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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

H.B. 101  
134<sup>th</sup> General Assembly

## Fiscal Note & Local Impact Statement

[Click here for H.B. 101's Bill Analysis](#)

**Version:** As Introduced

**Primary Sponsors:** Reps. Stephens and Edwards

**Local Impact Statement Procedure Required:** No

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### Highlights

- Counties receiving a minimum of 5% state funding through the jail construction funding process could save between \$450,000 and \$1.4 million for the construction of a 100-bed facility.
- The Department of Rehabilitation and Correction will incur costs to administer a jail funding project approval process dependent on the number of counties applying for funding. One-time costs to create standards and a funding formula can be absorbed with existing staff and appropriated resources. Ongoing work to evaluate county needs and projects could require additional resources including additional staff.
- The bill authorizes counties, with voter approval, to levy property taxes for jail operation and debt service on bonds for jail construction.
- Permitted use of county sales taxes is expanded by the bill to include jail operation.

### 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 Department of Rehabilitation and Correction (DRC). The Ohio Facilities Construction Commission (OFCC) would also have a role under this new funding mechanism alongside DRC. Specifically, the two state agencies would be required to develop and employ a statewide county jail funding formula based on county need. The two state agencies would also be required to collaborate on establishing minimum 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 114<sup>th</sup> 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 132<sup>nd</sup> General Assembly appropriated \$4.5 million, and S.B. 310 of the 133<sup>rd</sup> 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**

The bill requires DRC to conduct an assessment of a county's jail facility needs upon the request of the board of county commissioners, or upon request of a multi-county jail facilities commission (MCJFC). When making a needs assessment, the bill requires DRC to conduct an onsite evaluation 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. DRC 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. DRC is permitted to limit the number of onsite evaluations in any year based upon money available for projects in that year.

DRC is permitted to approve a jail facility project under the bill only if it is determined that (1) the project conforms to minimum standards set by DRC and OFCC, (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.

A county's portion of the cost is formulated from a formula which DRC and OFCC are required to develop. The bill requires that the formula be based on the following factors: a county's compliance with the jail facilities standards developed by DRC and OFCC, the results of the DRC needs assessment and onsite evaluation of the county, the total value of all property in the county listed and assessed for taxation on the tax list and the sales tax revenue capacity in each county, and projections of use and other means of estimating the size and costs of the needed jail facilities.

When DRC 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 DRC'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, DRC must certify the approval to the board of county commissioners or the MCJFC, and then encumber the funds from the appropriations for that fiscal year.

To perform its duties under the bill related to setting minimum standards, creating the funding formula, and the ongoing duties of performing needs assessments and evaluating and approving local jail construction projects, DRC will see an increase in administrative expenses. It is likely that administrative workload increases to create minimum standards and the required funding formula can be absorbed with existing staff and appropriated resources. Work related to needs assessments and evaluations, including site visits, will depend on the number of counties applying for funding and could result in the need for additional permanent staff.

## **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 DRC'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 95% 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.<sup>1</sup> This suggests that a county receiving a minimum of 5% state funding through the process described above could save between \$450,000 and \$1.4 million for a 100-bed facility.

## **Property tax provisions**

The bill would allow a county, with DRC 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 multi-county facility. The 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 anticipation notes for not more than half of expected first-year tax revenues.

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<sup>1</sup> 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.

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

### **County permissive sales and use taxes**

The bill would allow use of revenue from county sales tax in excess of 1% for operation of a detention facility in the county, in addition to other uses of such county sales tax revenue that continue to be allowed. These other uses of this sales tax revenue permitted under continuing law include construction, acquisition, equipping, or repair of a detention facility in the county.