



Ohio Legislative Service Commission

Bill Analysis

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S.B. 310*

131st General Assembly
(As Passed by the Senate)

Sens. Oelslager, Coley, Hite, Tavares, Gentile, Bacon, Balderson, Beagle, Brown, Burke, Cafaro, Eklund, Hackett, Hughes, LaRose, Lehner, Obhof, Patton, Sawyer, Seitz, Thomas, Uecker, Williams, Yuko

BILL SUMMARY

OFCC energy efficiency and conservation programs

Lease or construction analysis requirements

- Eliminates the requirement that a state agency, department, division, bureau, office, unit, board, commission, authority, quasi-governmental entity, or institution obtain an energy consumption analysis in order to lease a state-funded facility.
- Increases, from 5,000 to 20,000, the square footage of a building for which a state agency, department, division, bureau, office, unit, board, commission, authority, quasi-governmental entity, or institution must disclose to the Ohio Facilities Construction Commission a life-cycle cost analysis before construction.
- Authorizes the Commission to waive the life-cycle cost analysis requirement or to require a life-cycle cost analysis for buildings with square footage of less than 20,000.

Energy efficiency and conservation standards

- Eliminates the authority of the Commission to promulgate rules specifying cost-effective energy efficiency and conservation standards that may govern the lease of certain state-funded facilities.

* This analysis does not address appropriations, fund transfers, and similar provisions. See the Legislative Service Commission's Fiscal Note and Capital Item Analysis for S.B. 310 for an analysis of such provisions.

Building operator requirement

- Removes the Commission's authority to require that certain state-funded facilities be managed by at least one building operator.

Miscellaneous

- Eliminates the definition of "energy performance index," for which the Commission may establish specifications to be used to audit and evaluate competing construction design proposals.
- Allows the Commission to create a process by which a manager of certain state-funded facilities may *receive*, rather than *apply for*, a waiver of compliance.
- Corrects two references to the Office of Energy Services by instead referencing the Commission.

Research and development project bonds amount

- Updates the implementing law governing the amount of general obligations that may be issued for research and development projects, from \$500 million to \$1.2 billion, to reflect the recent amendment of Article VIII, section 2p of the Ohio Constitution.

Local government public infrastructure capital improvements

Issuance of bonds

- Implements the provisions of section 2s, Article VIII of the Ohio Constitution regarding the issuance of general obligation debt for local government public infrastructure capital improvements.

Revisions to the allocation formula

- Changes the amount of financial assistance for capital improvements to villages and to townships with less than 5,000 people in unincorporated areas from \$15 million per program year to 10% of the net proceeds of obligations issued to finance local subdivision public infrastructure capital improvements.
- Changes the amount of financial assistance allocated to local subdivisions for capital improvements necessary for the immediate preservation of public health, safety, and welfare from \$3 million per program year to 2% of the net proceeds described in the previous dot point.

- Makes the changes described in the previous two dot points applicable to program years beginning July 1, 2016.

Evaluation for capital improvement applications

- Permits a District Public Works Integrating Committee to exercise discretion over whether to require certain capital infrastructure information from a local subdivision seeking assistance in financing a capital improvement project instead of requiring a capital improvement study and report (as existing law provides).
- Repeals a requirement that a local subdivision annually review and update its report on capital improvements and to provide the report and updates, on request, to certain agencies.

Open space acquisition and related development projects

- Allows the awarding of grants from the Clean Ohio Conservation Fund for open space acquisition projects OR for the related development of open spaces acquired with such a grant, rather than for projects that include both open space acquisition and related development of those open spaces, as is provided under current law.

School facilities assistance

- Qualifies a "stand-alone segment" of a building that serves grades K-12 for segmentation under the Classroom Facilities Assistance Program (CFAP).
- Eliminates the requirement that, for each segment under CFAP, a school district's portion must be valued at a minimum of 2% of the district's tax valuation.
- Specifies that any cash resulting from a school district's lease-purchase agreement may be applied toward the district's portion of a state-assisted classroom facilities construction project, provided that the agreement and the related financing documents contain provisions protecting the state's superior interest in the project.

