UPDATED VERSION*

OHIO LEGISLATIVE SERVICE COMMISSION

Final Analysis

Amy L. Archer, Jennifer A. Parker,
& other LSC staff

Am. Sub. H.B. 384**

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

Reps. Schaffer and Duffey, Blessing, Boose, Vitale, Brown, Buchy, Butler, Pelanda, R. Smith, Amstutz, Anielski, Antani, Antonio, Arndt, Baker, Boyce, Brenner, Burkley, Conditt, Craig, Cupp, Dever, Dovilla, Hagan, Hall, Hambley, Koehler, LaTourette, Leland, McClain, M. O'Brien, S. O'Brien, Retherford, Rogers, Romanchuk, Ryan, Scherer, Sprague, Sweeney, Thompson

Sens. Bacon, Coley, Eklund, Faber, Hite, Hughes, Jones, Peterson, Sawyer, Seitz, Tavares, Thomas, Williams

Effective date: April 5, 2017; operating appropriations in Sections 10 to 12 and 15 to 18 effective January 4, 2017; one item vetoed

ACT SUMMARY

EDUCATION

Performance audits of state institutions of higher education

- Authorizes the Auditor of State to conduct performance audits of state institutions of higher education.
- Prohibits the Auditor from auditing an institution's academic performance.
- Sets costs limits for performance audits of state universities.

* This version updates the effective date.

** For details of the act's fiscal provisions, see the LSC Fiscal Note & Local Impact Statement, As Enacted, available at https://www.legislature.ohio.gov/download?key=6326&format=pdf.

LEAP loans

- Permits state institutions of higher education to obtain loans from the Leverage for Efficiency, Accountability, and Performance (LEAP) Fund to pay for performance audits.

Midwest Student Exchange Program

- Permits the Chancellor of Higher Education to endorse Ohio's participation in the Midwest Student Exchange Program.

Inter-university self-insurance pools

- Permits a state university or college to participate in a joint self-insurance pool to provide personal liability coverage to protect the institution and its employees against loss incurred while undertaking official duties.

- Authorizes the joint self-insurance pool to also provide certain types of property or casualty coverage to cover other risks of pool members.

- Permits the board of trustees of the university or college to contract with a pool administrator to administer the joint self-insurance pool.

- Exempts a joint self-insurance pool from the application of Ohio's Insurance Laws.

- Permits a joint self-insurance pool to issue obligations and notes to pay claims expenses and administrative costs.

- Exempts a joint self-insurance pool from the application of Ohio's Public Records Law, but requires the pool administrator to prepare and maintain a public report on pool funds.

- Limits the liability of a state university or college to the amounts payable pursuant to its written agreement with the pool.

- Exempts the pool from state and local taxes.

- Establishes civil immunities and defenses under the Court of Claims Law with respect to individuals involved in administering a joint self-insurance pool.

- Specifies that a state university or college employee who becomes a member of the governing body of a joint self-insurance pool does not violate certain public employee ethics laws.

Workforce Grant Program

- Revises the Workforce Grant Program to require the Chancellor of Higher Education to disburse funds to institutions of higher education, which in turn must award grants to eligible students.

TAXATION

Arena property tax exemption

- Authorizes a property tax exemption for an arena that is owned by the Convention Facilities Authority of a county with a population of more than one million people and that is leased to a private enterprise (Nationwide Arena in Franklin County).

Musical entertainment device sales tax exemption (VETOED)

- Would have exempted from sales taxation the sale of digitized music from a jukebox or similar musical entertainment device (VETOED).

Taxation of small business investment companies

- Exempts small business investment companies from the financial institutions tax both prospectively and retrospectively to the first year that tax was levied (2014).

Water-works tangible personal property tax assessment

- Reduces the property tax assessment rate for water-works company tangible personal property that is taxed for the first time in tax year 2017 or thereafter, from 88% to 25% of true value.

Economic development provisions affecting impacted cities

- Allows certain municipalities to use tax increment financing payments in lieu of taxes to fund unrelated infrastructure projects.

