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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

H.B. 654  
134<sup>th</sup> General Assembly

## Bill Analysis

**Version:** As Introduced

**Primary Sponsor:** Rep. Ingram

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### SUMMARY

- Establishes that records kept by JobsOhio are public records subject to inspection and copying under Ohio Public Records Law.
- Requires all meetings of the Board of Directors of JobsOhio be open to the public, except when closed for certain qualifying purposes.

### DETAILED ANALYSIS

#### JobsOhio and Public Records Law

The bill establishes that JobsOhio is a public office for purposes of Ohio Public Records Law, and that records kept by JobsOhio are public records subject to inspection and copying under the law.<sup>1</sup>

Under current law, the contract between the Department of Development (DEV) and JobsOhio is required to designate only certain specified records created or received by JobsOhio as public records that must be kept on file by DEV. The bill retains the requirement that those specified records be kept on file with DEV, which includes the following records:

- JobsOhio's federal income tax returns;
- A report of expenditures;
- The annual total compensation paid to each officer and employee of JobsOhio;

<sup>1</sup> R.C. 149.011, 149.43(A)(1)(bb), 149.436, and 187.04(B)(2).

- A copy of the report for each financial audit of JobsOhio and of each supplemental compliance and control review of JobsOhio performed by a firm of independent certified public accountants;
- Records of any fully executed incentive proposals;
- Records pertaining to the monitoring of commitments made by incentive recipients;
- A copy of the minutes of all public meetings.<sup>2</sup>

Current law specifically exempts the following records from Public Records Law, and therefore JobsOhio is not required to make the records available for inspection and copying:

- Records created by JobsOhio;
- Records received by JobsOhio from any person or entity that is not subject to Ohio Public Records Law regardless of who may have custody of the records, unless the record is designated to be available to the public by the contract between DEV and JobsOhio;
- Records received by JobsOhio from a public office that are not public records when in the custody of the public office are not public records regardless of who has custody of the records;
- Work papers of the firm of independent certified public accountants engaged to perform the annual financial audit and the supplemental compliance and control unless the record is designated to be available to the public by the contract.

The bill repeals the specific exemptions for these records, so they generally must be considered public records subject to inspection and copying unless some aspect of the record makes the record otherwise exempt from Public Records Law.<sup>3</sup>

### **Competitive solicitations**

The bill establishes that materials submitted to JobsOhio in response to a competitive solicitation become public records once a contract has been awarded, or the competitive solicitation has been cancelled. This is the case for such materials under current law, for other public offices, but not for JobsOhio.<sup>4</sup>

### **Removal of obsolete definition**

The bill removes a definition in Public Records Law for “public money.” The phrase currently is not used in that Law.<sup>5</sup>

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<sup>2</sup> R.C. 187.04(B); see also R.C. 122.01, not in the bill.

<sup>3</sup> R.C. 187.04(C).

<sup>4</sup> R.C. 9.28.

<sup>5</sup> R.C. 149.011(C).

## JobsOhio and Open Meetings Law

The bill makes changes to open meetings requirements for JobsOhio, which is exempt from the Open Meetings Law that applies generally to public offices, and instead is subject to the specific open meetings provisions that are contained in the JobsOhio enabling statutes.<sup>6</sup> The bill requires that all meetings of the Board of Directors of JobsOhio be open to the public, except when the meeting may be closed for a specified purpose. Under current law, only Board of Directors' meetings at which a quorum of the Board is required to be physically present must be open to the public. Current law requires the Board to hold a minimum of four Board of Directors' meetings per year at which a quorum of the Board is physically present, and other meetings when physical presence is not required. Under continuing law, a meeting may be closed to the public by a majority vote of the Directors present, only for the following purposes:

1. To consider business strategy of JobsOhio;
2. To consider proprietary information belonging to potential applicants or potential recipients of business recruitment, retention, or creation incentives. (Proprietary information means marketing plans, specific business strategy, production techniques and trade secrets, financial projections, or personal financial statements of applicants or members of the applicants' immediate family, including, tax records or other similar information not open to the public inspection).
3. To consider legal matters, including litigation, in which JobsOhio is or may be involved;
4. To consider personnel matters related to an individual employee of JobsOhio.<sup>7</sup>

### Public notice and minutes

Under continuing law, the Board of Directors must establish a reasonable method in which any person may obtain the time and place of all public meetings, and must promptly prepare, file, and maintain minutes of all those meetings.<sup>8</sup>

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## HISTORY

Action	Date
Introduced	05-12-22

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<sup>6</sup> R.C. 121.22.

<sup>7</sup> R.C. 187.01(F)(7) and 187.03(C).

<sup>8</sup> R.C. 187.03(D) and (E).