OHIO LEGISLATIVE SERVICE COMMISSION

www.lsc.ohio.gov

Office of Research and Drafting

Legislative Budget Office

H.B. 101
134th General Assembly

Fiscal Note & Local Impact Statement

Click here for H.B. 101's Bill Analysis

Version: As Reported by House Infrastructure and Rural Development

Primary Sponsors: Reps. Stephens and Edwards

Local Impact Statement Procedure Required: No

Jason Glover, Budget Analyst, and other LBO staff

Highlights

- Counties receiving a minimum of 25% state funding through the jail construction funding process could save between $2.3 million and $6.9 million for the construction of a 100-bed facility.
- Moneys appropriated from the Jail Facility Building Fund, which is established by the bill, may be used to cover costs incurred by the Ohio Facilities Construction Commission to administer a jail needs assessment and project funding approval process. Ongoing work to evaluate county needs and manage projects likely requires additional resources, including additional staff with salary and benefits costs of $150,000 annually per staff member.
- The bill authorizes counties, with voter approval, to levy property taxes for jail operation and debt service on bonds for jail construction.

Detailed Analysis

The bill creates a financing system for the state to aid counties in constructing or renovating county jail facilities, subject to the approval of the Ohio Facilities Construction Commission (OFCC) with support from the Department of Rehabilitation and Correction (DRC). Additionally, the Department of Taxation (TAX) would be required to develop and employ a statewide county jail funding formula based on county need. OFCC and DRC would also be required to collaborate on establishing construction standards.

With regard to state funding, the bill creates the Jail Facility Building Fund to support the state's share of construction costs. The fund would consist of any moneys transferred or appropriated to it by the General Assembly and any grants, gifts, or contributions received by OFCC.

Finally, the bill includes a process for project completion and a Corrective Action Program under OFCC that counties may tap to remediate any defects or omissions in construction that are discovered after occupancy of the new facility.

The state began funding capital improvements to local jails in FY 1984 with the enactment of H.B. 530 of the 114th General Assembly, which appropriated $50 million for the renovation and construction of local jail facilities and workhouses. Appropriations through capital budgets vary and are not based on a standard formula. Most recently, H.B. 529 of the 132nd General Assembly appropriated $4.5 million, and S.B. 310 of the 133rd General Assembly appropriated $51.1 million for that purpose.

Pursuant to that legislation, DRC is: (1) required to designate the projects involving the construction and renovation of county jails, (2) permitted to review and approve the renovation and construction of projects for which funds are provided, (3) required to adopt guidelines to accept and review applications and designate projects, and (4) required to prioritize applications and projects based on certain specified criteria.

As with capital funding for local jails, the cost to the state related to building and renovations to local jails will be driven by the appropriations made available by the General Assembly, and the subsequent number of local jail projects proposed, investigated, and approved.

Project approval process

TAX rankings

TAX is required by the bill to rank all counties based on their financial need, using a formula specified by the bill that includes property values and taxable retail sales. The county with the lowest taxable property value would be assigned the number one, and counties with higher property values would be assigned corresponding higher numbers. Similarly, the county with the lowest sales tax base (county permissive sales tax revenue divided by the tax rate levied by the county) would be assigned the number one, and counties with higher sales tax bases would receive higher numbers. The aggregate list would be created by adding these two sets of numbers (property value and retail sales), and TAX is required to rank the county with the lowest sum as being number one on the aggregate list. This ranking is to be updated every other year. TAX will incur costs to create and update the ranking. These costs appear unlikely to be more than minimal as TAX already collects the data required to compile the ranking. OFCC is to use the ranking to determine which counties to invite to apply for assistance as well as counties' shares of project costs.

OFCC responsibilities

Upon receipt of TAX's financial rankings, OFCC must select from the lowest ranking counties on TAX's list those counties that will be invited to apply for assistance. The number of counties selected will depend on OFCC's projections of the moneys available and necessary to undertake jail facility projects for that year. The bill then requires OFCC to conduct an assessment of a county's jail facility needs upon the application and shortlisting of counties invited to receive assistance based on the TAX rankings. When making a needs assessment, the bill requires OFCC to conduct an onsite assessment of existing jail facilities assessing the county's need to construct or acquire new jail facilities, or the county's need to add to, reconstruct, or renovate existing facilities. OFCC is also required to examine any needs assessment the county has already conducted and any master plans the board has developed if the board of county commissioners requests it. OFCC is permitted to waive the requirement for an onsite assessment if the county has already conducted an onsite assessment, and OFCC determines the county's assessment is sufficient.