- Allows a New Community Authority to contract with certain municipalities to fund services or infrastructure projects unrelated to the new community district.

Appeal of BTA decisions

- Removes a requirement that persons appealing a Board of Tax Appeals decision must serve notice of the appeal on the Tax Commissioner, unless the Commissioner is already a party to the case.

ALTERNATIVE FUEL VEHICLE CONVERSION GRANTS

- Allows political subdivisions to receive grants under the Alternative Fuel Vehicle Conversion Program.

APPROPRIATIONS

- Appropriates $7.35 million in FY 2017 for the Department of Public Safety to make competitive grants of up to $100,000 to nonprofit organizations for security improvements.

- Adds three higher education institutions as eligible to access funds appropriated to the Department of Higher Education for the Regional Partnership and Training Center.

- Adjusts several capital appropriations.

TABLE OF CONTENTS

CONTENT AND OPERATION

EDUCATION

Performance audits of institutions of higher education

The act authorizes the Auditor of State to conduct a performance audit of a state institution of higher education[1] in the same manner as the Auditor conducts performance audits of state agencies. The Auditor is to determine the scope of any such audit. At the Auditor's discretion, a performance audit of such an institution may be one of the four performance audits that continuing law requires the Auditor to conduct each biennium.[2]

As with performance audits of state agencies, an audited state institution of higher education must accept comments regarding the audit from interested parties and make all comments available to the public.[3] Also, the institution must implement the audit recommendations within three months after the end of the comment period or must (1) file a report with the Governor, Auditor, Speaker and Minority Leader of the House, and President and Minority Leader of the Senate explaining why the institution has not commenced implementation of the recommendations, and (2) provide testimony explaining why the institution has not commenced implementation of the recommendations to the House and Senate committees dealing primarily with the programs and activities of the institution. An institution that does not fully implement an audit recommendation within one year after the end of the comment period must file a report with the same officials justifying why the recommendation has not or will not be implemented.[4]

---

[1] For purposes of performance audits and LEAP loans under the act, a "state institution of higher education" means any state university or college, community college, state community college, university branch, or technical college. By contrast, "state university or college" means only the following: the University of Akron, Bowling Green State University, Central State University, the University of Cincinnati, Cleveland State University, Kent State University, Miami University, Ohio University, Ohio State University, Shawnee State University, the University of Toledo, Wright State University, Youngstown State University, and the Northeast Ohio Medical University (R.C. 117.46 (cross-referencing R.C. 3345.011, not in the act)).

[2] R.C. 117.46.

[3] R.C. 117.461.

[4] R.C. 117.462.

Additionally, the Auditor's annual performance audit report must describe whether a state institution of higher education has implemented the audit recommendations and how much money was saved as a result of the implementation.[5]

Prohibition on academic performance audits

Under the act, the Auditor is prohibited from including a review or evaluation of a state institution of higher education's academic performance in conducting a performance audit.[6]

Cost limits

The act sets the following cost limits on a performance audit of a state university or college:[7]

Full-time-equivalent enrollment	Cost not to exceed
5,000 or less	$125,000
5,001 to 30,000	$250,000
30,001 or more	$350,000

The costs limits for a performance audit may be exceeded only on agreement between the Auditor and the institution.[8] Because the cost limits apply to the narrower category of "state universities and colleges" (the 14 public universities) instead of the broader category of "state institutions of higher education," it appears the cost limits are not intended to apply to performance audits of community colleges, state community colleges, university branches, or technical colleges.[9]

Under the act, "full-time-equivalent enrollment" means the total number of students enrolled full time at a state university or college main campus as reported for the most recent fiscal year in the Department of Higher Education's annual report, "Full-Time Equivalent Enrollment Trends by Ohio Public Institutions."[10]

---

[5] R.C. 117.463.

[6] R.C. 117.46.

[7] R.C. 117.464(B)(1) to (3).

[8] R.C. 117.465.

[9] R.C. 117.464(A)(1); R.C. 3345.011 and 3345.12, not in the act.

