Bill Rowland and other LSC staff

Legislative Service Commission

Bill Analysis

Sub. S.B. 189*

125th General Assembly
(As Reported by H. Finance & Appropriations)

Sens. Harris, Amstutz, Carey, Armbruster, Austria, Coughlin, DiDonato, Mallory, Spada, Wachtmann, Zurz, Padgett, Miller, Robert Gardner, Mumper

Reps. Calvert, D. Evans, Flowers, Peterson

BILL SUMMARY

- Requires the local cost of administering Ohio estate taxes to be paid by both the state and local governments in proportion to their shares of estate tax revenue--with local governments paying 80% and the state paying 20% of the costs and expenses involved.

- Correspondingly, eliminates the requirements (1) that the costs and expenses involved be paid entirely out of the state's 20% share of estate tax revenue and (2) that the state pay out of the General Revenue Fund the local cost of administering Ohio estate taxes to the extent it exceeds the state's 20% share of estate tax revenue.

- Eliminates Step 7 from the current and future salary or wage Schedules E-1.

- Creates new and separate salary or wage schedules exclusively for Step 7 entitled "Schedule E-1 for Step Seven Only."

- Generally requires exempt employees to be paid under Schedule E-1 or Schedule E-2, but allows certain employees to be paid under Schedule E-1 for Step Seven Only.

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* *This analysis does not address appropriations, fund transfers, and similar provisions. See the Legislative Service Commission's Fiscal Note for Sub. S.B. 189 for an analysis of such provisions.*

- Changes one qualification for the one-time December 2004 2% pay supplement--the employee must "remain continuously" on the active payroll "through" November 14, 2004.

- Makes permanent employees of state boards and commissions eligible for the one-time December 2004 2% pay supplement.

- Requires the one-time December 2004 2% pay supplement for eligible permanent employees paid under Schedule E-1 for Step Seven Only to be based on the annualization of Step 6 of the employee's corresponding pay range under Schedule E-1.

- Requires all other pay supplements for employees paid under Schedule E-1 for Step Seven Only to be based on the minimum hourly rate of the employee's corresponding pay range under Schedule E-1.

- Removes the requirements that members of the United States Congress from Ohio, candidates for the office of member of the United States Congress from Ohio, and persons who are appointed to fill vacancies in such an office file financial disclosure statements with the Ohio Ethics Commission and accompany their filings with a $40 filing fee.

- Modifies current law to authorize, rather than require, the Department of Administrative Services to periodically perform specified tasks relating to space occupied by state agencies.

- Specifies that the Director of Budget and Management may transfer such amount of investment earnings, instead of such percentage as stated in current law, from the Administrative Building Fund to the State Architect's Fund that the Director determines to be appropriate and requires those investment earnings that are transferred to be earnings in excess of the amounts required to meet estimated federal arbitrage rebate requirements.

- Requires the Director of Budget and Management to approve and provide a voucher for rebates and payments made from the Administrative Building Fund to meet federal arbitrage requirements under the Internal Revenue Code.

- With respect to the law governing bonds issued by the Ohio Building Authority, provides that "costs of capital facilities" can include the cost

of rebates and payments made to meet federal arbitrage requirements for those bonds under the Internal Revenue Code.

- Changes a requirement that not more than 5% of all the money in the Low- and Moderate-Income Housing Trust Fund be used for administration to instead require that not more than 5% of current year appropriation authority for the fund be used for administration.

- Increases from $100 to $200 the ceiling on the fee that the State Board of Building Appeals may charge for the cost of filing and processing appeals.

- Merges the Sports Facilities Building Fund into the Arts Facilities Building Fund to create the Arts and Sports Facilities Building Fund.

- Codifies an opinion of the Ohio Attorney General by instructing the Ohio Tuition Trust Authority not to incorporate tuition reductions given to Ohio residents that vary in amount from student to student, beyond those given uniformly to all Ohio residents, when calculating "annual undergraduate tuition charged to Ohio residents."

- Prohibits the Department of Education from assigning a school district a lower performance rating for the 2003-2004 school year than the district received for the 2002-2003 school year if the district meets certain student performance criteria.

- Eliminates the requirement that a local school district's proposal to sever itself from its present educational service center (ESC) and annex to another ESC be approved by the governing board of the ESC to which the district would be annexed (but retains for most districts the requirement that the proposal be approved by the State Board of Education).

- Permits a local school district that ceded part of its territory to one or more new local school districts created by resolution of an ESC to annex itself to another ESC without approval by the State Board of Education, effective in the next school year rather than two school years later, provided the local school district proposes the transfer within two years after the date of the last creation of a new local school district from that district's territory.

- Clarifies eligibility for participation in the Pilot Project Special Education Scholarship Program for autistic children.

- Specifies that the starting point for measuring travel time to determine if a school district must transport a student to a nonpublic or community school is the public school to which the student would otherwise be assigned.

- Provides that members of the Ohio Commission to Reform Medicaid are to be reimbursed for all actual and necessary expenses in the performance of their official Commission duties.

- Provides that, if certain conditions exist, a member of the Ohio Commission to Reform Medicaid is to be considered present at a Commission meeting even though the member's participation is through a telephone conference call.

- Eliminates the defined procedures the Director of Job and Family Services uses to allocate federal workforce development funds to localities and requires all local areas and sub-recipients of local areas to create and deposit such funds received into workforce development funds each local area must create.

- Requires, to the extent permitted by federal law, that the Department of Job and Family Services and county departments of job and family services release information about recipients of the Ohio Works First; Prevention, Retention, and Contingency; and Disability Financial Assistance programs to an entity administering a program assisting needy individuals with the costs of public utility services.

- Requires that the Department of Job and Family Services request federal approval to provide assertive community treatment and intensive home-based mental health services under Medicaid not later than July 21, 2004, rather than May 1, 2004.

- Eliminates a requirement that the Director of Job and Family Services adopt rules establishing statewide access and acuity standards for Medicaid-funded partial hospitalization mental health services.

- Eliminates a restriction that Medicaid waivers regarding autism and early intervention-related home and community-based services operate for only three to four years.

- Eliminates a provision of current law providing that an individual may not receive services under an autism-related home and community-based services Medicaid waiver for more than three years and another provision that makes an individual who receives intensive therapeutic services under such a waiver forever ineligible to receive intensive therapeutic services under any other component of the Medicaid program.

- Requires the Director of Mental Health to revise a rule regarding the certification standards for the partial-hospitalization community mental health service and requires the Director to address client eligibility criteria as part of the revision.

- Reduces from 60 to 30 the number of days that a hospice care program may conditionally employ an individual pending the results of a criminal records check.

- Reduces from 60 to 30 the number of days a home health agency may conditionally employ an individual pending the results of a criminal records check.

- Clarifies that the transfers to the Department of Mental Health Trust Fund that the Director of Budget and Management can make of unexpended balances of General Revenue Fund appropriations made to the Department of Mental Health are cash transfers.

- Clarifies that the transfers to the Community Mental Retardation and Development Disabilities Trust Fund that the Director of Budget and Management can make of unexpended balances of General Revenue Fund appropriations made to the Department of Mental Retardation and Developmental Disabilities plus excess balances of any other department funds are cash transfers.

- Expands the list of professionals who may supervise a registered applicant in the practice of alcohol and other drug prevention services.

- Provides that a licensed independent chemical dependency counselor who holds at least a master's degree in behavioral sciences meeting

course requirements specified in rules may provide, for persons seeking an independent chemical dependency counselor or chemical dependency counselor III license, the portion of the training in the Diagnostic and Statistical Manual of Mental Disorders that is on chemical dependency conditions.

- Specifies that a requirement for obtaining an independent chemical dependency counselor license is that an individual hold *at least* a master's degree in behavioral sciences, thereby permitting an individual with a higher degree to qualify.

- Provides that a person who holds, on December 23, 2002, a certificate or credentials accepted by the Department of Alcohol and Drug Addiction Services as authority to practice as a certified chemical dependency counselor II may obtain a chemical dependency counselor II license from the Chemical Dependency Professionals Board without having to hold an associate's degree in a behavioral science or a bachelor's degree in any field.

- Provides that the practice authorities specified in current law for independent chemical dependency counselors and chemical dependency counselors III, II, I, and assistants are in addition to their authority to practice chemical dependency counseling.

- Provides that an individual holding a chemical dependency counselor II license or chemical dependency counselor I or assistant certificate may perform treatment planning, thereby making this authority to practice consistent with the definition of chemical dependency counseling.

- Establishes new parameters regarding the existing prohibition that specified government entities not contract with persons against whom an unresolved finding for recovery has been issued, including further defining the types of contracts and the public entities to which the prohibition applies by exempting: (1) certain types of entities, (2) contracts under $25,000, (3) contracts with persons with whom the public entity had previously held multiple contracts under an aggregate amount of $50,000, and (4) political subdivisions that receive less than $50,000 of state money in the current or preceding fiscal year.

