



Am. Sub. H.B. 524*

124th General Assembly
(As Passed by the General Assembly)

Reps. Carey, Faber, Schmidt, Evans, Calvert, Flowers, Latta, Coates, Aslanides, Ogg, Redfern, Lendrum

Sen. Carnes

Effective date: June 28, 2002; certain sections effective March 28, 2002; contains item vetoes

ACT SUMMARY

- Requires the School Facilities Commission each fiscal year, when it determines the districts it plans to provide assistance to during that year, to fix the priority of the next ten school districts according to their adjusted valuation per pupil.
- Prescribes a manner in which a school district board may obtain specific voter approval to issue bonds for a state-assisted school facilities project in more than one series.
- Authorizes a school district board to issue bonds for a state-assisted school facilities project for a term of up to the number of years permitted under the Uniform Public Securities Law (generally up to 30 years) instead of a maximum of 23 years.
- Authorizes a school district board to combine a ballot measure under a state-assisted school facilities project with other bond issue and tax levy measures for permanent improvements and certain operating expenses.

* *This analysis does not cover appropriations, fund transfers, and similar provisions. Please see the Legislative Service Commission's Fiscal Note for Am. Sub. H.B. 524 for analysis of those provisions.*

- Provides that for school facilities projects of any size, the entire amount of the state's portion does not have to be encumbered during the first biennium of the project.
- Requires that the respective state and school district shares of the cost of a project under the Accelerated Urban School Building Assistance Program (for the six large urban school districts) be spent simultaneously in proportion to the percentage of each share.
- Specifies that part of the school district share of a school facilities construction project may be spent before the state share if necessary to comply with certain federal laws.
- Permits a local donated contribution under a state-assisted school facilities project to be paid directly by an entity to a contractor on behalf of the appropriate school district as long as certain conditions are satisfied.
- Specifies that a school district board that dedicates local donated contributions toward the requirement to generate money for facilities maintenance under a state-assisted school facilities project must agree to deposit all such dedicated money only by the anticipated completion of the district's project rather than at the beginning of the project.
- Allows a school district undertaking a project under the Expedited Local Partnership Program to meet its maintenance requirement by dedicating the prescribed amount of a tax used to leverage bonds for the project.
- Permits a district undertaking a project under the Expedited Local Partnership Program to combine a ballot measure for the levy of a property tax for the maintenance of facilities under that project with a related combined bond and property tax ballot measure.
- Requires the School Facilities Commission to use an adjusted valuation per pupil based on a school district's most recent single-year tax valuation to determine the district's share of a project cost under the Expedited Local Partnership Program if the district has experienced a 10% or greater decrease in tax valuation due to changes in the law on tax assessments of electric utility property.

- Exempts a school district participating in a school facilities project from having to obtain prior approval from the Superintendent of Public Instruction and the Tax Commissioner to submit to the voters the question of issuing debt that would result in the district's total net indebtedness exceeding 4%.
- Specifies the conditions under which school districts with large state-assisted school facilities projects may incur debt of up to 2% of tax valuation without a vote of the electors when issuing bonds for those projects.
- Establishes a process by which a petition may be brought for the election of a commission to study and determine conditions for the merger of school districts in counties that meet certain conditions.
- Allows two additional members to be added to the Capitol Square Review and Advisory Board: a former President of the Senate appointed by the current President of the Senate and a former Speaker of the House of Representatives appointed by the current Speaker.
- Permits a federal home loan bank to serve as a qualified trustee for the safekeeping of the securities pledged by a public depository as collateral for the repayment of state and political subdivision money under the Uniform Depository Act.
- Makes several miscellaneous clarifications to the Capital Facilities Bonds and Obligations Law.
- Requires the Governor to receive recommendations from the Ohio Housing Council for members of the Ohio Housing Finance Agency who represent multifamily housing interests.
- Changes which multifamily housing groups are designated as organizations and which are designated as corporations.
- Specifies conditions under which Ohio Housing Finance Agency members representing multifamily housing interests would not violate the Ohio Ethics Law as it relates to public contracts.

- Permits municipal corporations to impose special assessments for acquiring and improving existing parking facilities and structures for off-street parking.
- Allows individual state-assisted post-secondary educational institutions in Ohio (not just the Ohio Board of Regents) to enter into reciprocal tuition contracts with state-assisted post-secondary educational institutions in contiguous states and mandates specific reporting requirements concerning the contracts.
- Requires that title to funds received by a state-supported university or college be held in trust by the board of trustees and mandates that the board invest such funds in conformity with a "prudent person" policy, invest only in publicly traded securities, and maintain a reserve that is invested in specified securities.
- Provides that the Southern Ohio Veterans Home in Brown County is not required to obtain a certificate of need for the addition of up to 168 nursing home beds if the beds are placed in service prior to December 31, 2004.
- Would have changed the weight threshold for determining whether a motor vehicle lease is subject to the accelerated sales and use tax payment requirement. (Vetoed)
- Changes the minimum lease term for the purpose of determining whether a transaction is taxable as a lease under the sales and use tax law.
- Permits counties and municipal corporations to levy property taxes for roads that last more than five years, to levy property taxes specifically for sidewalks, bikeways, and the like, and to combine the two kinds of levy (all subject to voter approval).
- Expands a tax exemption for major league professional athletic facilities to include minor league baseball facilities, and modifies the conditions under which the exemption can be claimed.
- Permits political subdivisions granting property tax exemptions to compensate joint vocational school districts for forgone property tax revenue.

