



OHIO LEGISLATIVE SERVICE COMMISSION

Final Analysis

Emily E. Wendel

Sub. H.B. 31

132nd General Assembly
(As Passed by the General Assembly)

- Reps.** Cupp, Arndt, Becker, Blessing, Conditt, Goodman, Green, Householder, Huffman, Koehler, Lipps, Reineke, Riedel, Roegner, Scherer, Seitz, Schaffer, Sprague, Stein, Anielski, Hambley, Antani, Dever, Duffey, Edwards, Faber, Gavarone, Ginter, Henne, Manning, McColley, Miller, Patton, Perales, Rezabek, Rogers, Ryan, Slaby, R. Smith, Sweeney, Thompson, West, Wiggam, Young
- Sens.** Coley, Balderson, Dolan, Eklund, Hackett, Hite, Hoagland, Huffman, Jordan, Lehner, Manning, Obhof, O'Brien, Oelslager, Peterson, Terhar, Uecker, Wilson

Effective date: February 20, 2018

ACT SUMMARY

- Abolishes the Government Contracting Advisory Council and the Local Government Innovation Council.
- Requires the Director of Development Services to issue a report to the Governor and the General Assembly concerning the effectiveness of the Local Government Innovation Program.
- Revives the RECLAIM Advisory Committee.
- Abolishes 11 boards that no longer exist.
- Repeals recently enacted law allowing a notary public to become an electronic notary public and to use electronic communications devices to notarize certain documents.
- Eliminates the requirement that an officer who is appointed by the Governor to serve in a compensated appointive office pay a \$5 commission fee to the Secretary of State.

* This version updates the effective date.

- Adds a reference to the continuing commission fees for certain other officers to the section of law that lists the fees the Secretary must collect.

CONTENT AND OPERATION

Government Contracting Advisory Council

The act abolishes the Government Contracting Advisory Council. The Council reviewed and made recommendations concerning rules the Attorney General and the Auditor of State adopted with respect to persons who received \$25,000 or more in a lump sum, or \$75,000 or more over the course of a year, from a governmental entity to provide services benefiting individuals or the public. It was required to meet at least once every two years.

The Council consisted of 21 members or their designees: the Attorney General; the Auditor of State; the Directors of Administrative Services, Aging, Medicaid, Budget and Management, Development Services, Job and Family Services, Mental Health and Addiction Services, Developmental Disabilities, and Rehabilitation and Correction; the Administrator of Workers' Compensation; the executive officers of the County Commissioners' Association of Ohio, the Ohio Grantmakers Forum, the Ohio Chamber of Commerce, the Ohio State Bar Association, the Ohio Society of Certified Public Accountants, the Ohio Association of Nonprofit Organizations, and the Ohio United Way; one additional member appointed by the Attorney General; and one additional member appointed by the Auditor of State.

The Attorney General provided necessary staff, facilities, supplies, and services to the Council.¹

Local Government Innovation Council

The act also abolishes the Local Government Innovation Council, which administered the Local Government Innovation Program in conjunction with the Development Services Agency. Under the Program, the Council awarded loans to political subdivisions to purchase equipment, facilities, or systems or to cover implementation costs associated with innovation projects. Political subdivisions repaid their loans using savings achieved from the innovation projects. Additionally, the Council was permitted to award up to 20% of the funds in the Local Government Innovation Fund as grants for use in process improvement or implementation of innovation project awards.

¹ R.C. 9.239, repealed.



The act maintains the Fund in the state treasury because political subdivisions must continue to repay outstanding loans into the Fund. It also requires the Director of Development Services, by August 1, 2018, to issue a report to the Governor, the Speaker and Minority Leader of the House, and the President and Minority Leader of the Senate concerning the effectiveness of the Program.

The Council consisted of 15 members: the Directors of Development Services and Budget and Management or their designees; the Auditor of State or the Auditor's designee; two members of the Senate, one appointed by the President and one by the Minority Leader; two members of the House, one appointed by the Speaker and one by the Minority Leader; and eight members appointed by the Governor, based on recommendations from parties representing local governments and education.²

RECLAIM Advisory Committee

The act revives the RECLAIM Advisory Committee,³ which expired December 31, 2016, because it was not renewed under the recent Sunset Review Committee review process.⁴ The RECLAIM Advisory Committee remained in operation after it expired, and its renewal or sunset was not considered during the Sunset Review process because of an error in the Legislative Service Commission's Boards and Commissions Database.