District detention facility financial assistance

- Eliminates the restriction that Department of Youth Services (DYS) financial assistance for district detention facility acquisition or construction cannot be used to pay architects' fees.
- Increases the maximum amount of financial assistance DYS may grant from 50% to 60% of a county's share of the cost of constructing or acquiring a detention facility.



- Eliminates the \$6,500 per bed unit financial assistance cap for district detention facilities.

Capital appropriations

- Makes capital appropriations for the biennium ending June 30, 2018.

CONTENT AND OPERATION

OFCC energy efficiency and conservation programs

(R.C. 123.22)

Generally, the bill modifies the law regarding the Ohio Facilities Construction Commission's development of energy efficiency and conservation programs for new construction design and review and for existing building audit and retrofit.

Lease or construction analysis requirements

The bill eliminates the requirement that a state agency, department, division, bureau, office, unit, board, commission, authority, quasi-governmental entity, or institution obtain an energy consumption analysis in order to lease a state-funded facility. Currently, a state agency or other entity may not lease or cause to be leased an area of at least 20,000 square feet within a state-funded facility without obtaining a proper energy consumption analysis.

Continuing law requires a state agency, department, division, bureau, office, unit, board, commission, authority, quasi-governmental entity, or institution to disclose to the Commission a life-cycle cost analysis before proceeding with construction of a state-funded facility. The bill increases, from 5,000 to 20,000, the square footage of a building to which this requirement applies. And, the bill authorizes the Commission to waive the analysis requirement, or to require an analysis for buildings with square footage of less than 20,000.

Energy efficiency and conservation standards

Also eliminated under the bill is the Commission's authority to promulgate rules specifying cost-effective energy efficiency and conservation standards that may govern the lease of certain state-funded facilities. Continuing law allows the Commission to promulgate rules to govern the design, construction, operation, and maintenance of all state-funded facilities, except facilities of state institutions of higher education or facilities operated by a political subdivision.



Building operator requirement

The bill eliminates the Commission's authority to require that each state-funded facility, except those of state institutions of higher education and political subdivisions, be managed by at least one building operator who is certified under the Building Operator Certification Program or an equivalent program pertaining to energy efficiency and conservation.

Miscellaneous

The bill eliminates the definition of "energy performance index." Under continuing law, the Commission may establish specifications for energy performance indices to be used to audit and evaluate competing design proposals. Currently, an "energy performance index" means a number describing the energy requirements of a facility per square foot of floor space or per cubic foot of occupied volume as appropriate under defined internal and external ambient conditions over an entire seasonal cycle.

Under the bill, the Commission may create a process by which a manager of a specified state-funded facility, other than a facility of a state higher education institution or a political subdivision, may *receive* a waiver of compliance with rules pertaining to life-cycle cost and energy consumption analyses. Currently, the Commission may create a process for *application for* such a waiver.

Finally, the bill corrects two references to the Office of Energy Services by instead referencing the Ohio Facilities Construction Commission. The Office of Energy Services previously existed within the Department of Administrative Services, but was eliminated under H.B. 487 of the 129th General Assembly, which transferred some of the Office of Energy Services' functions to the Commission.

Research and development project bonds amount

(R.C. 151.10)

The bill updates the maximum total principal amount of obligations that may be issued for research and development projects from \$500 million to \$1.2 billion, pursuant to section 2p of Article VIII of the Ohio Constitution and sections 151.01 and 151.10 of the Revised Code. This change reflects H.J.R. 12 of the 128th General Assembly, which amended Article VIII, section 2p of the Ohio Constitution and became effective on May 4, 2010.



