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**H.B. 101
(with AM0966-2)
134th General Assembly**

Fiscal Note & Local Impact Statement

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

Version: In House Infrastructure and Rural Development

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 Ohio Facilities Construction Commission will incur costs to administer a jail needs assessment and project funding approval process dependent on the number of counties applying for funding. 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.
- 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 Ohio Facilities Construction Commission (OFCC) with support from the Department of Rehabilitation and Correction (DRC). Specifically, OFCC would be required to develop and employ a statewide county jail funding formula based on county need, and 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 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

The bill requires OFCC 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 multicounty 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. 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. DRC is permitted to waive the requirement for an onsite evaluation if the county has already conducted an onsite evaluation, and the Department determines the county's evaluation 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 minimum 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. A county's portion of the cost is determined based on a formula that OFCC is 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 OFCC needs assessment and DRC onsite evaluation of the county;
- The total value of all property in the county listed and assessed for taxation on the tax list;
- The estimate of the gross amount of taxable retail sales sourced to the county for the preceding fiscal year; and

- Projections of use and other means of estimating the size and costs of the needed jail 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 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 minimum standards, creating the funding formula, and the ongoing duties of performing needs assessments and evaluating and approving local jail construction projects. It is likely that the administrative workload to create minimum standards and the required funding formula can be absorbed with existing staff and appropriated resources. However, costs related to needs assessments and evaluations will depend on the number of counties applying for funding. 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. Seventy-seven (77) county or multicounty jails of varying size, according to DRC, would be assessed in the first five years.

DRC costs

To perform onsite evaluations and the creation of minimum standards, DRC will see an increase in administrative expenses. DRC expects that any workload increases can be absorbed with existing staff and appropriated resources as the Department currently inspects full-service jails annually and have promulgated jail standards for that function.

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.¹ A county receiving a minimum of 5% state funding through the process 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 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 anticipation notes for not more than half of expected first-year tax revenues.

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.

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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.