[10] R.C. 117.464(A)(2).

LEAP loans

Under the act, state institutions of higher education may apply for and receive loans from the Auditor of State through the Leverage for Efficiency, Accountability, and Performance (LEAP) Fund to pay the Auditor's costs for conducting their performance audits.[11]

The loans are subject to all requirements that apply to LEAP Fund loans to state agencies and local public offices, including, for example, the requirements concerning:

- The amount loaned (which must equal the amount charged for the audit) plus interest;[12]
- The statement of the amount due for the performance audit and when it is due;[13] and
- Auditor duties if the amount loaned is not repaid.[14]

Midwest Student Exchange Program

The act permits the Chancellor of Higher Education to endorse the Midwest Student Exchange Program of the Midwestern Higher Education Compact in order to permit state institutions of higher education, and nonprofit institutions that have been issued certificates of authorization under ongoing law, to participate in the Program. If endorsed, an institution may participate as long as its board of trustees adopts a resolution setting forth:

- The amount a participating student will be charged for instructional and general fees, provided that amount is in compliance with the Program; and
- The parameters for each student to participate in the Program, including any limitation on the number of students enrolled and admission requirements.

---

[11] R.C. 117.47.

[12] R.C. 117.471(A) and (B); R.C. 117.13(A)(2), not in the act.

[13] R.C. 117.471(C).

[14] R.C. 117.472.

A state institution of higher education that participates in the Program is not to receive State Share of Instruction funds for any student enrolled under the Program. The institution must report the student to the Chancellor as a nonresident student.[15]

Inter-university self-insurance pools

The act allows the board of trustees of a state university or college to participate in a joint self-insurance pool with other state universities or colleges as a means of providing insurance coverage for the institution, its employees, and other authorized personnel. Continuing law permits the board of trustees to provide insurance coverage through any of the following:

- Liability insurance purchased from a licensed insurer licensed;
- Participation in a self-insurance program;
- Participation in a licensed captive insurance company (an insurance company that insures only the risks of its parent or affiliated companies).[16]

Participation in a joint self-insurance pool

The act permits a board of trustees to participate in a joint self-insurance pool regardless of whether the university or college secures insurance through one of the other permitted sources.[17]

The joint self-insurance pool must be pursuant to a written agreement and to the extent that the board considers the pool to be necessary. The joint self-insurance pool must both:

- Provide for claims expenses that arise from an act or omission of the state university or college, its employees, or any other persons authorized by the board while (1) acting in the scope of their official duties or (2) engaging in activities undertaken at the request of the state university or college; and
- Indemnify or hold harmless the employees against the loss or damage.[18]

---

[15] R.C. 3333.172.

[16] R.C. 3345.202; R.C. 3964.01, not in the act.

[17] R.C. 3345.202(B)(4) and 3345.203(B).

[18] R.C. 3345.203(B).

The act specifies that a joint self-insurance pool is not an insurance company and it is not subject to Ohio's Insurance Law. Furthermore, the act does not affect the ability of a state university or college to self-insure under any other authority of law.[19]

Additionally, the act exempts joint self-insurance pools from certain public records requirements. Continuing law requires nonprofit organizations entering into contracts with the federal or state government, or a unit of state government, to keep accurate and complete financial records of any moneys spent in relation to the contract. Those records are public records for purposes of Ohio's Public Records Law. The act exempts from this requirement the records of joint self-insurance pools.[20]

Property or casualty insurance

In addition to providing self-insurance against personal liability, the act permits a joint self-insurance pool to include certain forms of property or casualty self-insurance to cover any other risks of pool members. The authorized forms of property or casualty self-insurance are:

- Public general liability, professional liability, or employee liability;
- Individual or fleet motor vehicle or automobile liability and protection against other loss associated with motor vehicles;
- Aircraft liability and protection against other loss associated with the use of aircraft;
- Loss or damage to property by force majeure;
- Marine, inland transportation and navigation, boiler, containers, pipes, engines, flywheels, elevators, and machinery;
- Environmental impairment;
- Loss or damage by any other risk to which state universities or colleges are subject.[21]

[19] R.C. 3345.203(G)(2) and (I).