Local government public infrastructure capital improvements

Issuance of bonds

(R.C. 151.01, 151.08, 164.03, 164.08, and 5751.20)

The bill provides the statutory authorization necessary to permit the Ohio Public Facilities Commission to issue general obligation debt of the state under section 2s, Article VIII of the Ohio Constitution ("Section 2s"). Section 2s authorizes the General Assembly to provide by law for the issuance of general obligation debt of the state in the amount of \$1.875 billion to finance or assist in the financing of public infrastructure capital improvement of municipal corporations, counties, townships, or other governmental entities designated by law. These improvements are limited to roads and bridges, waste water treatment systems, water supply systems, solid waste disposal facilities, and storm water and sanitary collection, storage, and treatment facilities, including real property, interests in real property, facilities, and equipment related or incidental to them.¹ The state is authorized to participate in these capital improvement projects by providing grants, loans, or contributions to the local subdivisions.²

Revisions to the allocation formula

(R.C. 164.08)

The bill revises the formula for allocating, in each program year, the proceeds of general obligations issued under Article VIII, Section 2p, and the recently adopted Section 2s, of the Ohio Constitution for public infrastructure capital improvements. The bill changes the amount of financial assistance for capital improvements to villages and to townships with populations of less than 5,000 in unincorporated areas from \$15 million per program year to 10% of the net proceeds of obligations issued to finance local subdivision public infrastructure capital improvements. The bill also changes the amount of financial assistance allocated to local subdivisions for capital improvements necessary for the immediate preservation of public health, safety, and welfare from \$3 million per program year to 2% of the same net proceeds. The bill makes the financial assistance amount changes applicable to program years beginning July 1, 2016.

¹ Article VIII, Section 2s(A), Ohio Constitution.

² Article VIII, Section 2s(E), Ohio Constitution.



Evaluations for capital improvement applications

(R.C. 164.05 and 164.06)

The bill changes how a District Public Works Integrating Committee (DPWIC) oversees the financing of capital improvement projects for a local subdivision and reduces the burden imposed on a local subdivision under current law (a "local subdivision" means a county, municipal corporation, township, sanitary district, or regional water and sewer district).³ The bill requires the Director of the Ohio Public Works Commission to develop a standardized methodology for evaluating local subdivision capital improvement needs when the subdivision seeks assistance in financing a capital improvement project from the State Capital Improvements Fund. The methodology permits a DPWIC to consider:

- The local subdivision's existing capital improvements;
- The condition of those improvements; and
- The local subdivision's projected capital improvement needs five-years after the application date.

When applying the methodology, the bill permits the DPWIC to exercise discretion as to whether to require the local subdivision to submit information on its capital infrastructure as part of its application.

The bill also eliminates the following that a local subdivision seeking financial assistance for a public improvement project is required to do under current law:

- Study its existing capital improvements, the condition of those improvements, and the projected capital improvement needs of the local subdivision in the ensuing five-year period;
- Compile a report, after completing the study (above), that includes (1) an inventory of its existing capital improvements, (2) a plan detailing the capital improvement needs of the local subdivision in the ensuing five-year period, and (3) a list of the local subdivision's priorities with respect to addressing those needs;
- Annually review and update the report to reflect capital improvement projects undertaken or completed in the preceding year and any changes to the plans and priorities; and

³ R.C. 164.01, not in the bill.



- Make the report and annual updates available, on request, to the Ohio Public Works Commission, the Ohio Small Government Capital Improvements Commission, and the local subdivision's DPWIC.

Open space acquisition and related development projects

(R.C. 164.22)

The bill modifies the types of projects that are eligible for grants from the Clean Ohio Conservation Fund. Currently, the Director of the Ohio Public Works Commission is authorized to award grants to local political subdivisions and nonprofit organizations for, among other things, projects that provide for "open space acquisition and related development of those open spaces." Under the bill, the grants may be awarded for open space acquisition projects OR for the related development of open spaces that were acquired with such a grant.