- Authorizes the Board of County Commissioners of Ashtabula County to construct, as a pilot project and by using the design-build construction method, a lodge and conference center at Geneva State Park on land leased from the Department of Natural Resources.
- Ratifies previously effective rules that might be of questionable validity because they incorporate text by reference.

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CONTENT AND OPERATION

Background: School Facilities Commission programs

State law authorizes several programs to help school districts construct, repair, or renovate school buildings. The main program is the Classroom Facilities Assistance Program (CFAP), which is intended to eventually permit all districts to receive state money to address all of their facilities needs in a single project.¹ It is a graduated, cost-sharing program where a school district's priority for funding and its portion of the cost of its project are based on the relative wealth of the district. Lower-wealth districts are served first and receive a larger percentage of their total needs than wealthier districts will receive when it is their turn to be served.

There are other programs designed to meet the special needs of certain districts. The Exceptional Needs School Facilities Assistance Program provides money to districts in the 50 lowest-wealth percentiles to construct a new facility needed to protect the health and safety of students on the same cost-sharing basis as under CFAP.² Under the Accelerated Urban School Building Assistance Program, the six remaining "Big-Eight" districts that have not yet received assistance under CFAP may begin applying for assistance in July 2002.³ This program essentially permits those districts to begin their projects earlier than they otherwise would be able to under CFAP. Finally, under the School Building Assistance Expedited Local Partnership Program, most districts that have not already been served under CFAP may enter into agreements with SFC permitting them to apply the expenditure of school district money on approved parts of the respective districts' needs prior to their eligibility under CFAP toward their

¹ *The Classroom Facilities Assistance Program is generally codified in R.C. 3318.01-3318.20 (not all sections in the act).*

² *R.C. 3318.37 (not in the act).*

³ *R.C. 3318.38 (not in the act). The six districts to which this program applies are Akron, Cincinnati, Columbus, Cleveland, Dayton, and Toledo.*

respective portions of their CFAP projects when they finally become eligible for that program.⁴

Generally, to participate in these programs, a district board, with voter approval, must issue bonds backed by a property tax to pay its portion of the cost of the project and must levy an additional property tax of one-half mill for 23 years to generate money to pay for maintenance of the newly acquired facilities. Recent legislation provides other options that the district may use to generate money to meet its obligations under the programs, including (among others) the use of donated money, credit for certain previously issued bonds to construct facilities, and the dedication of certain existing taxes to leverage new bonds.

Priorities for receiving assistance

(R.C. 3318.023)

As noted above, a district's priority for funding and its relative share of the project cost under CFAP is determined by the district's wealth compared to other districts. That determination is made by calculating the three-year average adjusted valuation per pupil of all school districts, ranking them on a list from lowest to highest valuation, and dividing that list into percentiles. Generally, districts with lower valuations (that is, in the lower percentiles of wealth) receive their funding before districts with higher valuations (in the higher percentiles). With some exceptions, the law also requires the School Facilities Commission to serve all the needs of each district within each percentile before moving on to the next higher percentile. In doing so, the Commission annually conditionally approves for assistance a select number of districts from the list of those with the lowest valuations and which have not already received CFAP assistance based on the districts' estimated project costs and the amount of funding available for the fiscal year. The projects then must be finally approved by the Controlling Board. Each approved district must raise its share of the cost of its project before entering into an agreement with the Commission for completion of the project.

The act requires the Commission, each fiscal year when it determines the districts it plans to serve during that year, to fix the priority of the next ten school districts according to their adjusted valuation per pupil so that future changes in valuation will not affect the priority for funding of those districts. Such districts are to have priority for funding under CFAP in future years over all other school districts except:

⁴ R.C. 3318.021, 3318.36, 3318.361 (the preceding sections are not in the act), and 3318.362.



(1) Those that are receiving additional assistance under a provision applying to districts that originally received assistance prior to May 20, 1997 and did not receive assistance for a districtwide project;⁵

(2) Those receiving assistance under the Exceptional Needs Program;

(3) Those receiving assistance under the Accelerated Urban Program; and

(4) Those that had projects conditionally approved but whose electors did not approve bond and tax measures necessary for participating in CFAP until a later year.