[20] R.C. 149.431 and 3345.203(C)(1).

[21] R.C. 3345.203(G)(1).

Joint risk management program

Two or more state universities or colleges may establish a joint risk-management program to reduce the risks covered by insurance, self-insurance, or joint self-insurance programs. The joint risk-management program can not include fidelity, surety, or guaranty coverage, however.[22]

Pool may issue obligations and notes

The act permits a state university or college to issue obligation bonds and notes to pay for both of the following:

- Claims expenses, whether by reserve or otherwise;
- The state university's or college's portion of the cost of establishing and maintaining a joint self-insurance pool or to provide for funds held in reserve under the pool.

The continuing requirements pertaining to state university obligations and private sector bond financing apply to such bonds or notes.[23]

Allocation of pool costs among members

A joint self-insurance pool may allocate the costs of funding the pool among its members on the basis of the member's relative exposure and loss experience. It can also require any deductible under the program to be paid from funds or accounts in the treasury of the state university or college from which a loss was directly attributable.[24]

Pool administrator

The act permits a board of trustees establishing a joint self-insurance pool to award a contract, without competitive bidding, to a pool administrator to administer the pool. The pool administrator can be any person or political subdivision, or a limited liability company, nonprofit corporation, or regional council of governments organized or created under Ohio law.

The act prohibits the board from entering into a contract with a pool administrator without prior public disclosure of all contract terms and conditions. The disclosure must include a statement listing all representations made in connection with

---

[22] R.C. 3345.203(D).

[23] R.C. 3345.203(F); R.C. 9.98 to 9.983 and 3345.12, not in the act.

[24] R.C. 3345.203(C)(4).

any possible savings and losses resulting from the contract, and potential liability of any state university or college or employee. In addition, the proposed contract and disclosure statement must be presented at a meeting of the board of trustees prior to the meeting when the board authorizes the contract.[25]

Report on reserved and disbursed funds

The act imposes on a pool administrator certain reporting requirements pertaining to a joint self-insurance pool funds. Pool funds must be reserved as necessary, in the exercise of sound and prudent actuarial judgment, to cover potential liabilities, loss, and damages. The act requires a report on the aggregate amounts reserved and disbursed from pool funds to be prepared within 90 days after the close of the pool's fiscal year. The report must be maintained in the pool administrator's office.

The report must include the aggregate disbursements made for pool administration, including claims paid, costs of the legal representation of the state universities or colleges and employees, and fees paid to consultants. The report must also be accompanied by a written report from a member of the American Academy of Actuaries certifying whether the amounts reserved:

(1) Conform to the act's reporting requirements;

(2) Are computed in accordance with accepted loss reserving standards; and

(3) Are fairly stated in accordance with sound loss-reserving principles (see below).

The pool administrator must make the report available for public inspection during regular business hours. At the request of any person, the pool administrator must make copies of the report within reasonable time and at cost. The report is in lieu of the records requirements under Ohio's Public Records Law.[26]

Additionally, in order to comply with these reporting requirements, a self-insurance pool must contract with a member of the American Academy of Actuaries to prepare the written evaluation of the pool's reserve funds.[27]

---

[25] R.C. 3345.203(C)(2).

[26] R.C. 3345.203(C)(1).

[27] R.C. 3345.203(C)(3).

Liability under a joint self-insurance pool; exemption from taxation

A state university or college is not liable under a joint self-insurance pool for any amount in excess of the amounts payable under its written participation agreement. However, a state university or college may assume the risks of any other state university or college, including the indemnification of its employees.