- Allows a government entity to verify that a person with whom it is about to contract has no unresolved finding for recovery by obtaining proof of

this, instead of checking that the person does not appear on the State Auditor's database, as required under current law.

- Eliminates the Farm Service Agency Electronic Filing Fund and transfers the balance of the fund into the Cooperative Contracts Fund.

- Expands the use of money in the Cooperative Contracts Fund to include payment of fees charged by the Secretary of State for electronic filing of financing statements related to Farm Service Agency agricultural loans.

- Limits the transfer to the Auction Recovery Fund from the Auctioneer's Fund to 25% of the balance of the Auctioneer's Fund that is in excess of $300,000 at the end of each fiscal year.

- Revises the method for distributing moneys from the sale of standing timber taken from state forest lands and state forest nurseries by creating the Forestry Holding Account Redistribution Fund, requiring all moneys from such a sale to be credited to it and to be redistributed at least once each year, requiring the direct costs incurred by the Division of Forestry regarding a sale to be subtracted from the total sale proceeds and transferred to the existing State Forest Fund, specifying that the remaining moneys constitute the net value of the timber that was sold, and requiring that of the net value, 25% must be transferred to the State Forest Fund, 10% must be transferred to the General Revenue Fund, and 65% must be paid to the appropriate county for further distribution to the county and affected townships and school districts.

- Authorizes the Board of County Commissioners of Ashtabula County to construct, as a pilot project, a lodge and conference center at Geneva State Park on land leased from the Department of Natural Resources.

- Exempts from the annual hazardous waste facility permit fee for disposal facilities that use deep well injection such a hazardous waste disposal facility if the facility pays the annual injection well operating permit fee established under the Water Pollution Control Law and is in compliance with applicable requirements established under the Solid, Infectious, and Hazardous Waste Law and rules adopted under it.

- Specifies that, with regard to the payment of treatment or disposal fees by a hazardous waste facility that is both an on-site and an off-site facility, the determination of whether on-site or off-site fees are to be paid must

be based on whether the hazardous waste was generated on or off the facility's premises.

- Clarifies that hazardous waste treatment and disposal fees are to be paid by facilities that are operating in accordance with a permit by rule under rules adopted by the Director of Environmental Protection.

- Clarifies that the additional hazardous waste treatment and disposal fees that are levied to pay certain costs incurred by municipal corporations and counties are due each year on the anniversary date of a permit by rule or the date on which a facility became exempt from hazardous waste permit requirements under rules adopted by the Director in addition to being due each year on the anniversary date of a hazardous waste facility installation and operation permit or renewal permit as in current law.

- Reduces the time for the remittance of solid waste disposal fees from 60 to 30 days after the last day of the month during which they were collected before the owner or operator of a disposal facility must pay a late penalty, but adds as an alternative for a late remittance the last day of an extension approved by the Director of Environmental Protection.

- Extends from June 30, 2004, until June 30, 2005, the period during which the entire ½ of 1% of the amount wagered on exotic wagering must be deposited into the State Racing Commission Operating Fund.

- Eliminates the requirement that the State Racing Commission's Secretary have resided in Ohio for five years immediately preceding appointment.

- Extends from 180 to 540 days the deadline for eligible lottery prize award winners who are on active military duty to claim their lottery prize awards.

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Estate tax provisions

(R.C. 5731.47 and 5731.48)

Existing law

Distribution of estate taxes in general. Under existing Ohio Estate Tax Law, if a decedent dies on or after January 1, 2002, 80% of the gross amount of the taxes levied and paid under the law is for the use of the municipal corporation or township in which the tax originates and must be credited in one of the following manners (R.C. 5731.48(A) and (C)):

- In the case of a city, to its general revenue fund.
- In the case of a village, to its general revenue fund or to the village's board of education for school purposes, as the village council decides by resolution.
- In the case of a township, to its general revenue fund or to the board of education of the school district of which the township is a part for school purposes, as the board of township trustees decides by resolution.

The remaining 20% of the gross amount of the taxes levied and paid under the law--*after deduction of the fees and expenses described below*--is for the use of the state and must be credited to the General Revenue Fund (R.C. 5731.48(C)).

Fees and expenses. As mentioned above, certain fees and expenses must be deducted from the state's 20% share of estate tax revenue. They include the

fees of county sheriffs and other officers who perform services under the Ohio Estate Tax Law (e.g., service of process) and *the expenses of county auditors* who perform specified functions in the administration of the law. (R.C. 5731.47.)

The deduction procedure is as follows. Those fees and expenses must be certified by the auditor of a county to the Tax Commissioner in a report. If the Tax Commissioner finds the fees and expenses are correct and reasonable in amount, the Tax Commissioner must indicate his or her approval of them in writing to the respective county auditor. The county auditor then pays the fees and expenses out of the state's 20% share of estate tax revenue in the county treasury's undivided estate tax fund. (R.C. 5731.47.)

One wrinkle is when the fees and expenses approved by the Tax Commissioner *exceed* the state's 20% share of estate tax revenue in the county treasury's undivided estate tax fund. In that situation, the county auditor must certify the excess to the Tax Commissioner, who must then certify the excess to the Director of Budget and Management. The OBM Director must cause the payment of the excess from the General Revenue Fund. (R.C. 5731.47.)

Changes proposed by the bill

The bill establishes the following new procedure for the payment of the fees of county sheriffs and other officers who perform services under the Ohio Estate Tax Law and the expenses of county auditors who perform specified functions in the administration of the law (R.C. 5731.47 and 5731.48(C)):

- As under existing law, those fees and expenses must be certified by the auditor of a county to the Tax Commissioner in a report, and, if the Tax Commissioner finds the fees and expenses are correct and reasonable in amount, the Tax Commissioner must indicate his or her approval of them in writing to the respective county auditor.

- Then, as modified by the bill, the county auditor (1) must pay the fees and expenses out of the county's undivided estate tax fund and (2) deduct a *pro rata share* of the amount so paid from the amount of estate tax revenue required to be credited as described under "***Existing law***," above, to each city's general revenue fund, each village's general revenue fund or board of education, each township's general revenue fund or associated school district's board of education, and the state's General Revenue Fund. The pro rata share must be computed on the basis of the proportions of estate tax revenue that are required to be credited as mentioned above.

Thus, the bill essentially requires the local cost of administering Ohio estate taxes to be paid by both the state and local governments in proportion to their shares of estate tax revenue--with local governments paying 80% and the state paying 20% of the costs and expenses involved. This contrasts with existing law's requirement that the costs and expenses be paid entirely out of the state's 20% share of estate tax revenue in a county treasury's undivided estate tax fund. Moreover, the bill repeals the provisions of existing law that require the state to pay out of the General Revenue Fund the local cost of administering Ohio estate taxes to the extent it exceeds the state's 20% share of estate tax revenue in a county treasury's undivided estate tax fund. (R.C. 5731.47 and 5731.48(C).)

Schedules of rates for certain public employees

(R.C. 124.15(G)(1), 124.152(A), (B), (C), (D), and (E), 124.181(A), (E), (F), (H), and (K), 124.183, 124.382, 126.32, and 4701.03)

Overview

Continuing law provides that certain public employees are to be paid a wage or salary that must be determined using one of four "schedules of rates" set forth in R.C. 124.15 and 124.152.

Managerial and professional employees. Managerial and professional public employees who are permanent employees paid directly by warrant of the Auditor of State, whose positions are included in the state's job classification plan, and who are exempt from the Collective Bargaining Law ("exempt employees") receive wages or salaries based upon the schedule of rates known as Schedule E-2.[1] Under Schedule E-2, there are a certain number of different pay ranges to which an employee paid under the schedule may be assigned. Then, for each pay range, there is a specific minimum and maximum hourly wage or annual salary that the employee may receive.

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[1] *Under R.C. 124.14(B) (not in the bill), exempt employees, for purposes of R.C. 124.15 and R.C. 124.152, do not include any of the following: elected officials; legislative employees; employees of the Legislative Service Commission; employees in the Governor's office; employees who are in the unclassified civil service and exempt from collective bargaining coverage in the office of the (a) Secretary of State, (b) Auditor of State, (c) Treasurer of State, or (d) Attorney General; employees of the Supreme Court; employees of a county children services board that establishes its own compensation rates; any position for which the authority to determine compensation is given by law to an individual or entity other than DAS; and employees of the Bureau of Workers' Compensation whose compensation the Administrator of Workers' Compensation establishes.*

Nonmanagerial and nonprofessional employees. Exempt employees who are not managerial or professional employees paid under Schedule E-2 receive wages or salaries based upon the schedule of rates known as Schedule E-1. Similar to Schedule E-2, Schedule E-1 contains a certain number of different pay ranges to which an employee under that schedule may be assigned. However, rather than having a minimum and maximum hourly wage and annual salary for each pay range as under Schedule E-2, pay ranges under Schedule E-1 contain a number of step values, one to which an employee is assigned, with each step providing for a specifically set hourly wage or annual salary.