Terms of bonds

(R.C. 3318.06(B) and 3318.362)

Formerly the terms of any bonds issued for a state-assisted school facilities project could not extend beyond 23 years (except for a project under the Expedited Local Partnership Program). On the other hand, under the more general Uniform Public Securities Law (Chapter 133.), subdivisions (including school districts) could issue bonds for the acquisition of real property for terms of up to 30 years in each issue.⁶

The act provides that school districts undertaking a state-assisted project may issue bonds for the project for terms up to 30 years, as continues to be permitted under the Uniform Public Securities Law.

Combination of ballot questions

(R.C. 3318.056, 3318.06(D), and 3318.062(C))

To participate in a state-assisted school facilities program (except for the Expedited Local Partnership Program), a district board must adopt a resolution

⁵ *May 20, 1997, is the effective date of Am. Sub. S.B. 102 of the 122nd General Assembly, which created the Ohio School Facilities Commission and generally established the current framework of the Classroom Facilities Assistance Program. Under the previous state-assisted school facilities program, which was operated by the Department of Education, districts were not ranked by wealth, and not every district that was given assistance was afforded a districtwide project. In 2000, the General Assembly provided for additional assistance to those pre-S.B.102 districts (R.C. 3318.04(B)(2), as amended by Am. Sub. S.B. 272 of the 123rd General Assembly).*

⁶ *R.C. 133.20 (not in the act). The Expedited Local Partnership Program permits the issuance of bonds for up to the 30-year limit specified in R.C. 133.20 (R.C. 3318.362).*

proposing to issue bonds to pay for the district's portion of the project cost and to levy a 23-year, one-half mill property tax to pay for maintenance of the facilities.⁷ The law prescribes the form of the ballot that must be presented to the voters.⁸ Formerly a district board could not combine the questions specified in that ballot form with any other ballot questions not directly associated with the district's state-assisted project.⁹

The act permits a district to combine those ballot questions with the following ballot questions:

(1) A general obligation bond issue question under the Uniform Public Securities Law (R.C. 133.18);

(2) A property tax levy question (R.C. 5705.21);

(3) A combined bond issue and tax levy question (R.C. 5705.218);

(4) A school district income tax question (R.C. 5748.08).¹⁰

The combined ballot proposals must be for the purpose of either permanent improvements in general, operating revenue for the facilities that are acquired under the district's state-assisted project, or both.

⁷ *A district participating in the Expedited Local Partnership Program may raise its local resources to acquire facilities in the same manner as a district participating in the Classroom Facilities Assistance Program and in other lawful ways, such as bonds or notes issued under the Public Securities Law or school district property tax levies. R.C. 3318.05 (not in the act).*

⁸ *R.C. 3318.06(C).*

⁹ *The law does permit combining the question of acquiring a site for a state-assisted classroom project with the question of issuing bonds or levying a tax to pay for acquisition of the site (R.C. 3318.06(D)).*

¹⁰ *None of the referenced sections are in the act. Under R.C. 133.01(CC), a "permanent improvement" is any property, asset, or improvement having an estimated life or period of usefulness of five or more years, and includes, but is not limited to, real estate, buildings, and personal property, equipment, furnishings, and site improvements, and reconstruction, rehabilitation, renovation, installation, improvement, enlargement, and extension of property, assets, or improvements having an estimated life or period of usefulness of five or more years.*

Specifying that bonds will be issued in more than one series

(R.C. 3318.04, 3318.06, 3318.061, and 3318.062)

When any subdivision of the state proposes the issuance of bonds to the voters, the ballot question presumes that the bonds will be issued in only one series (that is, all at one time). That presumption is used by the county auditor in estimating the average tax rate needed to pay the debt service on the bonds over the life of the debt. In practice, however, bonds generally may be issued in more than one series. The tax rate needed to retire each series and to retire the total issue generally will be less than the rate estimated by the auditor and shown on the ballot, because a subdivision's taxable property valuation tends to increase over time; the later series, therefore, require lower rates to raise the amount needed to cover the debt service.

The act permits, but does not require, a school board, when proposing the issuance of bonds for a state-assisted school facilities project, to propose the actual number of series of bonds that will be issued (up to five), the amount to be issued in each series, and the approximate date each series will be issued. The county auditor, then, is required to estimate the tax rate needed to retire each series of bonds issued.¹¹ If a school board elects to propose a bond issuance through such a ballot measure, and the measure is approved by the voters, the district board may not issue the bonds any sooner than the schedule specified on the ballot.