A joint self-insurance pool is a separate legal entity for the public purpose of enabling pool members to obtain insurance or to provide for a formalized, jointly administered self-insurance fund. An entity created pursuant to the act is exempt from all state and local taxes.[28]

Civil action against a state officer or employee

The Court of Claims Law generally waives the state's sovereign immunity and permits the state to be sued, subject to certain limitations, in the Court of Claims.[29] The act establishes civil immunities and defenses with respect to individuals involved in administering a joint self-insurance pool. While in the course of administering a joint self-insurance pool, for purposes of the Court of Claims Law, the pool administrator and any of its employees are:

- An instrumentality of the state;
- Performing a public duty; and
- Able to use the available defenses to, and immunities from, civil liability.[30]

In a civil action against a state officer or employee, the act requires both of the following to be determined in the Court of Claims according to the Court of Claims Law:

- Any claims or litigation relating to the administration of a joint self-insurance pool, including any immunities or defenses;
- Any claims relating to the scope of or denial of coverage under that pool or its administration.[31]

---

[28] R.C. 3345.203(E).

[29] R.C. 2743.02, not in the act.

[30] R.C. 3345.203(K)(2).

[31] R.C. 3345.203(K)(1).

Participation in a joint self-insurance pool does not constitute a waiver of any immunity or defense available to the member state university or college or to any covered entity.[32]

Public Employee Ethics Law

Likewise, the act exempts employees of state universities or colleges who are involved in administering a joint self-insurance pool from the application of certain Ohio Ethics Law provisions. Under the act, a public official or employee of a state university or college who is or becomes a member of the governing body of a self-insurance pool does not violate any of the following Ohio Ethics Law provisions because of the institution participating in the pool:

- The prohibition against a public official or employee soliciting, or using his or her authority or influence to secure, anything of value that would constitute a substantial and improper influence;

- The prohibition against an elected or appointed official accepting outside compensation for any service the official rendered personally in any matter before the employing agency;

- The prohibition against a public official knowingly having an unlawful interest in a public contract.[33]

Workforce Grant Program

The act revises the Workforce Grant Program to require the Chancellor of Higher Education to disburse funds to a public or private institution, which in turn will award grants to eligible students, rather than requiring the Chancellor to award those grants directly to eligible students as under prior law.[34] For purposes of the Program, "public and private institutions" are (1) state institutions of higher education, (2) private nonprofit colleges and universities, and (3) Ohio Technical Centers that provide adult technical education services as recognized by the Chancellor.[35]

The Workforce Grant Program awards grants to students enrolled in public or private institutions who pursue a degree, certification, or license that is required to

---

[32] R.C. 3345.203(J).

[33] R.C. 3345.203(H); R.C. 102.03(D) and (E), 102.04(C), and 2921.42, not in the act.

[34] R.C. 3333.93(B), (C), and (D).

[35] R.C. 3333.93(A)(3).

become employed in an in-demand job.[36] Grants are awarded to an eligible student for the period of time the student takes to complete the qualifying degree, certification, or license. The annual maximum award available to each student is $5,000, but the grant also cannot exceed 75% of the cost of tuition during an academic year.[37] The Program ends on December 31, 2019.[38]

S.B. 3 of the 131st General Assembly also made changes regarding the awarding of grants under the Program. Those changes are similar, but not identical to, the changes made by this act.

TAXATION

Arena property tax exemption

The act authorizes a property tax exemption for an arena that is owned by the Convention Facilities Authority of a county with a population of more than one million people and that is leased to a private enterprise. Continuing law exempts property owned by any Convention Facilities Authority from taxation unless the property is leased to, or used exclusively by, a private enterprise.[39] There are several exceptions to this rule for certain arenas and convention centers. The act creates an additional exception for an arena owned by the qualifying Authority – under the act, the arena may be leased to, or operated or managed by, a private enterprise and still qualify for exemption which, in effect exempts Nationwide Arena in Franklin County.[40]

The exemption applies to tax year 2016 and every tax year thereafter. The act allows the property owner to file an exemption application for the 2016 tax year any time before May 6, 2017, which is 31 days after the act's effective date, even though the statutory deadline for filing such applications (December 31, 2016) has passed.[41]

Musical entertainment device sales tax exemption (VETOED)

Recent changes to sales and use tax law imposed state and local taxes on "digital audio works," i.e., music electronically transferred to the purchaser. The Governor

---

[36] R.C. 3333.93(A)(1) and (4).

