



Ohio Legislative Service Commission

Final Analysis

Brian D. Malachowsky

S.B. 310*

131st General Assembly
(As Passed by the General Assembly)

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

Reps. Anielski, Burkley, Cera, Dovilla, Ramos, Amstutz, Antani, Antonio, Arndt, Ashford, Baker, Blessing, Boose, Boyd, Buchy, Celebrezze, Clyde, Conditt, Derickson, Dever, DeVitis, Driehaus, Duffey, Fedor, Ginter, Green, Grossman, Hambley, Hayes, Hill, T. Johnson, Kuhns, Kunze, Landis, LaTourette, Leland, Lepore-Hagan, Manning, McClain, McColley, M. O'Brien, Patmon, Patterson, Pelanda, Perales, Reece, Reineke, Rogers, Ruhl, Schaffer, Schuring, Sears, Slaby, K. Smith, R. Smith, Sweeney, Terhar, Rosenberger

Effective date: August 16, 2016; capital appropriations effective July 1, 2016

ACT SUMMARY

Research and development project bonds

- Updates the amount of general obligations that may be issued for research and development projects, from \$500 million to \$1.2 billion, to reflect the 2010 amendment by the voters 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, approved in 2014, regarding the issuance of general obligation debt for local government public infrastructure capital improvements.

* For details of the act's fiscal provisions, see the LSC Fiscal Note and Capital Item Analysis, As Enacted, available at www.lsc.ohio.gov/fiscal/capitalbudget131/en/default.htm.

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 of obligations issued to finance local subdivision public infrastructure capital improvements.

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 former law provided).
- 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.

OFCC energy efficiency and conservation programs

Lease or construction analysis requirements

- Eliminates the requirement that a state entity 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 entity 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 less than 20,000 square feet.

Energy efficiency and conservation standards

- Narrows the authority of the Commission to establish cost-effective, energy efficiency and conservation standards by eliminating its authority to govern the lease of certain state-funded facilities.



Building operator requirement

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

Other changes

- Eliminates the definition of "energy performance index," for which the Commission may establish specifications 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.

Open space acquisition and related development projects

- Allows the awarding of grants from the Clean Ohio Conservation Fund for *either* 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, as required under former 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 cash resulting from a school district's lease-purchase agreement may be applied toward the district's share 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

Research and development project bonds

(R.C. 151.10)

The act updates the maximum total principal amount of obligations that may be issued for research and development projects from \$500 million to \$1.2 billion. This change reflects the voters' approval in 2010 of H.J.R. 12 of the 128th General Assembly, which amended Article VIII, section 2p of the Ohio Constitution.

Local government public infrastructure capital improvements

Issuance of bonds

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

The act provides the statutory authorization for the Ohio Public Facilities Commission to issue general obligation debt, pursuant to the voters' approval in 2014 of section 2s, Article VIII of the Ohio Constitution. Section 2s authorizes the General Assembly to provide for the issuance of \$1.875 billion of general obligation debt of the state to finance or assist in the financing of public infrastructure capital improvements 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. The state is authorized to participate in these capital improvement projects by providing grants, loans, or contributions to the local subdivisions.

Revisions to the allocation formula

(R.C. 164.08)

The act revises the formula for allocating, in each program year, the proceeds of general obligations issued for public infrastructure capital improvements under Article VIII, Section 2p, and the recently adopted Section 2s, of the Ohio Constitution. The act



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 act 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. These changes apply to program years beginning July 1, 2016.

Evaluations for capital improvement applications

(R.C. 164.05 and 164.06)

The act changes how a District Public Works Integrating Committee (DPWIC) oversees the financing of capital improvement projects for a local subdivision, and reduces the compliance burden imposed on a local subdivision. (A "local subdivision" means a county, municipal corporation, township, sanitary district, or regional water and sewer district).¹ The act 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 DPWIC may exercise discretion as to whether to require the local subdivision to submit information on its capital infrastructure as part of its application.