Encumbrance of state share

(R.C. 3318.03, 3318.04, 3318.11, and 3318.38(B)(3)(b))

For any project for which the state's portion exceeds \$25 million, the Commission is required to determine the amount to be encumbered in each biennium based on the project's estimated construction schedule for that biennium. If the Commission determines that the entire amount does not need to be encumbered, then in each biennium subsequent to the first biennium in which state appropriations were encumbered for the project, the project has priority for state funds over projects for which initial state funding is sought. The act applies this phased encumbrance to projects of any size.

¹¹ The substantive changes to make this provision effective are in R.C. 3318.06(B) and (C) and 3318.062.

Spending of respective state and school district shares under the Accelerated Urban School Building Assistance Program

(R.C. 3318.08(R)(2) and 3318.38(B)(4))

Prior law required that the state's share of a state-assisted school facilities project, except for a project under the Expedited Local Partnership Program, be spent before any money in the school district's portion was spent. In the meantime, the district was required to deposit the amount of its portion into the district's project construction fund, where it earned interest. The act requires that for any project under the Accelerated Urban School Building Assistance Program, state and school district money be spent simultaneously in proportion to their respective shares.

Local share arbitrage language

(R.C. 3318.08(R)(1))

The bonds issued by a school district to raise its portion of the cost of a school facilities project are tax exempt under federal law. As noted above, state law generally requires that the state's share of the project be spent before any money in the school district's portion is spent. However, state law also permits the expenditure of at least some of the school district money in order to protect the tax exempt status of the bonds. Federal law requires that the money generated from the sale of these exempt bonds be spent for project needs and not be invested for longer than a specified short period of time. Also, if the money is not spent in compliance with a schedule in federal regulations, the school district may have to rebate some money from the bond proceeds to the federal government. The act adds language specifying that the district's share may be spent in order to comply with these rules on temporary investment periods and avoidance of rebating.

Paying the "local donated contribution" directly to a contractor

(R.C. 3318.084)

Ordinarily a school district raises its portion of the cost of acquiring classroom facilities under a state-assisted project with a voter-approved bond issue. However, the law also permits a district to generate some or all of its portion by dedicating for that purpose a local donated contribution.

At present a "local donated contribution" may take the form of money irrevocably donated or granted to the district by some source other than the state, any cash the district has on hand (which may include year-end operating balances), or a letter of credit issued on behalf of the school district. The act also allows money paid directly to a contractor (as opposed to being donated to the

school district to pay the contractor), by a source other than the school district or the state, to be counted as a local donated contribution. In that case, the school district, the Commission, and the entity providing the local donated contribution must enter into an agreement that, among other matters, identifies the facilities to be constructed or renovated, requires an audit by the Commission of expenditures made on behalf of the district for those facilities, and specifies the maximum amount of credit to be allowed for those expenditures.

Upon completing the construction or renovation, the act provides, the Commission must determine the actual amount that the Commission will credit toward the district's portion of the basic project cost, any project cost overruns, or the basic project cost of any future segments of the project. The actual amount of the credit is not to exceed the amount specified in the agreement or the actual cost of the project, whichever is less. The state share of the project cost may be released even if the entity providing the local donated contribution has not spent the money so dedicated, as long as the agreement has been executed.

Deposit of local donated contribution dedicated toward a district's obligation to generate facilities maintenance money

(R.C. 3318.08(E) and 3318.084(D)(2))

Formerly, before any state money could be released for a district's project, the district board had to deposit all of the local donated contribution it had dedicated toward an offset of its maintenance obligation into the district's capital and maintenance fund. The act provides instead that the state money may be released if the district board and School Facilities Commission include in their project agreement a stipulation that the board will have deposited into an account approved by the Commission the full amount of that dedicated money by the anticipated completion date of the project. The act does not affect the continuing requirement that any local donated contributions dedicated toward the district's portion of the *project cost* must be deposited into the district's project construction fund before any state funds may be released.

Expedited Local Partnership Program

Dedication of tax proceeds to leverage bonds (R.C. 3318.36). Under the School Building Assistance Expedited Local Partnership Program, a school district not already participating in the Classroom Facilities Assistance Program may enter into an agreement with the School Facilities Commission permitting the district (1) to proceed with a project to construct new classroom facilities, or to make major repairs to part of the district's existing classroom facilities and (2) apply the amount of local resources the district expends on the construction or repairs to the basic project cost of the district's total classroom facilities needs when it does

become eligible to participate in the Classroom Facilities Assistance Program. The act allows a district undertaking a project under the Expedited Local Partnership Program to dedicate the prescribed amount of the proceeds of a tax used to leverage bonds for the project, or to dedicate a local donated contribution in an amount equivalent to the taxes that must be levied, for maintenance of the classroom facilities included in the basic project cost. (This maintenance requirement otherwise must be met by levying a tax of at least ½-mill for 23 years or dedicating an equivalent amount of a permanent improvements levy.)