Under current law, the highest step in certain pay ranges in Schedule E-1 is Step 7. These pay ranges are pay ranges 12 to 18. An employee may advance to Step 7 only upon performance at an exemplary level, as determined in the employee's performance evaluation, and only in the discretion of the employee's appointing authority.

Changes made by the bill

Creation of Schedule E-1 for Step Seven Only. The bill eliminates Step 7 from the current and future salary or wage Schedule E-1 and creates new and separate salary or wage schedules exclusively for Step 7 entitled "Schedule E-1 for Step Seven Only." Only certain employees may be paid under the new schedules (see "***Assignment to schedules of rates***," below), and the bill repeals current law's limitations on advancement to Step 7 (namely, performance at an exemplary level and only in an appointing authority's discretion).

Assignment to schedules of rates. The bill generally requires each exempt employee to be paid only under Schedule E-1 or Schedule E-2. However, there are two exceptions.

First, an exempt employee who holds a specified position under the Unclassified Civil Service Law and who is involved in policy development and implementation at any specified administrative department of the state, the Department of Taxation, the Department of Adjutant General, the Department of Education, the Ohio Board of Regents, the Bureau of Workers' Compensation, the Industrial Commission, the State Lottery Commission, or the Public Utilities Commission or is appointed to an administrative staff position for which the employee's appointing authority is given specific statutory authority to set compensation may be paid under Schedule E-1, Schedule E-1 for Step Seven Only, or Schedule E-2.

Second, an exempt employee who was paid at Step 7 in the employee's pay range on June 28, 2003, under former Schedule E-1 and who continued to be so paid on June 29, 2003, must be paid in the corresponding pay range under

Schedule E-1 for Step Seven Only. However, the employee generally will be paid under this schedule only for as long as the employee remains in the position the employee held on July 1, 2003. The one exception is if the employee moves to another position that is assigned to Pay Range 12 or above, in which event the employee's appointing authority has the discretion to assign the employee to be paid a salary or wage in that pay range under Schedule E-1 for Step Seven Only, so long as the appointing authority notifies the Director of Administrative Services in writing at the time of the appointment to that position. Otherwise, if the employee moves to another position, the employee cannot receive a salary or wage for that position or any other position in the future under Schedule E-1 for Step Seven Only.

One-time 2% pay supplement

(R.C. 124.183)

Overview

Continuing law requires that a one-time 2% pay supplement be paid to certain permanent employees in the first paycheck of December 2004.

Qualifications

Under current law, to receive the 2% pay supplement, a permanent employee must (1) be an exempt employee, (2) have been appointed on or before March 6, 2003, and (3) be on the active payroll as of November 14, 2004.[2] The bill revises these qualifications to require that the employee *remain continuously* on the active payroll from appointment on or before March 6, 2003, *through* November 14, 2004.

Expansion of supplement eligibility

Under current law, employees of the General Assembly, legislative agencies, the Supreme Court, and state boards or commissions are not eligible for the 2% pay supplement. The bill retains this list with the exception of permanent employees of state boards and commissions, who the bill makes eligible for the supplement.

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[2] *R.C. 124.183(A) defines "active payroll" to mean an employee is actively working; on military, workers' compensation, occupational injury, or disability leave; or on an approved leave of absence.*

Calculation of the supplement

Under continuing law, the 2% pay supplement for nonmanagerial and nonprofessional exempt employees paid under Schedule E-1 is to be based on the annualization of the top step in the pay range that the employee is in as of November 14, 2004. However, for employees paid at Step 7 under the new Schedule E-1 for Step Seven Only, the bill requires the supplement to be based on the annualization of Step 6 of the employee's corresponding pay range in Schedule E-1.

Other pay supplements

(R.C. 124.181(B))

Under current law, in computing various pay supplements paid to certain employees (such as the longevity, hazard, special professional achievement, educational pay, bilingual pay, and shift differential supplements), the salary base that must be used to determine the amount of the supplement is the minimum hourly rate of the employee's pay range in the schedule under which the employee is paid. The bill generally retains this provision but, for employees paid under the new Schedule E-1 for Step Seven Only, requires the supplements to be based on the minimum hourly rate of the employee's corresponding pay range under Schedule E-1.

Filings with the Ohio Ethics Commission

(R.C. 102.02(A) and (E)(2))

Current law requires persons elected to, candidates for, and appointed to fill vacancies in specified state, local, and federal government offices to file with the "appropriate ethics commission" at specified times prescribed financial disclosure statements. The appropriate ethics commission depends upon the individual's office and either is the Ohio Ethics Commission, the Joint Legislative Ethics Committee, or the Board of Commissioners on Grievances and Discipline of the Supreme Court.

Currently, members of the United States Congress from Ohio, candidates for the office of member of the United States Congress from Ohio, and persons who are appointed to fill vacancies in such an office are covered by the financial disclosure statement requirement, must make their filings with the Ohio Ethics Commission, and must accompany their filings with a $40 filing fee. The bill removes those requirements.

Department of Administrative Services' authority over space used by state agencies

(R.C. 123.01(A)(18))

Current law requires the Department of Administrative Services (DAS) to do all of the following: (1) require each state agency to categorize periodically the use of space allotted to the agency between office space, common areas, storage space, and other uses and report its findings to DAS, (2) periodically create and update a master space utilization plan for all space allotted to state agencies, (3) periodically conduct a cost-benefit analysis to determine the effectiveness of state-owned buildings, and (4) periodically assess the alternatives associated with consolidating the commercial leases for buildings located in Columbus (R.C. 123.01(A)(19) to (22)).

Under the bill, the Director of Administrative Services periodically may perform the activities described in items (1) through (4) above *at the Director's discretion* (R.C. 123.01(A)(18)(b)). Thus, DAS is no longer *required* to perform these activities.

The bill also requires DAS to manage the use of space that it owns and controls, including space in property under the jurisdiction of the Ohio Building Authority, by (a) carrying out the discretionary activities described in items (1) through (4) above, (b) biennially implementing, by state agency location, a census that current law requires regarding agency employees assigned space, and (c) commissioning a comprehensive space utilization and capacity study that current law requires in order to determine the feasibility of consolidating existing commercially leased space used by state agencies into a new state-owned facility (R.C. 123.01(A)(18)(a), (b), and (c)).

State Architect's Fund; Administrative Building Fund

(R.C. 123.10 and 152.101)

Current law creates the State Architect's Fund that is administered by the Department of Administrative Services and is used to pay the costs of personnel and certain building and project related expenses of the Department. Current law also creates the Administrative Building Fund to consist of the proceeds of Ohio Building Authority bond sales which are required to be used to pay the costs of certain state-financed capital facilities. The State Architect's Fund is required to consist of money from certain tolls, rentals, fines, commissions, and fees resulting from the operation of public works of the state, transfers of money to the fund authorized by the General Assembly, and such percentage of the investment

earnings of the Administrative Building Fund that the Director of Budget and Management determines to be appropriate.

The bill specifies that the Director of Budget and Management may transfer such amount of investment earnings, instead of such percentage, from the Administrative Building Fund to the State Architect's Fund that the Director determines to be appropriate. Further, the bill requires any such investment earnings that are transferred must be earnings in excess of the amounts required to meet estimated federal arbitrage rebate requirements for federal tax purposes. The bill also requires the Director to approve and provide a voucher for rebates and payments made from the Administrative Building Fund to meet federal arbitrage requirements under the Internal Revenue Code.

Costs of OBA capital facilities

(R.C. 152.09)

Current law establishes the requirements and procedures by which the Ohio Building Authority may issue bonds to pay for certain capital facilities and establishes what costs may be paid by bond proceeds for those capital facilities by providing a definition of "cost of capital facilities." That definition includes such costs as construction related expenses, financing costs, and certain costs related to the issuance of bonds. The bill includes in the definition of "costs of capital facilities" the costs associated with rebates and payments made to meet federal arbitrage requirements for those bonds under the Internal Revenue Code.

Low- and Moderate-Income Housing Trust Fund

(R.C. 175.21)

The Low- and Moderate-Income Housing Trust Fund is used for the housing programs of the Ohio Housing Finance Agency and the Department of Development. Current law requires that not more than 5% of all the money in the trust fund be used for administration. The bill instead requires that not more than 5% of current year appropriation authority for the fund be used for administration.