School facilities assistance

Segmenting under CFAP

(R.C. 3318.034)

Continuing law permits a city, exempted village, or local school district, under the Classroom Facilities Assistance Program (CFAP), to divide its entire classroom facilities needs into discrete segments and proceed with only one or more segments at a time. The bill modifies that authority by doing both of the following:

(1) Qualifying a "stand-alone segment" of a building that serves grades K-12 for segmentation under the program. Continuing law also qualifies for segmentation (a) new construction of one or more entire buildings and (b) the complete renovation of one or more existing buildings.

(2) Eliminating a requirement that the district's portion for each segment be valued at a minimum of 2% of the district's tax valuation, unless that district has already undertaken a segment and the estimated cost of remaining facilities needs is less than the 2% minimum.

Current law, unchanged by the bill, also prohibits any segment under the program from including the construction, renovation, or repair of a building that does not complete, with respect to that building, the needs of the district at the time the segment is completed.



Local donated contributions for school facilities projects

(R.C. 3318.084)

Generally, a district's portion of the cost of its state-assisted facilities project (i.e. the "local share") is funded through the proceeds of bonds issued by the district. The issuance of the bonds and an accompanying property tax to pay the debt service on the bonds must be approved by the district voters.⁴ However, a district's local share, in whole or in part, may be funded by alternative methods, one of which is called a "local donated contribution." Under current law, a "local donated contribution" is (1) any moneys irrevocably donated or granted to a district by a source other than the state, (2) any irrevocable letter of credit issued on behalf of a district or any cash a district has on hand, including any year-end operating fund balances, that can be spent for classroom facilities, and (3) any moneys spent by a source other than the district or the state for construction or renovation of specific classroom facilities are part of the basic project cost of the district's project.

The bill specifies that a district's local donated contribution also may include any cash resulting from a city, exempted village, local, or joint vocational school district's lease-purchase agreement, provided that:

(1) The agreement and the related financing documents contain provisions protecting the state's superior interest in the project; and

(2) Applying the cash to the district's portion has been approved by the School Facilities Commission in consultation with the Department of Education.

Current law permits a district to enter into a lease-purchase agreement providing for construction; enlarging or other improvement, furnishing, and equipping; lease; and eventual acquisition of facilities or improvements to facilities. The agreement must provide for a series of one-year renewable lease terms "totaling not more than the number of years equivalent to the useful life of the asset" but not to exceed 30 years.⁵

Background on school facilities assistance programs

The School Facilities Commission administers several programs that provide state assistance to school districts, community schools, and STEM schools in constructing classroom facilities. The main program, CFAP, is designed to provide each

⁴ R.C. 3318.05(A) and 3318.06, neither section in the bill.

⁵ R.C. 3313.375, not in the bill. This authority applies to city, exempted village, local, and joint vocational school districts; educational service centers, and community schools.



city, exempted village, and local school district with partial funding to address all of the district's classroom facilities needs. It is a graduated, cost-sharing program where a district's portion of the total cost of the project and priority for funding are based on the district's relative wealth. Districts are ranked by wealth into percentiles. A similar cost-sharing program operates for joint vocational school districts.

District detention facility financial assistance

(R.C. 5139.271)

The bill eliminates the restriction under current law that Department of Youth Services (DYS) financial assistance for district detention facility acquisition or construction cannot be used to pay architects' fees. The bill also raises the maximum amount of financial assistance DYS may grant from 50% to 60% of a county's share of the cost of constructing or acquiring a detention facility. Finally, the bill eliminates the \$6,500 per bed unit financial assistance cap under current law for district detention facilities.

Under continuing law, DYS may grant and pay financial assistance to defray a county's share of the cost of acquiring or constructing a district detention facility. A detention facility may be used to detain alleged delinquent children until final disposition and children adjudicated juvenile traffic offenders. A district detention facility is operated by two or more neighboring counties that have organized in to a district.⁶

HISTORY

ACTION	DATE
Introduced	04-12-16
Reported, S. Finance	04-19-16
Passed Senate (32-1)	04-20-16

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⁶ R.C. 2152.41, not in the bill.