Combining ballot measures (R.C. 3318.36 and 5705.218). The act also permits a school district undertaking a project under the Expedited Local Partnership Program to combine a ballot measure for the levy of a property tax for the maintenance of facilities acquired under that project with a related combined bond and property tax ballot measure.

Adjustment in the event of decreased electric company property assessments (R.C. 3318.363). Under the Expedited Local Partnership Program, a school district's share is determined based on either its "required level of indebtedness" or its "required percentage," whichever amount is greater. The latter formula is determined from the district's percentile ranking among all other districts according to adjusted valuation per pupil that is averaged over three years. The law provides an exception for districts that have experienced a 10% or greater decrease in tax valuation due to reductions in assessments on electric utility property in the districts caused by recent changes in tax law relative to electric utility industry deregulation.¹² In the case of such a district, the law specifies that a district's "required percentage" is to be calculated, or recalculated if it has already been calculated by the School Facilities Commission, using a non-averaged "current year" adjusted valuation per pupil. That latter formula, nonetheless, formerly included a three-year averaged tax valuation on which to base its calculation of per pupil valuation for the current year.

The act requires that the calculation or recalculation for those districts that have experienced the required 10% or greater decrease in valuation be made using the most recent single-year tax valuation for the district without averaging any prior years' valuations. (Specifically, the valuation used is that for the tax year preceding the calendar year in which the fiscal year during which the calculation or recalculation is made begins.) That single-year tax valuation divided by the number of students attending school in the district is then adjusted for the income potential of the district in the same manner as that adjustment is made for all other

¹² Those tax law changes are in R.C. 5727.111, as amended by Am. Sub. S.B. 3 of the 123rd General Assembly, not in the act.

districts under the school facilities programs. The act also specifies that the calculations or recalculations are to be made beginning in fiscal year 2003.

Elimination of certain approval requirements to exceed total net indebtedness of 4%

(R.C. 133.06(I))

Ordinarily a school district is forbidden to submit to a vote of the electors the question of issuing securities in an amount that would make the district's net indebtedness after issuance of the securities more than 4% of the district's tax valuation unless the Superintendent of Public Instruction, acting under policies adopted by the State Board of Education, and the Tax Commissioner, acting under written policies of the Commissioner, consent to the submission. The act eliminates this consent requirement when a district will exceed the 4% debt limit in order to pay its share of the basic project cost of a state-assisted classroom facilities project. Instead, the School Facilities Commission will simply notify the Superintendent of Public Instruction that the district will exceed the 4% limit.

Certain school districts may incur debt of up to 2% of tax valuation through the issuance of bonds without voter approval

(R.C. 133.06(J))

The act allows a school district whose portion of a state-assisted school facility project has a basic cost of at least \$100 million to incur net indebtedness of up to 2% of its tax valuation through the issuance of general obligation securities (bonds) without voter approval. The purpose of the bonds must be to generate all or a part of the amount of the school district's share of the basic project cost. Additionally, the Controlling Board must have approved the School Facilities Commission's conditional approval of the project before the school district may issue the bonds. All funds generated through the issuance of such bonds must be deposited into the school district's project construction fund before state money for the project will be released.

Forming a commission to study the merger of school districts in certain counties

(R.C. 3311.25)

Under continuing law, several school districts may merge into one school district through various methods. One such method is if the State Board of Education studies a merger or transfer of territory and submits a proposal to the electors in those school districts, and the electors by a majority vote approve the



merger or transfer of territory.¹³ Another method is if the school boards adopt a resolution or 75% of the electors who voted in the last general election sign a petition supporting the transfer of territory from one school district to another. The State Board must approve or disapprove such a request.¹⁴

The act provides another mechanism for merger whereby two or more city, local, or exempted village school districts may merge after the election of a merger commission and subsequent vote for a merger if the county in which the school districts are primarily located has a population of less than 100,000. The act also provides for the inclusion of electors in other counties who reside within the boundaries of the school districts at issue.

The first step in a merger under this process is the election of a commission to study the merger of any or all of the school districts in the county. In order to have the issue on the ballot, a petition must be filed with the county board of elections. The petition must contain the purpose of the petition and the names of five electors of each school district proposed to be merged who will serve as commissioners on the merger study commission. The petition must be signed by at least 10% of the electors living in each school district proposed to be merged who voted for the office of Governor in the most recent general election. If petitioners are unable to obtain the signatures of 10% of the electors in a particular school district, electors in that school district are unable to vote for the election of a commission but the question of establishing a merger commission can still be submitted to the electors of other school districts that satisfied the signature requirement, as long as there are at least two school districts with the required 10% of signatures.

Once the board of elections determines the petition is valid, at the next general election occurring at least 75 days after the petition is filed, the electors in each school district that satisfied the 10% signature requirement will be able to vote on whether to create a commission to study merger and to require the commissioners to draw up a statement of conditions for the proposed merger if they favor a merger. As long as the electors in at least two school districts approve by majority vote the creation of the commission, the commission must be established with the five listed commissioners from each school district that approved the creation of the commission. The act provides that the commission is to cease to exist 75 days before the next general election after the commission is elected.