[37] R.C. 3333.93(C).

[38] Section 3; Section 125.10 of H.B. 340 of the 131st General Assembly, not in the act.

[39] R.C. 351.12.

[40] R.C. 5709.084.

[41] Section 7; R.C. 5715.27, not in the act.

vetoed a provision that would have exempted music purchased and played electronically via a musical entertainment device that accepts direct payments.[42] An example of such a musical entertainment machine is a jukebox that accepts cash or debit or credit card payments to play digital music.

Taxation of small business investment companies

The act exempts small business investment companies (SBICs) from the financial institutions tax (FIT).[43] The exemption applies both prospectively and retrospectively back to January 1, 2014, when the FIT was introduced.[44]

The FIT is a tax on banks and other kinds of financial institutions. Tax liability is determined on the basis of the portion of an institution's equity capital attributable to its Ohio business, as measured by the relative amount of its gross receipts that arise from Ohio operations. The tax rate is tiered according to an institution's Ohio equity capital: the rate is 0.8% on the first $200 million, 0.4% on the next $1.1 billion, and 0.25% for equity capital in excess of $1.3 billion. The minimum tax is $1,000. All revenue from the tax is credited to the General Revenue Fund.[45]

Small business investment companies

A small business investment company is a privately owned and managed investment fund licensed under federal law. An SBIC uses its own capital and, in most cases, securities guaranteed by the U.S. Small Business Administration to lend to and make equity investments in qualifying small businesses.[46] Up to two-thirds or three-fourths of their capital may be from the SBA-guaranteed securities, depending on prior fund management experience. Their investments generally are restricted to small businesses – i.e., those having maximum net worth of $19.5 million and net income of $6.5 million – and one-fourth of each SBIC's investments must be in even smaller businesses having maximum net worth of $6 million and net income of $2 million. SBICs are usually structured as limited partnerships with the investment manager serving as the general partner.

---

[42] R.C. 5739.02(B)(55).

[43] R.C. 5726.01.

[44] Section 4.

[45] R.C. Chapter 5726., not entirely in the act.

[46] 15 U.S.C. 661 *et. seq*.

Residual tax status of SBICs

Any financial institution that is subject to the FIT is exempted from the commercial activity tax (CAT), which is a general tax on the gross receipts of all businesses that are not expressly exempted. One implication of being exempted from the FIT is, technically, to become subject to the CAT.[47] However, SBICs are structured in such a way that most of their income is investment income that is distributed to partners and which generally is not subject to the CAT. They would have some income as management fees but, to be taxable under the CAT, the fees would have to be at least $150,000.[48]

Water-works tangible personal property tax assessment

Continuing law imposes a property tax on the tangible personal property of public utilities. The tax is calculated by determining the taxable value of a company's property, allocating that value among the jurisdictions in which the property is located, and multiplying the apportioned values by the property tax rates in effect in the respective jurisdictions. The taxable value of a company's tangible personal property equals its "true" value (the cost of the property as capitalized on the company's books, less composite annual allowances prescribed by the Tax Commissioner), multiplied by an assessment percentage specified in law.

Under prior law, all tangible personal property of a water-works company was assessed at 88% of its true value. The act reduces the assessment rate for all new water-works property that first becomes subject to taxation in 2017 or thereafter to 25% of the property's true value.[49] Property that was taxable before 2017 and that continues to be taxable in 2017 and later will continue to be assessed at 88%.

Economic development provisions affecting impacted cities

The act addresses certain municipalities' use of tax increment financing (TIF) funds and their receipt of new community district funds. The act's provisions apply only to "impacted cities," which are cities that meet either of the following conditions:

(1) The Development Services Agency has certified a community development program for the city and the city has taken affirmative action to allow a metropolitan housing authority to construct or lease housing within the city; or

---

[47] R.C. 5751.01(E)(3), not in the act.

[48] R.C. 5751.01(E)(1), not in the act.