Board of Building Appeals fees

(R.C. 3781.19)

Under current law, the State Board of Building Appeals may establish reasonable fees, based on the actual costs for administration of filing and processing, for the costs of filing and processing appeals that come before the State Board. The fees may not exceed $100. The bill increases this ceiling to $200.

Arts and Sports Facilities Building Fund

(R.C. 3383.09; Section 73)

Current law establishes the Arts Facilities Building Fund and the Sports Facilities Building Fund in the state treasury. Those funds consist of money derived from the sale of bonds and are used by the Ohio Arts and Sports Facilities Commission to fund Ohio arts facilities and Ohio sports facilities, respectively. The bill merges the Sports Facilities Building Fund into the Arts Facilities Building Fund to create the Arts and Sports Facilities Building Fund. Any unexpended balance in the Sports Facilities Building Fund is required to be deposited into the Arts and Sports Facilities Building Fund. However, the unexpended balance is required to be segregated within the Arts and Sports Facilities Building Fund and used to pay the costs of Ohio sports facilities. Future deposits in the Arts and Sports Facilities Building Fund are required to be aggregated and used to pay the costs of Ohio arts facilities and Ohio sports facilities.

Miami University's tuition restructuring plan and its effect on pre-paid tuition credits

(R.C. 3334.01)

The bill codifies the Ohio Attorney General's opinion that the "annual undergraduate tuition charged to Ohio residents" calculated by the Ohio Tuition Trust Authority should not reflect tuition reductions that are granted in varying amounts to Ohio residents who are students of institutions of higher education. The bill further clarifies that a tuition reduction given to all Ohio residents enrolled in a state university, including the minimum amount of a variable scholarship that all Ohio residents receive, must be accounted for in that calculation. The Authority calculates the "annual undergraduate tuition charged to Ohio residents" as a component of determining the "weighted average tuition." The "weighted average tuition" is used to determine the cost and redemption value of pre-paid tuition credits for the Ohio College Savings Plan.

In the spring of 2003, the board of trustees of Miami University adopted a new tuition plan whereby all undergraduate students are charged the same tuition, regardless of whether the students are residents or nonresidents of Ohio. However, the university then reduces the tuition owed by Ohio residents by awarding financial assistance to them in the form of scholarships. One such scholarship varies in amount from student to student based on financial need, academic qualifications, and other considerations.

The Executive Director of the Ohio Tuition Trust Authority requested a formal opinion from the Ohio Attorney General regarding how Miami University's tuition restructuring plan, and more specifically the reductions in tuition for Ohio residents, would affect the calculation of the cost of pre-paid tuition credits. The Attorney General's opinion explained that the Revised Code "appears to contemplate the existence of a single figure that each four-year state university charges to each Ohio resident for attendance as an undergraduate."[3] Therefore, the opinion concludes that tuition reductions that vary in amount among its recipients, even though only Ohio residents can receive them, should be excluded from the determination of "annual undergraduate tuition charged to Ohio residents."

School district performance ratings for 2003-2004 school year

(Section 70)

The Department of Education issues annual report cards for school districts that contain education and fiscal performance data. In addition, the Department assigns each district an academic performance rating, which appears on the district's report card. Districts receive a rating of excellent, effective, continuous improvement, academic watch, or academic emergency. Under continuing law, these ratings are based on three components: (1) the district's achievement on performance indicators established by the State Board of Education, (2) the district's performance index score, and (3) whether the district meets the federal standard of "adequate yearly progress."[4]

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[3] *Ohio Attorney General Opinion No. 2003-028, 2003 Ohio AG LEXIS 36, 15.*

[4] *R.C. 3302.03, not in the bill. For the 2003-2004 school year, the performance indicators for school districts include (1) a 75% passage rate on each of the five proficiency tests administered in the fourth and sixth grades, (2) an 85% cumulative passage rate on each of the five ninth grade proficiency tests administered through the tenth grade, (3) a 75% passage rate on the third grade reading achievement test, (4) attendance rate, and (5) graduation rate. The performance index score is a measure designed to show improved performance on proficiency and achievement tests by students scoring at all levels. In contrast to the performance indicators, which only measure the percentage of students scoring at or above the* proficient *level on such tests, the performance index score takes into account the percentage of students scoring at each of the five performance levels*--limited, basic, proficient, accelerated, *and* advanced. *Making adequate yearly progress requires meeting annual targets for graduation and attendance rates and for student performance on state assessments in reading and math, particularly among specified subgroups of the student population. (See generally R.C. 3302.01, not in the bill.)*

The bill makes an exception to the statutory method of determining performance ratings in the 2003-2004 school year for certain school districts. Specifically, it prohibits the Department from assigning a school district a lower performance rating for the 2003-2004 school year than the district received for the 2002-2003 school year if the district meets two criteria. First, the district's performance index score for the 2003-2004 school year must be higher than its score for the preceding year. Second, the district must achieve at least the same number of performance indicators for the 2003-2004 school year that it achieved for the preceding year from among those indicators based on student performance on the fourth and sixth grade proficiency tests and on the cumulative results through the tenth grade of student performance on the ninth grade proficiency tests.

Changes in procedures for a local school district to select a different educational service center

(R.C. 3311.059; Section 71)

Current law permits a local school district to select a different educational service center (ESC) from which to receive services and still retain its separate identity as a school district.[5] Under that law, a local school district board of education, by a resolution approved by a majority of all its members, may propose to sever the district from the territory of the ESC in which the district is currently included and to instead annex the district to the territory of another ESC that is adjacent to the district's present ESC. The resolution must be filed with the governing board of each ESC affected by the proposal and with the Superintendent of Public Instruction. Current law also provides that the resolution is not effective unless it is approved by both the governing board of the ESC to which the district will be annexed and the State Board of Education.

The bill eliminates the requirement that the resolution be approved by the ESC governing board. It does retain, however, the requirement that the resolution

[5] *Formerly known as county school districts, educational service centers (ESC) are regional public entities that provide some administrative oversight and curriculum-related services to the "local" school districts within their respective territories. ESCs also may provide services to most "city" and "exempted village" school districts within their service regions under contracts with those districts. Current law, not changed by the bill, provides for the "transfer" of the territory of one local school district from its present ESC to that of an adjacent ESC. However, under that provision the transferred district becomes part of another local school district and generally loses its identity as a separate district. Am. Sub. H.B. 95 of the 125th General Assembly created a new procedure under which a local school district can select a different ESC without losing its identity as a separate district.*

be approved by the State Board before it may take effect. Under the bill, for most school districts, the resolution takes effect one year after the first day of July that follows the later of the date that the State Board approves the resolution or the date that the board of elections certifies the results of a referendum election on the resolution.[6]

The bill also specifies that, in deciding whether to approve the resolution, the State Board must consider the impact of an annexation on both the school district and the ESC to which the district is proposed to be annexed, including the ability of the ESC to deliver services in a cost-effective and efficient manner.

Procedures for certain districts that ceded territory

The bill also provides different approval and timing procedures limited to resolutions proposed by local school districts that ceded part of their territories to one or more new local school districts created by an ESC governing board under former law.[7] Under the bill, if the board of education of such a local school district adopts a resolution to sever the district from its present ESC and to annex the district to an adjacent ESC *within two years* after the latest date that a new local school district is created from its territory, both of the following apply to the resolution:

(1) It is not subject to approval by the State Board.

(2) The proposed annexation is effective on the first day of July following the later of:

(a) 60 days after the district board adopts the resolution;

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[6] *Current law, not changed by the bill, provides that the resolution may be subject to a referendum election of the school district's voters if a petition asking for an election is filed within 60 days after the resolution proposing the change is adopted by the school district board. To be valid, the petition must be signed by a number of district's voters equal to 20% of those who voted in the most recent gubernatorial election. A referendum election on the resolution must be held at the next general or primary election that is at least 75 days after the board of elections certifies the validity and sufficiency of signatures on the petition. (R.C. 3311.059(C).)*

[7] *Prior to September 26, 2003, an ESC governing board could propose the creation of a new local school district from all or part of the existing local school districts within its territory. Except for requests made to an ESC board prior to that date, current law now permits only the State Board of Education to propose the creation of new local school districts. (R.C. 3311.26, not in the bill.)*

(b) The date the board of elections certifies insufficiency of signatures on a referendum petition; or

(c) The date the board of elections certifies that a majority of voters have approved the resolution in a referendum election.

A resolution proposed under this provision would take effect in the next school year instead of two years later, as under current law and as continues to apply to proposals of all other school districts.