¹³ *R.C. 3311.37 and 3311.38 (not in the act).*

¹⁴ *R.C. 3311.24 (not in the act).*

If the commission favors a merger, the act authorizes it to determine conditions for the merger. Conditions could, for example, provide for the election of school board members for the new school district or that the merger will not take effect until any required changes in state law necessary for the merger become effective. All such conditions must be approved by a majority of the commissioners from each school district.

Once the commission decides a merger is not desirable or finalizes conditions of merger, it must report this fact and the name of each school district in which a majority of commissioners approved the conditions of merger to the board of elections in each county in which the school districts are located. In the general election following the election of the commission, the electors in each school district in which the commissioners approved the conditions of merger will have the opportunity to approve or disapprove a merger. If the electors in any school district reject the merger, the merger is not to occur unless the conditions of merger provide for a merger to occur without the inclusion of that district and the conditions of merger are otherwise met. No district in which the conditions are disapproved by a majority of those voting on them is to be included in any merger resulting from that election. If the electors in each school district proposed to be merged approve the merger, or if the conditions of merger provide for a merger to occur without the inclusion of one or more districts in which the conditions of merger are disapproved by a majority of those voting on them, the merger must occur in conformity with the merger conditions.

Capitol Square Review and Advisory Board membership

(R.C. 105.41)

The Capitol Square Review and Advisory Board, which oversees the State House, Senate Building, and surrounding grounds, consists of nine members. Five of the members are appointed by the Governor and two each by the President of the Senate and Speaker of the House of Representatives. The President's and Speaker's appointees must be legislators from their respective chambers. Terms of office are for three years, except that the legislators on the board can serve only so long as they remain members of the General Assembly.

The act allows two additional members to be added to the board. The President of the Senate is to appoint a former President of the Senate, and the Speaker of the House of Representatives is to appoint a former Speaker. However, if the President or Speaker decides for any reason not to make the appointment, or if no person is eligible or available to serve, the seat must remain vacant.



Formerly the board could take no action unless it was approved by at least five of the nine members. The act provides that if persons are appointed to either or both of the new seats, the approval of six members is necessary to take any action.

Qualified trustees under the Uniform Depository Act

(R.C. 135.18(I) and 135.181(F))

Under the Uniform Depository Act (Chapter 135. of the Revised Code), a financial institution designated as a public depository must pledge a specified amount of eligible securities as security for the repayment of all public money to be deposited in the financial institution. These eligible securities may be deposited with the Treasurer of State or treasurer of the political subdivision, as the case may be, or with specified trustees, such as any federal reserve bank or branch located in Ohio, that are designated under law as qualified to hold the securities in safekeeping. The act permits a federal home loan bank to serve as such a qualified trustee.

Bond law clarifications

(R.C. 151.01, 151.09, and 151.40)

The act makes miscellaneous clarifications to the Capital Facilities Bonds and Obligations Law as follows:

(1) Section 6 of Article XV of the Ohio Constitution requires that the net proceeds of the state lottery be used solely for the support of elementary, secondary, vocational, and special education programs. In accordance with this requirement, the act specifies that net state lottery proceeds may not be pledged or used for the payment of debt service except on obligations issued for capital facilities for the public school system.

(2) Continuing law provides that the state's taxes, excises, and other revenues that are pledged to the payment of debt service on general obligations are deemed to be levied and collected for the purpose of paying that debt service, in addition to any other purposes for which they are levied and collected. The act specifies that obligations issued for Clean Ohio conservation projects are among the obligations to which this provisions applies.

(3) Continuing law also defines the term "obligations" to mean bonds, notes, or other evidences of obligation of the state, including any appertaining interest coupons. The act provides that obligations issued for Clean Ohio conservation and revitalization projects are included within this definition.

Ohio Housing Finance Agency

(R.C. 175.03)

Continuing law requires that one member of the Ohio Housing Finance Agency represent the interests of what were referred to as nonprofit multifamily housing development organizations and that one member represent the interests of what were referred to as for-profit multifamily housing development corporations. The act changes the designations of the multifamily housing groups to "nonprofit multifamily housing development *corporations*" (from organizations) and "for-profit multifamily housing development *organizations*" (from corporations).

The act requires the Governor to receive recommendations from the Ohio Housing Council for members to represent the interests of multifamily housing, and requires that appointees representing multifamily housing interests be employed with an organization that is active in the area of affordable housing development or management.