The act also eliminates the following tasks that a local subdivision seeking financial assistance for a public improvement project had to do:

- 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;

¹ R.C. 164.01, not in the act.

- Compile a report, after completing the study, that (1) inventories its existing capital improvements, (2) details its improvement needs in the ensuing five-year period, and (3) lists its priorities in 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
- 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.

OFCC energy efficiency and conservation programs

(R.C. 123.22)

The act modifies the law regarding the Ohio Facilities Construction Commission's development of energy efficiency and conservation programs.

Lease or construction analysis requirements

The act eliminates the requirement that a state entity obtain an energy consumption analysis in order to lease a state-funded facility. Under former law, a state entity could not lease or cause to be leased an area of 20,000 square feet or more within a state-funded facility without obtaining a proper energy consumption analysis.

Continuing law requires a state entity to disclose to the Commission a life-cycle cost analysis before proceeding with construction of a state-funded facility. The act increases, from 5,000 to 20,000, the square footage of a building to which this requirement applies. And it authorizes the Commission to waive the life-cycle cost analysis requirement, or to require an analysis for buildings with an area of less than 20,000 square feet.

Energy efficiency and conservation standards

The act narrows the Commission's authority to establish by rule cost-effective, energy efficiency and conservation standards. Specifically, regarding the lease of state-funded facilities, the act eliminates the Commission's rule-making authority. Under continuing law, the Commission's rules may 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 act eliminates the Commission's authority to require that each state-funded facility be managed by a building operator who is certified under the Building Operator Certification Program or an equivalent program pertaining to energy efficiency and conservation.

Other changes

The act eliminates the definition of "energy performance index," while it retains the Commission's authority to establish specifications for energy performance indices to audit and evaluate competing design proposals. As previously defined, an "energy performance index" meant 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 act, 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. Previously, the Commission could create a process for *application for* such a waiver.

Finally, the act corrects two references to the Office of Energy Services by instead referencing the Ohio Facilities Construction Commission. The Office of Energy Services had existed within the Department of Administrative Services, but was eliminated in 2012 under H.B. 487 of the 129th General Assembly, which transferred some of the Office of Energy Services' functions to the Commission.

Open space acquisition and related development projects

(R.C. 164.22)

The act modifies the types of projects that are eligible for grants from the Clean Ohio Conservation Fund. Under prior law, the Director of the Ohio Public Works Commission was 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 act, 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 act modifies that authority by both:

(1) Qualifying a "stand-alone segment" of a building that serves grades K-12 for segmentation. 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 share for each segment be valued at a minimum of 2% of the district's tax valuation, unless the district has already undertaken a segment and the estimated cost of remaining needs is less than the 2% minimum.

Continuing law 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 share of the cost of its state-assisted facilities project (the "local share") is funded through bonds issued by the district. The bonds and an accompanying property tax to pay the debt service on the bonds must be approved by the district voters.² 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 continuing law, a "local donated contribution" is (1) money irrevocably donated or granted by a source other than the state, (2) an irrevocable letter of credit issued on behalf of a district or any cash a district has on hand, including year-end operating fund balances, that can be spent for classroom facilities, and (3) money spent by a source other than the district or the state for construction or renovation of specific classroom facilities that are part of the basic project cost of the district's project.

² R.C. 3318.05(A) and 3318.06, neither section in the act.



The act 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.

Continuing 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.³

District detention facility financial assistance

(R.C. 5139.271)

The act 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. The act 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 act eliminates the \$6,500 per bed unit financial assistance cap 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.⁴

³ R.C. 3313.375, not in the act. This authority applies to city, exempted village, local, and joint vocational school districts; educational service centers, and community schools.

⁴ R.C. 2152.41, not in the act.



HISTORY

ACTION	DATE
Introduced	04-12-16
Reported, S. Finance	04-19-16
Passed Senate (32-1)	04-20-16
Reported, H. Finance	05-04-16
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