Pilot Project Special Education Scholarship Program

(Section 41.33 of Am. Sub. H.B. 95 of the 125th General Assembly, amended in Section 67)

The budget act for the 2003-2005 biennium established a temporary pilot program to pay scholarships to the parents of certain autistic children to be used toward paying for services at public or nonpublic special education programs. Under the program, in FY 2004 and FY 2005, the Department of Education is required to pay a scholarship of up to $15,000 to the parent of a child identified as autistic and who is entitled to receive special education and related services at the child's resident school district in any grade from preschool to 12th grade. The amount of the scholarship is to be deducted from the state aid account of the child's resident school district. The scholarship is to be used solely to pay part or all of the cost of sending the child to a public or nonpublic special education program instead of the one provided by the child's resident school district. The law further prescribes that the scholarship is to be used to pay for only those services specified in the child's "individualized education program."[8]

The bill clarifies that a scholarship under the program is not to be used for a child to attend either:

(1) A public special education program that operates under a contract, compact, or other bilateral agreement with the child's resident school district; or

(2) A community school (charter school).

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[8] *Under both federal and state law, an "individualized education program" (or IEP) must be developed for each child identified as disabled and eligible for special education and related services at a public school. The IEP specifies the services which the child is entitled to by right and are therefore guaranteed by law. It is developed by a team, including representatives of the child's resident school district (or community school) and the child's parent or the parent's counsel. (See R.C. 3323.01, not in the act, and 20 U.S.C. 1400 et seq.)*

The bill further specifies, however, that a parent whose child attends either a public special education program as described in (1) above or a community school may *not* be prohibited from applying for and accepting a scholarship so that the parent may withdraw the child from that program or community school and use the scholarship to pay for the child to attend another public or private special education program.[9]

Thirty-minute travel time for busing

(R.C. 3327.01)

Continuing law requires school districts to provide transportation to nonpublic and community school students in kindergarten through eighth grade who reside in the district and live more than two miles from the school they attend. Districts may also transport high school students to and from their nonpublic and community schools.[10] A district, however, is not required to transport students of any age to and from a nonpublic or community school if the direct travel time by school bus is more than 30 minutes.

Under current law, the 30 minutes is measured from the "collection point" (*i.e.*, where the student is picked up) to the school of attendance. The bill specifies instead that the time must be measured from the district school the student would otherwise attend if not enrolled in the nonpublic or community school.

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[9] Rule 3301-101-03(B)(7) and (8) of the Ohio Administrative Code specifies criteria for participation in the program. Among those criteria, is the specification that the child is not currently attending a special education program that is the result of a contract, compact, or other bilateral agreement between the child's resident district and another school district or other public provider nor is enrolled in and attending a community school. The bill appears to negate that language of the proposed rule.

According to the bill's provisions, these changes are effective immediately upon the date the bill becomes law.

[10] These are the same requirements that apply to the transportation of students to and from schools operated by the districts. Also, districts must provide transportation for all students who "are so crippled that they are unable to walk to and from the school. . .which they attend." When transportation by the district is impractical, the district may offer payment to a student's parent or guardian in lieu of providing the transportation.

Ohio Commission to Reform Medicaid

(Sections 64 and 65)

Am. Sub. H.B. 95 of the 125th General Assembly, the biennial budget act, created the Ohio Commission to Reform Medicaid. The Commission is required to conduct a complete review of the state Medicaid program and make recommendations for comprehensive reform and cost containment. A report of its findings is due not later than January 1, 2005.

The Commission consists of nine members. Three members are appointed by the Governor. Three are appointed by the Speaker of the House of Representatives. And the remaining three are appointed by the President of the Senate.

Current law provides that the Commission members are to serve without compensation. The bill provides, however, that the members are to be reimbursed for all actual and necessary expenses incurred on or after the effective date of this provision of the bill in the performance of their official duties on the Commission. Reimbursement is to be made in accordance with rules adopted by the Director of Budget and Management under continuing law.[11]

The bill also provides that a member of the Commission is to be considered present at a Commission meeting even though the member's participation is through a telephone conference call if the meeting's purpose is to gather information, no votes are taken at the meeting, and a room is made available for the public to observe the meeting.

Allocation of WIA funds

(R.C. 6301.03; Section 77)

Current law requires the Director of Job and Family Services to allocate the funds available pursuant to the federal Workforce Investment Act of 1998, 112 Stat. 936, 29 U.S.C.A. 2801, as amended (WIA), and in accordance with defined procedures set forth in the Ohio Workforce Development Law (R.C. Chapter 6301.). The defined procedures require the Director to allocate the funds to different entities based upon how the county or municipal corporation administers its workforce development activities. The entities, then, are required to either

[11] *The Director of Budget and Management is required by continuing law to adopt rules governing the reimbursement of certain officers, members, and employees of, and consultants to, state agencies for certain travel and other expenses. (R.C. 126.31.)*

create or use an existing fund to deposit funds received under WIA, based upon how the area administers workforce development activities.

The bill eliminates the defined procedures and instead requires all local areas, as defined under WIA or the Ohio Workforce Development Law, and sub-recipients of a local area to establish a workforce development fund and deposit the WIA funds received into that fund. The amendment to this procedure applies on and after July 1, 2004, and local areas and sub-recipients of local areas may continue to use the Public Assistance Fund to facilitate close out of workforce development activities conducted pursuant to WIA or the Workforce Development System Law that occurred prior to July 1, 2004.

Releasing public assistance records to utility programs

(R.C. 5101.27)

Current law provides that, with certain exceptions, no individual or private or government entity may solicit, disclose, receive, use, or knowingly permit, or participate in the use of, any information regarding a public assistance recipient for any purpose not directly connected with the administration of a public assistance program. Exceptions to the prohibition include that the Department of Job and Family Services is required, to the extent permitted by federal law, to provide information regarding a public assistance recipient to a law enforcement agency for the purpose of any investigation, prosecution, or criminal or civil proceeding relating to the administration of that public assistance program.

The bill creates a new exception to the prohibition. The Department and county departments of job and family services are required, to the extent permitted by federal law, to provide, for purposes directly connected to the administration of a program that assists needy individuals with the costs of public utility services, information regarding a recipient of Ohio Works First; Prevention, Retention, and Contingency; or Disability Financial Assistance to an entity administering the public utility services program.

Medicaid-funded community mental health services

(R.C. 5111.022)

Continuing law provides for Medicaid to cover certain mental health services provided by community mental health facilities. These include partial hospitalization, assertive community treatment, and intensive home-based mental health services.

The biennial budget act for the 125th General Assembly, Am. Sub. H.B. 95, added assertive community treatment and intensive home-based mental health

services to the community mental health services covered by Medicaid. H.B. 95 required the Department of Job and Family Services to request federal approval for the additions not later than May 1, 2004. The bill delays to July 21, 2004 the date by which the Department must request the federal approval.

Current law requires the Director of Job and Family Services to adopt rules establishing statewide access and acuity standards for Medicaid-funded partial hospitalization mental health services and assertive community treatment and intensive home-based mental health services. The bill eliminates the requirement that the Director adopt rules establishing statewide access and acuity standards for Medicaid-funded partial hospitalization mental health services but does not affect the requirement that the Director adopt rules for Medicaid-funded assertive community treatment and intensive home-based mental health services.

Autism and early intervention-related Medicaid waivers

(R.C. 5111.87)

The Director of Job and Family Services is authorized by current law to apply to the federal government for one or more Medicaid waivers operating for three to four years each under which home and community-based services are provided in the form of either or both of the following:

(1) Early intervention services for children under age three that are provided or arranged by county boards of mental retardation and developmental disabilities;

(2) Therapeutic services for children who have autism and are under age six at the time of enrollment.

The bill eliminates the restriction that the Medicaid waivers operate for only three to four years each.

Current law places further restrictions on the autism-related Medicaid waivers. No individual may receive services under such a waiver for more than three years and an individual receiving intensive therapeutic services under the waiver is forever ineligible to receive intensive therapeutic services under any other component of the Medicaid program. The bill eliminates these restrictions.

Revision of partial hospitalization rule

(Section 74)

Continuing law prohibits a board of alcohol, drug addiction, and mental health services from contracting with a community mental health agency to

provide community mental health services included in the board's community mental health plan unless the services are certified by the Director of Mental Health.[12] The Director is required to adopt rules establishing certification standards for the community mental health services.

The bill requires the Director to revise the rule regarding the certification standards for the partial-hospitalization community mental health service. The rule must be revised not later than June 30, 2005. As part of the revision, the Director must address client eligibility criteria.[13]

Criminal records check for hospice care program staff

(R.C. 3712.09)

Under continuing law, a chief administrator of a hospice care program must ask the Superintendent of the Bureau of Criminal Identification and Investigation to conduct a criminal records check with respect to individuals under final consideration for employment with the program in a full-time, part-time, or temporary position that involves providing direct care to an older adult.[14] If an individual who is the subject of the check does not present proof of having been an Ohio resident for the five-year period immediately before the date on which the check is requested or does not provide evidence that within that period the Superintendent has requested information about the person from the Federal Bureau of Investigation in a criminal records check, the chief administrator must request that the Superintendent obtain information from the FBI as part of the check.