Under the act, a member representing multifamily housing interests does not violate the Ohio Ethics Law in regard to a contract the agency enters into if (1) the contract is entered into for a loan, grant, or participation in a program administered or funded by the agency and was awarded pursuant to rules or guidelines the agency adopted, and (2) the member does not participate in the discussion or vote on the contract if the contract secured a grant or loan that would directly benefit the member, a family member, or a business associate of the member.

Municipal special assessments for parking facilities

(R.C. 727.01)

Under continuing law, municipal corporations can levy and collect special assessments (with some restrictions) for acquiring land and constructing off-street parking facilities or structures on it (R.C. 717.05 and 727.01). The act permits municipal corporations to also levy special assessments for the acquisition and improvement of existing parking facilities and structures for off-street parking of motor vehicles.

Reciprocal tuition contracts between state-assisted educational institutions in Ohio and contiguous states

(R.C. 3333.17)

Continuing law allows the Ohio Board of Regents to enter into a reciprocal tuition contract with the appropriate agency in a contiguous state whereby an Ohio



resident who attends a state-assisted post-secondary educational institution in the contiguous state will be charged the in-state rate for tuition and fees. In exchange, the Board of Regents may provide that residents of the contiguous state who attend a state-assisted post-secondary educational institution in Ohio will be charged the in-state rate of tuition and fees. The act expands this contracting power by allowing individual state-assisted post-secondary educational institutions to enter into reciprocal tuition contracts with individual state-assisted post-secondary educational institutions in a contiguous state. The act also specifies that any such contract entered into by either the Board of Regents or an individual educational institution may limit the type of academic program offered at the reciprocal rate. Prior law provided that no reciprocal tuition contract could be entered without the approval of the Controlling Board. The act eliminates the Controlling Board's approval power and instead gives the authority to approve such contracts to the Board of Regents.

The act requires the Board of Regents and educational institutions that enter into reciprocal tuition contracts to assess the costs and benefits of the contracts periodically. As part of this assessment the contracting entities must evaluate the extent to which parity is achieved between Ohio and the contiguous state regarding students benefiting from the contract.

Under the act all Ohio state-assisted post-secondary educational institutions must report enrollments and other information to the Board of Regents annually if they participate in reciprocal tuition contracts. The Board of Regents, in turn, must report the status of reciprocal tuition contracts to the Controlling Board.

Finally, in calculating the number of full-time equivalent students for state subsidy purposes, the act clarifies that residents of contiguous states enrolled in for credit courses taught at either the main campus or a designated off-campus site are included in the calculation.

The investment authority of the board of trustees of a state-supported university or college

(R.C. 3345.05)

Continuing law provides that funds received by state-supported universities and colleges are held and administered by the boards of trustees of such universities and colleges. The act adds that the title to such funds is not to be vested in the state but rather held in trust by the board of trustees.

In investing the funds it holds in trust, the board must adhere to an investment policy that has been adopted in public session and that requires fiduciaries to act in the manner of a "prudent person." This policy must specify



that in making investments, the board of trustees is permitted to invest only in publicly traded securities. Even more specifically, the policy must require the board to invest, as a reserve, an average of at least 25% of the average amount of the previous year's investment portfolio in securities of the U.S. government or of its agencies or instrumentalities, the Treasurer of State's pooled investment program, obligations of Ohio or any Ohio political subdivision, certificates of deposit of any national bank located in Ohio, written repurchase agreements with any eligible Ohio financial institution that is a member of the Federal Reserve System or Federal Home Loan Bank, money market funds, or bankers acceptances maturing in 270 days or less which are eligible for purchase by the Federal Reserve System.

The act also specifies that the investment policy must require the university or college to establish an investment committee that reviews and recommends revisions to the policy and advises the board on the investments it makes. The committee also has the authority to hire an investment advisor who is either licensed by the Ohio Division of Securities or registered with the U.S. Securities and Exchange Commission and either has experience in the management of investments of public funds, especially in the investment of state-government investment portfolios, or is an eligible public depository under Ohio's Uniform Depository Act.

Certificate of need exemption

(R.C. 3702.5213)

Continuing law requires a person to obtain a certificate of need (CON) from the Director of Health before engaging in a reviewable activity regarding a long-term care facility. Reviewable activities include establishing, developing, and constructing a new long-term care facility and increasing an existing long-term care facility's bed capacity.

The General Assembly has established various exemptions from the CON requirement and the act establishes a new exemption. The Southern Ohio Veterans Home in Brown County is not required to obtain a CON for the addition of up to 168 nursing home beds if the beds are placed in service prior to December 31, 2004.

Property tax levies for subdivision roads

(R.C. 5705.19)

Under law unchanged by the act, counties, townships, and municipal corporations, with voter approval, may levy property taxes specifically for road



and bridge construction and repair. However, under prior law, townships could do certain things that counties and municipal corporations could not do, namely (1) levy a tax specifically for projects such as sidewalks and bicycle paths, (2) combine such a levy with a road levy, and (3) impose a property tax levy for roads for any specified number of years or even permanently. The act grants counties and municipal corporations the same authority as townships with respect to such levies. And, as with township road levies, these county or municipal levies may be reduced by voter initiative or by action of the county budget commission, or the taxing authority (i.e., the board of county commissioners or municipal legislative authority).

