to a company in which they had a financial interest, without using SID money, they would not be subject to the Ethics Law.

## **Open Meetings Law**

Similarly, under continuing law, meetings of a SID are considered public meetings for purposes of the Open Meetings Law. The bill specifies that in the case of an existing qualified nonprofit corporation that forms a SID, a meeting is not subject to the public access, notice, and other requirements of the Open Meetings Law if the SID's officers, members, or directors do not discuss any public business pertaining to a purpose for which the SID is created.

Following the above example, if the corporation's leaders met to discuss the SID's special assessments and landscaping activities, the meeting would be subject to the Open Meetings Law. But, if the leaders met only to discuss community center business, the meeting would not be subject to that law.

## **Public Records Law**

Finally, continuing law specifies that a SID's records are subject to disclosure as public records, except that records of an organization that contracts with a SID are not public records solely by reason of the contract. The bill exempts records of an existing qualified nonprofit corporation that creates a SID that do not pertain to a purpose for which the SID is created. In the above example, records of the SID's special assessments and landscaping activities would be considered public records, but records pertaining only to the community center would not.

## **Timely recording of satisfaction of mortgages**

The bill prevents certain individuals from collecting damages of \$250 through a class-action lawsuit for failure on the part of a lender to timely record the satisfaction of a mortgage. Continuing law, unchanged by the bill, requires a lender to record a satisfaction of a mortgage within 90 days of satisfaction. If a lender fails to meet this deadline, then the borrower or current property owner is authorized to collect damages of \$250 from the lender.

The bill specifies that, for violations of this requirement that occurred during calendar year 2020, a property owner or borrower cannot collect such damages via a class action lawsuit. It also specifies that this provision is not to be construed as precluding or affecting any other legal remedies or damages that might be available to the borrower or owner. And so such a person would still be able to collect the \$250 in damages through a lawsuit that was not a class action lawsuit.<sup>80</sup>

Note: The bill's provisions related to the timely satisfaction of mortgages and class action lawsuits may raise questions regarding whether the bill is attempting to enact a retroactive law. The Ohio Constitution prohibits the General Assembly from enacting laws imposing new substantive duties and obligations upon a person's past conduct and transactions.<sup>81</sup>

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<sup>80</sup> R.C. 5301.36.

<sup>81</sup> Ohio Const., art. II, sec. 28.

## Professional sports logo license plate

### Background

Under current law, the professional sports team specialty license plates (e.g., Cleveland Browns, Columbus Blue Jackets, Cincinnati Reds, etc.) are created through a contract between the professional sports team with either a sports commission or a community charity. If done through a contract with a sports commission, the team must inform the largest convention and visitors' bureau in the team's county of the desire to have a specialty license plate. That bureau then creates the sports commission, which must be a nonprofit corporation, organized to attract, promote, or sponsor sports and athletic events within a municipal corporation, county, or township. Money collected from the specialty license plates goes towards those sports and athletic events, which may be amateur regional, national, or international.

### Sports commission membership

Under current law, the sports commission must consist of 21 members, appointed as follows:

- Seven members appointed by the mayor of the largest city served by the commission;
- Seven members appointed by the board of county commissions of the county served by the commission; and
- Seven members appointed by the largest convention and visitors' bureau in the area served by the commission.

The bill modifies the membership of a sports commission to consist of at least 15 members, instead of 21 members. Additionally, it removes the requirements specifying what person or entity must appoint each of the members. Since the largest convention and visitors' bureau in the team's county creates the sports commission, presumably, the bureau will appoint any members to the commission or determine any other person or entity with appointing authority.<sup>82</sup>

## Veterans Memorial and Museum

The bill exempts, from Open Meetings Law, all meetings of the board of directors of the nonprofit corporation that operates the Veterans Memorial and Museum. The bill also establishes that records of the board of directors and of the nonprofit corporation are not public records under Public Records Law.<sup>83</sup>

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<sup>82</sup> R.C. 4503.591.

<sup>83</sup> R.C. 307.6910.