A hospice care program may conditionally employ an individual pending the results of the criminal records check. The conditional employment must terminate if the results of the check, other than the results of any request for information from the FBI, are not obtained within 60 days of the date the request for the check is made. The bill reduces to 30 the number of days the conditional employment may continue.

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[12] *Revised Code §5119.611, not in the bill.*

[13] *The rule to be revised, Ohio Administrative Code §5122-29-06, does not currently address client eligibility.*

[14] *A criminal records check is not required for an individual who provides direct care as a volunteer without receiving or expecting to receive any form of remuneration other than reimbursement for actual expenses.*

Criminal records check for home health agency staff

(R.C. 3701.881)

Under continuing law, a chief administrator of a home health agency must ask the Superintendent of the Bureau of Criminal Identification and Investigation to conduct a criminal records check with respect to applicants for employment with a home health agency.[15] If the person who is the subject of the check does not present proof of having been an Ohio resident for the five-year period immediately before the date on which the check is requested or does not provide evidence that within that period the Superintendent has requested information about the person from the Federal Bureau of Investigation in a criminal records check, the chief administrator must request that the Superintendent obtain information from the FBI as part of the check.

A home health agency is permitted to employ the subject of the criminal records check conditionally pending the results of the check. If the subject of the check is to hold a position involving direct care to an older adult or a position involving both direct care to an older adult and the care, custody, and control of children, the conditional employment must terminate if the results of the check, other than the results of any request for information from the FBI, are not obtained within 60 days of the date the request for the check is made.[16] The bill reduces to 30 the number of days the conditional employment may continue.

Department of Mental Health Trust Fund transfers

(R.C. 5119.18)

Under existing law, the Department of Mental Health Trust Fund may be used for such things as providing mental health services to all residents of the state, conducting scientific research regarding the causes and prevention of mental illness, establishing programs to protect the rights of individuals receiving mental health services, and developing criteria for evaluating mental health service

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[15] The criminal records check is required for each person who is under final consideration for either (1) appointment or employment in a position responsible for the care, custody, or control of a child or (2) employment in a full-time, part-time, or temporary position that involves providing direct care to an older adult. The check is not required for a person who provides direct care to older adults as a volunteer without receiving or expecting to receive any form of remuneration other than reimbursement for actual expenses.

[16] The criminal records check must be requested not later than five business days after the conditional employment begins.

programs. (R.C. 5119.06(A), not in the bill.) Existing law also states that the use of moneys in the trust fund does not establish a commitment to the continuation of the trust fund or to the use of the moneys in the trust fund.

Currently, by September 1 of each year, the Director of Mental Health must certify to the Director of Budget and Management the amount of all unexpended balances of General Revenue Fund appropriations made to the Department of Mental Health during the previous fiscal year. The Director of Budget and Management is then required to transfer to the Department of Mental Health Trust Fund an amount up to, but not exceeding, the amount specified by the Director of Mental Health. The bill specifies that these transfers of unexpended balances of GRF appropriations must be cash transfers.

Community Mental Retardation and Developmental Disabilities Trust Fund transfers

(R.C. 5123.352)

Under current law, the Community Mental Retardation and Developmental Disabilities Trust Fund may be used to make grants for such purposes as staff training for county employees who serve mentally retarded or developmentally disabled persons, behavioral or short-term interventions for such persons that assist them in remaining in the community, and funding contracts with providers of residential services to care for such persons in their programs. (R.C. 5126.19, not in the bill.) Additionally, the fund is used to reimburse members of the Community Mental Retardation and Developmental Disabilities Trust Fund Advisory Council for expenses they incur in performing their official duties. (R.C. 5123.353(C), not in the bill.)

Existing law requires that, no later than 60 days after the end of each fiscal year, the Director of Mental Retardation and Developmental Disabilities must certify to the Director of Budget and Management the amount of all unexpended General Revenue Fund appropriations made to the Department of Mental Retardation and Developmental Disabilities (not including rental payments to the Ohio Public Facilities Commission), plus the amounts of any excess balances of any other funds of the department. Generally, the Director of Budget and Management must then transfer to the trust fund an amount up to, but not exceeding, the amount certified by the Director of Mental Retardation and Developmental Disabilities. The bill specifies that these transfers of unexpended GRF appropriations, plus the excess balances of other department funds, must be cash transfers.

Chemical dependency professionals

Background

The Chemical Dependency Professionals Board was created in 2002 to regulate the practice of chemical dependency counseling and alcohol and other drug prevention services. At the time the Board was created, the Ohio Department of Alcohol and Drug Addiction Services (ODADAS) regulated the practices the Board was created to regulate. The Board is required to work with ODADAS to enable the orderly transition from ODADAS regulating the practices to the Board performing that function. The transition must be completed no later than December 23, 2004.[17]

With this transition, the Board is to issue licenses to independent chemical dependency counselors and chemical dependency counselors III and II and issue certificates to chemical dependency counselors I and assistants and prevention specialists II and I.

Registered applicants

(R.C. 4758.20 and 4758.61)

The Board also is to issue registered applicant certificates permitting individuals to practice alcohol and other drug prevention services under the supervision of a prevention specialist II or I while completing the requirements for taking an examination necessary to obtain a prevention specialist II or I certificate. The bill provides that registered applicants may also practice under the supervision of any of the following:

(1) Independent chemical dependency counselor or chemical dependency counselor III or II;

(2) Physician;

(3) Psychologist;

(4) Registered nurse;

(5) Professional clinical counselor, professional counselor, independent social worker, or social worker;

(6) School counselor;

[17] *Section 5 of Am. Sub. H.B. 496 of the 124th General Assembly.*

(7) Health education specialist certified by the National Commission for Health Education Credentialing.

The Board is required by current law to adopt rules specifying the duties of a prevention specialist II or I who supervises a registered applicant. The bill provides for the rules to also specify the duties of an independent chemical dependency counselor or chemical dependency counselor III or II who supervises a registered applicant. The bill does not provide for the rules to specify the duties of the other professionals authorized by the bill to supervise a registered applicant.

Training in the Diagnostic and Statistical Manual of Mental Disorders

(R.C. 4758.20, 4758.40, and 4758.41)

An individual seeking a license to practice as an independent chemical dependency counselor or chemical dependency counselor III must meet certain requirements. There are different requirements for individuals who held, on December 23, 2002, ODADAS certification or credentials to practice as a chemical dependency counselor III or certified chemical dependency counselor III-E. One of the requirements for these individuals is 40 clock hours of training on the Diagnostic and Statistical Manual of Mental Disorders. Under current law, the training must be provided by a physician, psychologist, professional clinical counselor, or independent social worker. The bill specifies that those professionals may provide any portion of the training and that an independent chemical dependency counselor who holds from an accredited educational institution at least a master's degree in behavioral sciences meeting course requirements specified in rules may provide the portion of the training on chemical dependency conditions.[18]

Degree requirement for independent chemical dependency counselors

(R.C. 4758.20 and 4758.40)

There are two different sets of requirements for obtaining an independent chemical dependency counselor license. One of the sets includes a requirement that the individual seeking the license hold from an accredited educational institution a master's degree in behavioral sciences that meets course requirements

[18] *Current law requires that the Chemical Dependency Professionals Board adopt rules specifying how many of the 40 clock hours of training on the Diagnostic and Statistical Manual of Mental Disorders is to be on substance-related disorders and how many must be on awareness of other mental and emotional disorders. The bill requires that the rules also specify how many of the hours must be on chemical dependency conditions.*

specified in rules. The bill provides that the individual must hold at least such a master's degree, thereby permitting an individual with a higher degree to qualify.

Requirements for chemical dependency counselor II license

(R.C. 4758.42)

There are also two different sets of requirements for obtaining a chemical dependency counselor II license. Under current law, one of the sets of requirements requires an individual to (1) have held, on December 23, 2002, ODADAS certification or credentials to practice as a certified chemical dependency counselor II and (2) hold from an accredited educational institution an associate's degree in a behavioral science or a bachelor's degree in any field. The bill eliminates the second of these two requirements, meaning that an individual who held, on December 23, 2002, ODADAS certification or credentials to practice as a certified chemical dependency counselor II is no longer also required to hold the specified degree to obtain a chemical dependency counselor II license.