OFCC is permitted to approve a jail facility project under the bill only if it is determined that (1) the project conforms to the standards set by OFCC and DRC, (2) the project meets the county's or counties' needs pursuant to the needs assessment, and (3) upon evidence that the county or counties can adequately fund the county portion of the basic project cost, and the operation and maintenance of the proposed facilities.

When OFCC makes a determination of approval, the project is conditionally approved. The project is then required to go before the Controlling Board. The Controlling Board is required to approve or reject OFCC's determination, the amount of the state's portion of the basic project cost, and the amount of the state's portion to be encumbered in the current fiscal year. If approved by the Controlling Board, OFCC must certify the approval to the board of county commissioners or the multi-county jail facilities commission (MCJFC), and then encumber the funds from the appropriations for that fiscal year.

OFCC costs

OFCC's administrative expenses will increase to perform its duties under the bill related to setting standards and the ongoing duties of performing needs assessments and evaluating and approving local jail construction projects. Moneys appropriated from the Jail Facility Building Fund may be used to cover costs incurred by OFCC. OFCC estimates that they will need to hire one full-time staff person to manage the assessments and additional full-time project managers to oversee any new projects. Each project manager will have a maximum caseload of four projects so the number of new staff will depend on how many projects will be funded. It will cost approximately $150,000 per year for salary and benefits for each staff person. In addition, OFCC will incur costs to perform the assessments. This work will likely be contracted out to firms that will assess the architectural, structural, electrical, mechanical, and environmental conditions of each site. OFCC estimates that the assessments will cost 25¢ per square foot of each jail facility.

DRC costs

DRC will see an increase in administrative expenses to develop standards in conjunction with OFCC. DRC expects that any workload increases can be absorbed with existing staff and appropriated resources, as the Department promulgates jail standards under current law.

County funding

Once the Controlling Board's approval has been granted as described above, the board of county commissioners has 120 days to accept the approval. If the county must issue bonds or a levy to generate its required revenue, voters must approve the bond issue or levy within 13 months of the Controlling Board's approval. The county's portion of the basic project cost is equal to 1% times the percentile in which the county ranks according to TAX's ranking, for the fiscal year preceding the fiscal year in which the Controlling Board approved the project. The share is calculated as of the date of the Controlling Board's approval. The county's portion may not be greater than 75% of the total basic project cost.

Recent jail construction projects in Ohio suggest a per-bed construction cost of between $90,000 and $275,000, or roughly between $9 million and $27.5 million for a 100-bed facility.[1] A county receiving a minimum of 25% state funding through the process could save between $2.3 million and $6.9 million for a 100-bed facility.

Property tax provisions

The bill would allow a county, with OFCC conditional approval, to build, buy, improve, or expand a jail, to seek voter approval of one or both of (1) a tax to maintain and operate a jail, and (2) issuance of bonds for jail construction and levying of additional tax to pay debt charges on the bonds and any anticipation notes issued. The jail may be a multicounty facility. The county board of elections would incur costs to publish notice of the election in a newspaper of general circulation in the county once a week for two consecutive weeks, the second of which may be in abbreviated form and on the newspaper's internet website, if the newspaper has one. If a board of elections has a website, it is also to post notice of the election on that website for 30 days before the election. If voters approve the tax to maintain and operate a jail, the county may issue tax anticipation notes for not more than half of expected first-year tax revenues. Anticipation notes are to be issued as provided in section 133.24 of the Revised Code.[2]

The bill is permissive, and could result in additional costs to counties, paid from the new property tax revenues.

HB0101HR/lb

[1] Fairfield County: 384 total beds at $34.5 million; Franklin County: 1,302 total beds at $360 million; Monroe County: 114 total beds at $15.1 million; and Portage County (expansion): 132 total beds at $12 million.

[2] Those anticipation notes must have principal payments during each year after the year of their issuance over a period not to exceed five years, and may have a principal payment in the year of their issuance.