Under continuing law, the RECLAIM Advisory Committee is responsible for advising the Department of Youth Services (DYS) concerning the allocation of funds for felony delinquent care and custody programs. Under the RECLAIM (Reasoned and Equitable Community and Local Alternatives to the Incarceration of Minors) program, counties that place juvenile offenders in local facilities instead of sending them to DYS institutions receive funds from DYS to support those local facilities.⁵

Formally abolished agencies

The act formally abolishes the agencies listed below, which had ceased to exist:

- Adult Protective Services Funding Workgroup (Section 751.130 of H.B. 483, 130th G.A., repealed);

² R.C. 189.05 and Section 5 of the act and R.C. 189.01 through 189.04 and 189.06 through 189.10, repealed.

³ R.C. 5139.44.

⁴ H.B. 471 of the 131st G.A.; R.C. 101.82 to 101.87, not in the act.

⁵ R.C. 5139.41, not in the act. See also Ohio Department of Youth Services, *RECLAIM Ohio*, available at dys.ohio.gov/Community-Programs/RECLAIM/RECLAIM-Ohio.



- Children Services Funding Workgroup (Section 751.140 of H.B. 483, 130th G.A., repealed);
- Dangerous and Restricted Animals Advisory Board (R.C. 935.26, repealed);
- Dangerous Wild Animal State Emergency Response Commission (R.C. 935.27 and 935.28, repealed);
- Energy Mandates Study Committee (Section 4 of S.B. 310, 130th G.A., repealed);
- Health Services Price Disclosure Study Committee (Section 7 of H.B. 52, 131st G.A., repealed);
- Maritime Port Funding Study Committee (Section 745.10 of H.B. 483, 130th G.A., repealed);
- Medicaid Payment Rates for Dental Services Workgroup (Section 3 of H.B. 463, 130th G.A., repealed);
- Nursing Facility Behavioral Health Advisory Workgroup (Section 751.120 of H.B. 483, 130th G.A., repealed);
- Workforce Integration Task Force (Section 751.20 of H.B. 483, 130th G.A., repealed);
- Workgroup to Help Individuals to Cease Relying on Public Assistance (Section 751.37 of H.B. 483, 130th G.A., repealed).

Electronic notary

The act repeals law that allowed a commissioned notary public to become an electronic notary public at the discretion of the Secretary of State. The law was enacted earlier in 2017 in the main operating budget act, H.B. 49, and took effect September 29, 2017. It appears the law was not implemented.⁶

The law authorized an electronic notary to use electronic communications devices, approved by the Secretary, to fulfill the acknowledgement and signature requirements of a notary. The Secretary was required to establish standards for approving devices that could be used by an electronic notary. A notary was not

⁶ R.C. 147.541 and repealed R.C. 147.542 and 147.543.



permitted to use an electronic communications device to meet notary requirements for a deposition.

To be approved to become an electronic notary, a commissioned notary was required to submit a registration form to the Secretary that included information about the technology the notary would use. If approved, an electronic notary's commission would have expired and could have been renewed at the same time the notary's underlying commission expired. The Secretary was allowed to deny a registration if any required information was missing or incorrect or if the notary identified nonapproved technology to be used.

Additionally, the law specified (1) that the requirement that the person acknowledging an instrument appear before the notary public could be fulfilled by visually appearing through an approved electronic communications device and (2) that an electronic signature, using an approved device, could be used to satisfy the requirement that a notary acknowledge the execution of an instrument. Under the act, therefore, a person acknowledging an instrument must physically appear before a notary taking the acknowledgement.⁷

Fees for Governor's commissions

The act eliminates the requirement that an officer appointed by the Governor to serve in a compensated appointive office pay a \$5 commission fee to the Secretary of State for making, recording, and forwarding the officer's commission. Additionally, the act adds a reference to the continuing commission fees for other officers to the section of law that lists the fees the Secretary must collect.

Under continuing law, any state or county officer, militia officer, judge of a court of record, or judge of a county court must receive a commission from the Governor in order to hold the office, as well as present a legal certificate of election or appointment. Prior law required an officer also to pay a fee for the commission if the officer received compensation for serving, except that militia officers already were exempt from the fee requirement.⁸

⁷ See *Keck v. Keck*, 54 Ohio App.2d 128 (Ohio Ct. App., Fairfield County 1977); Columbus Bar Association, *Notary Frequently Asked Questions*, available at http://www.cbalaw.org/cba_prod/Main/Resources/Public/Notary/FAQ.aspx; and Ohio Society of Notaries, *Notarization Elements*, available at <http://ohionotaries.org/ohio-notary-101>.

⁸ R.C. 107.06 and 111.16. See also R.C. 107.05, not in the act.



HISTORY

| ACTION | DATE |
|---|----------|
| Introduced | 02-01-17 |
| Reported, H. State & Local Gov't | 03-01-17 |
| Passed House (94-0) | 03-08-17 |
| Reported, S. Gov't Oversight & Reform | 10-11-17 |
| Passed Senate (32-0) | 10-11-17 |
| House concurred in Senate amendments (93-2) | 11-01-17 |

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