Practice authority

(R.C. 4758.55, 4758.56, 4758.57, 4758.58, and 4758.59)

Current law specifies the practice authorities of an independent chemical dependency counselor or chemical dependency counselor III, II, I, or assistant. These are activities the individual may perform. The bill provides that these practice authorities are in addition to the practice of chemical dependency counseling, which continuing law defines as rendering or offering to render to individuals, groups, or the public a counseling service involving the application of alcohol and other drug clinical counseling principles, methods, or procedures to assist individuals who are abusing or dependent on alcohol or other drugs.[19] "Alcohol and other drug clinical counseling principles, methods, or procedures" is defined in continuing law as an approach to chemical dependency counseling that emphasizes the chemical dependency counselor's role in systematically assisting clients through analyzing background and current information, exploring possible solutions, developing and providing a treatment plan, and, in the case of an independent chemical dependency counselor or chemical dependency counselor III, diagnosing chemical dependency conditions. The principles, methods, or procedures include counseling, assessing, consulting, and referral as they relate to chemical dependency conditions.

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[19] *The sections of current law that authorize licensed chemical dependency counselors to perform specified actions do not state that the counselors may engage in chemical dependency counseling even though some of the specified actions are included in the definition of "chemical dependency counseling."*

The bill adds to the practice authorities of chemical dependency counselors II, I, and assistants by providing that they may perform treatment planning.[20] This makes the law governing the practice authorities of chemical dependency counselors II, I, and assistants consistent with the definition of chemical dependency counseling.

New parameters regarding the prohibition that government entities not contract with persons against whom an unresolved finding for recovery has been issued

(R.C. 9.24)

Current law prohibits state agencies and political subdivisions, on and after January 1, 2004, from awarding a contract for goods, services, or construction, paid for in whole or in part with state funds, to a person against whom an unresolved finding of recovery has been issued by the Auditor of State. The Auditor of State must maintain a publicly accessible database of persons who owe an unresolved debt to the state. State agencies and political subdivisions, before awarding contracts using state funds, must verify that the person to whom the contract is to be awarded does not appear on the State Auditor's database.

The bill allows a state agency and political subdivision to verify that a person with whom it is about to contract has no unresolved finding for recovery by obtaining proof of this, instead of verifying this by utilizing the State Auditor's database, as is currently required.

The bill exempts from the prohibition contracts with a bonding company, insurance company, self-insurance pool, joint self-insurance pool, risk management program, or joint risk management program, unless a court has entered a final judgment against the company and the company has not yet satisfied the final judgment. The Attorney General is required by the bill to notify the State Auditor when a judgment is issued against an entity described above. The contracting prohibition also does not apply to Medicaid provider agreements under the Medical Assistance Law (R.C. Chapter 5111.) or payments or provider agreements under disability assistance medical assistance established under that law, or when federal law dictates that a specified entity provide the goods, services, or construction for which a contract is being awarded regardless of whether that entity would otherwise be prohibited under this provision from entering into the contract. For these entities to which the contracting prohibition does not apply, the bill specifies that state agencies and political subdivisions need

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[20] *Current law already includes treatment planning in the practice authorities of independent chemical dependency counselors and chemical dependency counselors III.*

not check the State Auditor's database or otherwise obtain proof that the entity has no unresolved finding for recovery against it.

Whereas existing law does not limit the application of the prohibition according to the cost of a contract, the bill limits the contracting prohibition so that it does not apply to contracts for goods, services, or construction that satisfy either of the following criteria:

(1) The cost for the goods, services, or construction provided under the contract is estimated to cost less than $25,000;

(2) The aggregate cost for the goods, services, or construction provided under multiple contracts entered into by the particular state agency and a single person or the particular political subdivision and a single person within the fiscal year preceding the current fiscal year entered into by that same state agency and that same single person or that same political subdivision and that same single person, did not exceed $50,000.

The bill includes further parameters regarding the contracts to which the contracting prohibition applies. It states that the contracting prohibition also may apply to a contract for goods, services, or construction that is a renewal of a contract previously entered into and renewed pursuant to that preceding contract as long as the contract is not exempt under (1) or (2) described directly above.

The bill also specifies that the contracting prohibition does not apply to employment contracts, regardless of the estimated cost and that a contract is considered to be awarded when it is entered into or executed irrespective of whether the parties to the contract have exchanged any money. Additionally, the bill specifies that "person" means the person named in the finding for recovery.

The bill limits the political subdivisions to which this contracting prohibition applies by defining "political subdivision" to mean "a county, city, village, township, park district, or school district that has received more than $50,000 of state money in the current or preceding fiscal year. It also specifies that "state funds" does not include money the state receives from another source and passes through to a political subdivision.

Elimination of Farm Service Agency Electronic Filing Fund

(R.C. 901.85; Sections 64 and 65)

Under existing law, the Farm Service Agency Electronic Filing Fund may be used by the Department of Agriculture to pay the Secretary of State for fees that the Secretary of State charges in advance for the electronic filing, by the federal Farm Service Agency, of financing statements related to agricultural loans

that the Farm Service Agency disburses. The fund consists of any money reimbursed to the fund by the Farm Service Agency together with any money appropriated to the fund by the General Assembly.

The bill eliminates the Farm Service Agency Electronic Filing Fund and specifies that the balance of the fund should be transferred to the Cooperative Contracts Fund. The bill expands the use of money in the Cooperative Contracts Fund to include payment of the electronic filing fees. Additionally, the bill specifies that the Cooperative Contracts Fund can also include revenues from the Farm Service Agency.

Auctioneer's Fund

(R.C. 4707.05)

Currently, if the balance of the Auctioneer's Fund at the end of each fiscal year (which consists of all fees collected by the Department of Agriculture in the administration of the Auctioneers' Licensing Law) is greater than $300,000, the Director of Budget and Management, upon request by the Director of Agriculture, must transfer 25% of the balance to the Auction Recovery Fund (a separate fund created to compensate persons damaged by an auctioneer's misconduct as defined in the Licensing Law). The bill limits the transfer to 25% of only that portion of the balance that is in excess of $300,000.

Distribution of moneys received from sale of standing timber on state forest lands and nurseries

(R.C. 1503.05)

Current law requires the Chief of the Division of Forestry in the Department of Natural Resources to credit 25% of moneys received from the sale of standing timber taken from state forest lands and state forest nurseries to the State Forest Fund and to credit the remaining 75% of those moneys to the General Revenue Fund. Both funds are created in the state treasury.

Current law requires the Chief, at the time of crediting those moneys to the General Revenue Fund, to determine the amount and net value of all standing timber sold from lands and nurseries in each county, in each township within the county, and in each school district within the county. Afterward the Chief must send to each county treasurer a copy of the determination and must provide for payment from the General Revenue Fund to the county treasurer, for the use of the general fund of the county, of an amount equal to 65% of the net value of the standing timber sold from lands and nurseries located in that county. A portion of

that money is retained by the county and the remainder is distributed to affected townships and school districts in accordance with a statutory formula.

The bill establishes a different procedure for the distribution of moneys received from the sale of standing timber from state forest lands and nurseries. It creates the Forestry Holding Account Redistribution Fund in the state treasury and requires all moneys received from the sale of such standing timber to be credited to the Fund. The moneys must remain in the Fund until they are redistributed in accordance with the bill.

The redistribution must occur at least once each year. To begin the redistribution, the Chief first must determine the amount of all standing timber sold from state forest lands and state forest nurseries, together with the amount of the total sale proceeds, in each county, in each township within the county, and in each school district within the county. The Chief next must determine the amount of the direct costs that the Division of Forestry incurred in association with the sale of that standing timber. The amount of the direct costs must be subtracted from the amount of the total sale proceeds and must be transferred from the Forestry Holding Account Redistribution Fund to the State Forest Fund.

The bill clarifies that the remaining amount of the total sale proceeds equals the net value of the standing timber that was sold. The bill retains the requirement that the Chief determine the net value of standing timber sold from state forest lands and state forest nurseries in each county, in each township within the county, and in each school district within the county and send to each county treasurer a copy of the determination at the time that moneys are paid to the county treasurer.

Under the bill, 25% of the net value of standing timber sold from state forest lands and state forest nurseries located in a county must be transferred from the Forestry Holding Account Redistribution Fund to the State Forest Fund. Ten per cent of that net value must be transferred from the Forestry Holding Account Redistribution Fund to the General Revenue Fund. The remaining 65% of the net value must be transferred from the Forestry Holding Account Redistribution Fund and paid to the county treasurer for deposit in the general fund of that county. The bill does not change the requirement that the county auditor retain a specified proportion of that amount for the use of the general fund of the county and distribute specified proportions of the remaining amount to the appropriate townships and school districts in the county.

Lodge and Conference Center at Geneva State Park

(Section 60)

The bill authorizes the Board of County Commissioners of Ashtabula County to construct, as a pilot project, a lodge and conference center at Geneva State Park on land leased from the Department of Natural Resources.

Annual fees for hazardous waste facility installation and operation permits

(R.C. 3734.02)

Current law generally prohibits anyone from establishing or operating a hazardous waste facility, or using a solid waste facility for the storage, treatment, or disposal of hazardous waste, without a hazardous waste facility installation and operation permit. The term of a permit cannot exceed five years; permits may be renewed. The requirement to obtain a permit or renewal permit does not apply to a facility that will operate or is operating in accordance with a permit by rule or that is not subject to permit requirements under rules adopted by the Director of Environmental Protection.