Current law provides that all meetings of the nonprofit corporation must be conducted and maintained in accordance with the sunshine laws of this state, including Open Meetings Law and Public Records Law.<sup>84</sup>

## **Art economic relief grant program**

The bill establishes a temporary grant program to provide economic relief to certain performing arts organizations and operators of cultural arts museums. An organization or operator may apply to the Director of Development for a grant no later than 30 days after the provision's effective date.<sup>85</sup> The Director is required to approve or deny an application within 30 days of receiving it. The Director is required to prioritize the applications of organizations and museums that did not receive funding from the Ohio Arts Council under the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020.<sup>86</sup>

### **Eligible applicants**

To qualify for a grant, a performing arts organization must have its principal place of business in Ohio and must primarily produce or present performances in music, comedy, the performing arts, and related fields.

A qualifying cultural arts museum must be located in Ohio and must primarily exhibit or present property for artistic or aesthetic purposes, including, for example, paintings, sculptures, photography, and property related to preserving and interpreting the history, art, and culture of popular music and multidisciplinary art forms.

Additionally, to qualify for a grant, the performing arts organization or the operator of a cultural arts museum must satisfy all of the following criteria:

- It is operated or partially funded by a federal income tax-exempt charitable organization, a political subdivision, or an Ohio public institution of higher education;
- If it is operated or partially funded by a political subdivision or an Ohio public university, it receives at least a majority of its funding from sources other than that subdivision or institution;
- If it is operated by a university, its managing board is independent of the university's board of trustees and it does not present work exclusively by or for students;
- It manages its own budget;
- It has an annual, independent audit.<sup>87</sup>

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<sup>84</sup> R.C. 121.22 and 149.43, not in the bill.

<sup>85</sup> Section 701.10(B).

<sup>86</sup> Section 701.10(C).

<sup>87</sup> Section 701.10(A).

## Permissible grant uses

Grants awarded may only be used for specific purposes, and the applicant, when applying for the grant, must provide information about how the grant would be used. Acceptable purposes are any of the following:

- Employee compensation expenses, excluding bonuses;
- Employee recruitment, rehiring, and training expenses;
- Rent or mortgage payments;
- Operating costs;
- Capital expenditures.<sup>88</sup>

## Grant appropriations

The bill appropriates \$50 million in American Rescue Plan Act of 2021 (ARPA) funds to the Department of Development for the grant program for FY 2023. It specifies that the funds must be used in accordance with ARPA.<sup>89</sup>

## Boards and commissions

The bill extends for two years the authorization for the Chiropractic Loan Repayment Advisory Board and the Holocaust and Genocide Memorial Education Commission. These two boards are set to expire under Sunset Review Law<sup>90</sup> on December 31, 2022.<sup>91</sup> The bill will take effect 90 days after filing, which likely will be a few months after the scheduled sunset date.

Under continuing law, certain boards and commissions expire by operation of Sunset Review Law four years more or less after the effective date of the act that established or renewed the board or commission. A board or commission may be renewed by passage of a bill that continues the statutes creating and empowering the entity.<sup>92</sup>

Continuing Sunset Review Law provides that if the General Assembly does not renew or transfer a board or commission within an established time frame, the entity expires and the Office of Budget and Management cannot authorize the expenditure of any money for the agency on or after the expiration date.<sup>93</sup>

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<sup>88</sup> Section 701.10(D).

<sup>89</sup> Sections 225.10.

<sup>90</sup> R.C. 101.82 through 101.87, not in the bill.

<sup>91</sup> Section 701.20.

<sup>92</sup> R.C. 101.83(E), not in the bill.

<sup>93</sup> R.C. 101.83(B), not in the bill.

## Other appropriations

The bill makes numerous other appropriations to the following agencies:<sup>94</sup>

- Attorney General;
- Department of Agriculture;
- Department of Developmental Disabilities;
- Department of Development;
- Department of Natural Resources;
- Department of Transportation;
- Department of Public Safety;
- Department of Education;
- Broadcast Educational Media Commission;
- Ohio Expositions Commission;
- Facilities Construction Commission;
- Department of Job and Family Services;
- Department of Medicaid;
- Department of Mental Health and Addiction Services;
- Office of Budget and Management;
- Secretary of State.

Please consult the Legislative Service Commission's [Fiscal Note for H.B. 45](#) for more details on the bill's appropriations, available on the Ohio General Assembly website, [legislature.ohio.gov](http://legislature.ohio.gov).

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## HISTORY

Action	Date
Introduced	2-3-21
Reported, H. Ways and Means	11-17-21
Reported, S. Finance	---

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<sup>94</sup> Sections 201.10 through 295.10.