Sales, use tax on leased vehicles

(R.C. 5739.01(H)(4) and 5741.01(G)(4))

Sales and use taxes on leases of some motor vehicles and certain other property must be paid up front, in their entirety, on the basis of the total taxes applicable to the total of the payments made over the term of the lease. For other kinds of leased property, the tax is paid with each lease installment. In the case of motor vehicles, the accelerated tax payment applies only to passenger cars and relatively small vehicles--i.e., those designed to carry loads of one ton or less.

The Governor vetoed a provision that would have replaced the one-ton carrying capacity criterion with a criterion based on the vehicle's gross vehicle weight. The up-front tax payment would have applied to vehicles having a gross vehicle weight of 13,500 pounds or less. (Gross vehicle weight is the weight of the fully equipped vehicle when unloaded, plus the vehicle's maximum carrying capacity.)

Minimum length of leases under sales and use taxes

(R.C. 5739.01(VV) and 5741.01(O))

The act slightly lengthens the minimum term of a lease in order for the lease to be treated as a lease for sale and use tax purposes. Formerly a lease had to be at least 28 days in length in order for it to be so treated. Under the act, a lease must be at least 30 days in length.

Tax exemption for minor league baseball facilities

(R.C. 5709.081; Section 60)

Under certain conditions in existing law, the buildings, structures, and tangible personal property that make up a major league professional athletic facility are exempt from property taxation. Among the conditions are that the

property is owned by a political subdivision or a corporation controlled by a political subdivision, and controlled and managed by the political subdivision or corporation or by a designee or agent pursuant to a management or similar agreement. In addition, the property must have been constructed or acquired pursuant to a municipal development plan for a distressed area or financed in whole or part with public obligations, or be an improvement or addition to property so constructed, acquired, or financed.

The act expands the tax exemption to include buildings, structures, and tangible personal property that make up a facility used by a class A to class AAA minor league affiliate of a major league baseball team. In addition, land acquired by a political subdivision in 1999 for a facility to which the exemption applies is exempted.

The act also modifies the conditions that must be met for the exemption to apply. Besides being constructed or acquired pursuant to a municipal development plan for a distressed area or financed in whole or in part with public obligations, a facility can be exempt if it is otherwise paid for in whole or in part by one or more political subdivisions. In addition, the facility can be controlled and managed by a tenant (not just a designee or agent) of the political subdivision or corporation that owns it pursuant to a lease or similar agreement.

The act states that its changes are remedial in nature, and apply to the tax years and property at issue in any application for exemption pending on its effective date before the Tax Commissioner, the Board of Tax Appeals, any Court of Appeals, or the Supreme Court.

Compensation of joint vocational school districts for lost tax revenue

(R.C. 5709.82)

A political subdivision that has granted an exemption from taxation for real or tangible personal property may enter into an agreement with the board of education of the school district in which the property is located to compensate the district for tax revenue lost due to the exemption. Formerly such compensation was authorized only with respect to city, local, or exempted village school districts. The act adds joint vocational school districts (JVSDs) to the types of districts that may be compensated for forgone property tax revenue.

Pilot project for lodge and conference center at Geneva State Park

(Section 58)

The act authorizes the Board of County Commissioners of Ashtabula County to construct, as a pilot project and by using the design-build construction



method, a lodge and conference center at Geneva State Park on land leased from the Department of Natural Resources (DNR). In carrying out the pilot project, the Board and DNR are exempt from complying with any otherwise applicable provisions of the State Public Works Law and the County Competitive Bidding Law.

The act defines "design-build construction method" to mean a construction method that has these characteristics: (1) an architecture firm and a contractor form a single entity that files a bid to construct a project and that, if awarded the contract, agrees to a project price and completion date, and (2) the entity so formed (a) assumes all of the financial risk if the project is delayed or exceeds the project price and (b) receives bonuses if the cost it incurs is less than the project price and it meets the construction target dates.

Ratification of previously effective rules

(Section 59)

The act ratifies previously effective rules that otherwise might be of questionable validity because they incorporate text by reference.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	02-26-02	pp. 1454-1455
Reported, H. Finance and Appropriations	03-12-02	pp. 1512-1513
Passed House (83-9)	03-13-02	pp. 1527-1541
Reported, S. Finance & Financial Institutions	03-19-02	p. 1592
Passed Senate (28-4)	03-20-02	pp. 1617-1629
Concurrence	03-21-02	pp. 1599-1600

02-hb524.124/jc