[49] R.C. 5727.111.

(2) The city has been declared a major disaster area under federal law.[50]

Use of tax increment financing funds

Continuing law allows municipalities, townships, and counties to engage in TIF as a means of funding public infrastructure projects. With a TIF, the political subdivision designates specific parcels and provides a property tax exemption for the amount by which those parcels increase in value after the TIF is created. Property owners make payments in lieu of taxes (PILOTs) to the subdivision that created the TIF equal to the amount of taxes that would otherwise have been paid with respect to those increased values. The subdivision must use the PILOTs to carry out infrastructure projects that "directly benefit" the designated parcels.

The act allows impacted cities to use PILOTs for infrastructure projects that do not directly benefit the parcels originally designated in the TIF ordinance. An impacted city may do so if, before July 1, 2017, the municipality determines that "satisfactory provision" has been made for the infrastructure needs of the original parcel(s). In the municipality's TIF ordinance, the municipality must also describe the proposed, unrelated infrastructure projects, and certify that such projects are in support of "urban redevelopment." (In 1996, the same authority was granted to one impacted city. See Sections 19 and 20 of H.B. 627 of the 121st General Assembly.)

Receipt of New Community Authority funds

Continuing law provides for the creation of new community districts, which are districts designated to foster community development. A municipality, or one or more counties, may create a district upon the petition of developers. When the legislative authority of a political subdivision approves the petition, a New Community Authority (NCA) is established to develop land, provide services, and to raise revenue by levying community charges in the district, all pursuant to a development program.

The act explicitly allows a NCA to agree to pay or reimburse an impacted city or developer for services or infrastructure projects that were performed or completed within the city, but not within the new community district or as part of the NCA's development program. The act states that this authority is intended to "supplement" an NCA's existing authority to contract with municipalities and developers.

[50] There are about 28 municipal corporations that are currently designated as impacted cities by the Development Services Agency, including the most populous cities in the state.

Effective date

The TIF and NCA provisions apply prospectively and also to any ordinances or other proceedings that are pending or in progress on the act's effective date.[51]

Appeal of BTA decisions

Under continuing law, a decision of the Board of Tax Appeals may be appealed to either the Supreme Court or the relevant county court of appeals. In each such case, the person appealing the decision must serve notice of the appeal on the Tax Commissioner, and the Commissioner must be made an appellee in the case. Failure on either count results in dismissal of the appeal.[52]

The act removes this requirement, except in cases where the Tax Commissioner is already a party to the case.[53]

Alternative Fuel Vehicle Conversion Program Grants

The act allows political subdivisions to receive grants under the continuing Alternative Fuel Vehicle Conversion Program. Under the continuing Alternative Fuel Vehicle Conversion Program, the Director of Environmental Protection may make grants for the purchase or conversion of large alternative fuel vehicles. The grant amount allowed per vehicle is the lesser of $25,000 or 50% of either: (1) the cost of equipment and parts needed to convert a traditional fuel vehicle, or (2) the "adjusted purchase price" of the new alternative fuel vehicle. The "adjusted purchase price" of a new vehicle is the portion of the vehicle's price that is attributable to the parts and equipment used for storage of alternative fuel, delivery of alternative fuel to the motor, and exhaust of gases from the combustion of alternative fuel. The act does not alter the Director's authority in continuing law to make grants to an individual, corporation, business trust, estate, trust, partnership, or association.[54]

---

[51] Section 6.

[52] *Olympic Steel, Inc. v. Cuyahoga County Bd. of Revision*, 110 Ohio St.3d 1242 (2006).

[53] R.C. 5717.04.

[54] R.C. 122.076; R.C. 1.59, not in the act.

HISTORY

ACTION	DATE
Introduced	11-02-15
Reported, H. Gov't Accountability & Oversight	01-20-16
Passed House (97-0)	01-27-16
Reported, S. Finance	12-07-16
Passed Senate (32-0)	12-07-16
House concurred in Senate amendments (93-0)	12-08-16

16-HB384-updated-131.docx/rs