In addition to establishing a maximum application fee of $1,500, current law also establishes annual permit fees that must be paid by permit holders on the anniversary of the dates of issuance of their permits or renewal permits. Money from the fees is credited to the Hazardous Waste Facility Management Fund. A permit holder's fee is determined in accordance with a statutory schedule and is based on the type of a facility and the type of basic management unit at the facility (see "***Hazardous waste disposal and treatment fees***," below). Fees range from $500 to $40,000. The bill exempts from the annual permit fee for disposal facilities using deep well injection a hazardous waste disposal facility that disposes of hazardous waste by deep well injection and that pays the annual permit fee for an injection well operating permit under the Water Pollution Control Law unless the Director of Environmental Protection determines that the facility is not in compliance with applicable requirements established under the Solid, Infectious, and Hazardous Waste Law and rules adopted under it.

Hazardous waste treatment and disposal fees

(R.C. 3734.02 and 3734.18)

Current law levies fees on the treatment and disposal of hazardous waste at facilities in this state. Money from the fees is credited to the Hazardous Waste Facility Management Fund. The fees are based on the type of facility and, in the case of disposal fees, the method of disposal that is used. Currently, the types of facilities are defined by reference to the types of facilities on which hazardous

waste facility installation and operation permit fees are based (see "***Annual fees for hazardous waste facility installation and operation permits***," above). The bill instead includes the definitions in the statute that establishes treatment and disposal fees and slightly revises two of them as discussed below.

Current law defines "on-site facility" as a facility that stores, treats, or disposes of hazardous waste that is generated on the premises of the facility. The bill retains that definition for the purpose of permit fees, but removes "stores" from it for the purpose of treatment and disposal fees. Current law also defines "off-site facility" as a facility that stores, treats, or disposes of hazardous waste that is generated off the premises of the facility and includes such a facility that is also an on-site facility. Again, the bill retains that definition for the purpose of permit fees, but modifies it for the purpose of treatment and disposal fees. First, the bill removes "stores" from the definition as well as the inclusion of a facility that is also an on-site facility. It then states that a treatment or disposal facility that is subject to those fees may be both an on-site facility and an off-site facility. The determination of whether an on-site facility fee or an off-site facility fee is to be paid for a hazardous waste that is treated or disposed of at the facility must be based on whether that hazardous waste was generated on or off the premises of the facility.

Current law defines "satellite facility" as any of the following: (1) an on-site facility that also receives hazardous waste from other premises owned by the same person who generates the waste on the facility premises, (2) an off-site facility operated so that all of the hazardous waste it receives is generated on one or more premises owned by the person who owns the facility, or (3) an on-site facility that also receives hazardous waste that is transported uninterruptedly and directly to the facility through a pipeline from a generator who is not the owner of the facility. The bill retains that definition for the purpose of permit fees and applies it without change for the purpose of treatment and disposal fees.

Under existing law, disposal fees must be collected at each disposal facility to which a hazardous waste facility installation and operation permit or renewal of a permit has been issued. The bill also requires disposal fees to be collected at each hazardous waste disposal facility that is operating in accordance with a permit by rule under rules adopted by the Director of Environmental Protection. Current law requires the owner or operator of an off-site facility to collect disposal fees in accordance with rules adopted by the Director. The owner or operator of an on-site or satellite facility must collect disposal fees and pay them to the Director annually on the anniversary of the date of issuance of the owner's or operator's installation and operation permit or renewal permit. The bill adds that the fees also must be paid on the anniversary of the date of a permit by rule.

Current law requires treatment fees to be levied on the treatment of hazardous waste at treatment facilities that are not on-site or satellite facilities to which a hazardous waste facility installation and operation permit or renewal permit has been issued or that are not subject to hazardous waste facility permit requirements under rules adopted by the Director. The bill also requires treatment fees to be levied at such treatment facilities whose owner or operator is operating in accordance with a permit by rule.

Finally, existing law also levies additional hazardous waste treatment and disposal fees at the rate of 10% of the applicable fees discussed above for the purpose of paying the costs incurred by municipal corporations and counties for conducting specified activities generally related to hazardous waste facilities within their jurisdictions. The owner or operator of a facility must pay the additional fees to the appropriate local official annually on the anniversary date of the date of issuance of the installation and operation permit and any renewal permit. The bill adds that the fees also must be paid annually on the anniversary of the date of a permit by rule or the date on which the facility became exempt from hazardous waste facility installation and operation permit requirements under rules adopted by the Director.

Late payment of solid waste disposal fees

(R.C. 3734.57)

Current law levies solid waste disposal fees to provide funding to pay specified costs that are incurred by the Environmental Protection Agency. The owner or operator of a solid waste disposal facility must collect the fees as a trustee for the state and file with the Director of Environmental Protection monthly returns indicating the total tonnage of solid wastes received for disposal at the facility and the total amount of the fees collected. Not later than 30 days after the last day of the month to which a return applies, the owner or operator must mail it to the Director together with the fees. However, an owner or operator may request an extension of not more than 30 days for filing the return and remitting the fees if specified conditions are met, including approval by the Director.

Currently, if the fees are not remitted within 60 days after the last day of the month during which they were collected, the owner or operator must pay a late penalty of 50% of the amount of the fees for each month that they are late. The bill instead provides that if the fees are not remitted within 30 days after the last day of the month during which they were collected or are not remitted by the last day of an approved extension, the owner or operator must pay the late penalty.

State Racing Commission provisions

Deposit of entire ½ of 1% of all amounts wagered on exotic wagering into the State Racing Commission Operating Fund

(R.C. 3769.087)

In general, current law requires horse-racing permit holders to retain an additional ½ of 1% of all moneys wagered on each racing day on wagering pools other than win, place, and show. Of this additional amount, ¼ of 1% must be paid as a tax to the Tax Commissioner, who in turn must pay this percentage into the State Racing Commission Operating Fund. The remaining ¼ of 1% must be retained by the permit holder with ½ of it to be used for purse money and the permit holder to retain the remainder.

Am. Sub. H.B. 95 of the 125th General Assembly generally retained these provisions, but required, from July 1, 2003, through June 30, 2004, that the *entire* ½ of 1% of all moneys wagered on each racing day on wagering pools other than win, place, and show which was retained by horse-racing permit holders be paid as a tax to the Tax Commissioner, who in turn had to pay the amount into the State Racing Commission Operating Fund. The bill extends this period until June 30, 2005.

Secretary's residence qualification

(R.C. 3769.021)

Current law requires the Commission to appoint a Secretary, who must meet statutory qualifications required of a Commission member--one of which is that the member must have been an Ohio resident for not less than five years immediately preceding appointment (R.C. 3769.02--not in the bill). The bill eliminates this requirement as a qualification for appointment as Secretary of the Commission, but continues to require the Secretary to be an Ohio elector and resident.

Extended deadline for military personnel to claim lottery prize awards

(R.C. 3770.07)

Current law requires the holder of a winning lottery ticket to claim the lottery prize award for it, in a manner to be determined by the State Lottery Commission, *within 180 days* after the date on which the prize award is announced, if the lottery game is an on-line game, or within 180 days after the close of the game, if the lottery game is an instant game.

The bill establishes a different deadline to claim a prize award if the holder of the winning lottery ticket is an "eligible person" serving on "active military duty." Specifically, an eligible person serving on active military duty in any branch of the United States armed forces during a war or national emergency declared in accordance with federal law may submit a delayed claim for a lottery prize award. The eligible person must do so by notifying the Commission about the claim *not later than the 540th day* after the date on which the lottery prize award is announced, if the lottery game is an on-line game, or the date on which the lottery game closed, if the lottery game is an instant game.

Under the bill, "eligible person" means a person who is entitled to a lottery prize award and who falls into either of the following categories: (1) *while on active military duty in Ohio*, the person, as the result of a war or national emergency declared in accordance with federal law, is transferred out of Ohio before the 180th day after the date on which the winner of the lottery prize award is selected, or (2) *while serving in the reserve forces in Ohio*, the person, as the result of a war or national emergency declared in accordance with federal law, is placed on active military duty and transferred out of Ohio before the expiration of the 180th day (a) after the date on which the prize drawing occurs for an on-line game or (b) following the close of an instant game as determined by the Commission. The bill defines "active military duty" to mean that a person is covered by the federal Servicemembers Civil Relief Act or the federal Uniformed Services Employment and Reemployment Rights Act of 1994.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	01-29-04	p. 1460
Reported, S. Finance & Financial Institutions	02-18-04	pp. 1550-1551
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Reported, H. Finance & Appropriations	03-10-04	p. 1673

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