



Ohio Legislative Service Commission

Final Analysis

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Sub. S.B. 312

129th General Assembly
(As Passed by the General Assembly)

Sens. Widener, Balderson, Beagle, Eklund, Hite, Jones, Lehner, Manning, Niehaus, Sawyer, Turner

Reps. Amstutz, Beck, Blair, Blessing, Boyd, Combs, Conditt, Derickson, DeVitis, Gonzales, Hackett, Hill, McGregor, Newbold, Sears, Stebelton, Uecker, Batchelder

Effective date: June 29, 2012

ACT SUMMARY

- Makes capital reappropriations for the biennium ending June 30, 2014.
- Modifies the process under which money in the ongoing Adult and Juvenile Correctional Facilities Bond Retirement Fund may be transferred to the GRF, and additionally permits the transfer of that money to the Adult Correctional Building Fund and the Juvenile Correctional Building Fund.
- Revises the law on proposals for and approval of new science, technology, engineering, and mathematics (STEM) schools to require that proposals be based on submissions to the STEM Committee instead of through requests for proposals.
- Establishes a temporary subcommittee of the STEM Committee with the authority to consider and approve proposals for new STEM schools through July 31, 2012, in lieu of their consideration and approval by the whole Committee.
- Specifies that the whole STEM Committee will resume its duties to consider and approve STEM school proposals on August 1, 2012.
- Requires the Capitol Square Review and Advisory Board and the Ohio Arts Council to provide for the design and erection on the Capitol Square grounds of a memorial to victims of the Holocaust and to the Ohioans who participated in the liberation of the death camps during World War II.

CONTENT AND OPERATION

Capital reappropriations

The act makes capital reappropriations for the biennium ending June 30, 2014. Please refer to the Legislative Service Commission's Fiscal Note, As Enacted, for further detail on those provisions.

Prevailing wage requirement

Subject to the exemptions that apply under ongoing law, moneys appropriated or reappropriated by the 129th General Assembly cannot be used for the construction of public improvements unless the mechanics, laborers, or workers engaged in the project are paid the prevailing rate of wages prescribed in that law. This provision of the act does not affect the wages and salaries established for state employees under R.C. Chapter 124., or collective bargaining agreements entered into by the state under the Public Employees' Collective Bargaining Law, while engaged on force account work. It also does not interfere with the use of inmate and patient labor by the state.¹

Satisfaction of judgments and settlements against the state

The act provides that an appropriation in it or in any other act may be used for the purpose of satisfying judgments, settlements, or administrative awards ordered or approved by the Court of Claims or by any other court of competent jurisdiction in connection with civil actions against the state. This authorization does not apply to appropriations that are to be applied to or used for payment of guarantees by or on behalf of the state or for payments under lease agreements relating to or debt service on bonds, notes, or other obligations of the state. Notwithstanding any other provision of law to the contrary, this authorization includes appropriations from funds into which proceeds or direct obligations of the state are deposited only to the extent that the judgment, settlement, or administrative award is for or represents capital costs for which the appropriation may otherwise be used and is consistent with the purpose for which any related obligations were issued or entered into. Nothing in this provision is intended to subject the state to suit in any forum in which it is not otherwise subject to suit, nor is it intended to waive or compromise any defense or right available to the state in any suit against it.²

¹ Section 501.70.

² Section 501.50.

Adult and Juvenile Correctional Facilities Bond Retirement Fund

The act modifies the process under which moneys in the ongoing Adult and Juvenile Correctional Facilities Bond Retirement Fund may be transferred and the Fund abolished.³ The Fund consists of proceeds derived from the sale of state adult or juvenile correctional facilities. Prior law prohibited the transfer of Fund moneys if the effect of the transfer would be to adversely affect the tax exempt status of the state bonds issued for the state adult or juvenile correctional facilities that were sold pursuant to Am. Sub. H.B. 153 of the 129th General Assembly, the Main Operating Budget Bill. The act, however, prohibits the transfer of Fund moneys if the effect of the transfer would be to adversely affect the tax exempt status of "obligations previously issued for state adult or juvenile correctional facilities."

Certain steps must be taken in order for the Director of Budget and Management to transfer the Fund moneys. The following diagram compares the process required under prior law and that required under the act, as well as the funds to which the moneys may be transferred.

³ R.C. 5120.092.



**Adult and Juvenile
Correctional Facilities
Bond Retirement Fund**

\$

\$

FORMER PROCESS

PROCESS UNDER THE ACT

To the extent necessary to maintain the tax exempt status of the bonds issued for the state adult or juvenile correctional facilities sold under Am. Sub. H.B. 153, Fund moneys first must be used to redeem or defease the outstanding bonds.

The Director of Budget and Management must receive one or more opinions of nationally recognized bond counsel that the transfer of Fund moneys will not adversely affect the tax exempt status of obligations previously issued for state or juvenile correctional facilities.



The Director of Budget and Management must receive **both** of the following:

The Director may then transfer moneys in the Fund to one or more of the GRF, the Adult Correctional Building Fund, or the Juvenile Correctional Building Fund. After those transfers, the Adult and Juvenile Correctional Facilities Bond Retirement Fund must be abolished.

(1) One or more opinions of a nationally recognized bond counsel firm appointed by the Ohio Building Authority stating that those outstanding bonds have been redeemed or defeased *and* that the transfer of Fund moneys will not adversely affect the tax exempt status of the bonds;

(2) A certification by both the Director of Administrative Services and the Director of Rehabilitation and Correction stating that all sales of state adult and juvenile correctional facilities contemplated by Am. Sub. H.B. 153 have been completed *or* that no further sales of any of those facilities will be undertaken.



The Director of Budget and Management may then transfer any moneys remaining in the Fund to the GRF. After that transfer, the Adult and Juvenile Correctional Facilities Bond Retirement Fund must be abolished.

STEM schools

Proposals for schools

The act removes the requirement that science, technology, engineering, and mathematics (STEM) schools be authorized and awarded grants by the STEM Committee through a request for proposals and instead requires the Committee to authorize the schools and award the grants based on proposals submitted to it. The act also adds the requirement that the Committee establish procedures for the submission of the proposals. Ongoing law requires that the Committee determine the criteria for the proposals, accept and evaluate the proposals, and choose which proposals to approve to become a STEM school. The act removes the requirement that the Committee also choose which proposals to receive grants.⁴

Additionally, the act removes outdated language that only applied to the school year that began July 1, 2008.⁵

Background

Authorized by H.B. 119 of the 127th General Assembly in 2007, STEM schools are independent public schools funded by the state. A STEM school is a science, technology, engineering, and mathematics school for any of grades 6 to 12 established through a collaborative endeavor of both public and private entities, including at least one school district. The school must offer "a rigorous, diverse, integrated, and project-based curriculum . . . with the goal to prepare those students for college, the workforce, and citizenship." STEM schools emphasize study in the disciplines of science, technology, engineering, and math, but they also offer all courses required for graduation and are authorized to award their graduates high school diplomas.

Each independent STEM school must be established in accordance with a proposal developed by the collaborating partner entities and approved by the STEM Committee. Under ongoing law, the STEM Committee consists of the Superintendent of Public Instruction, the Chancellor of the Board of Regents, the Director of Development, and four members of the public, two appointed by the Governor and one each appointed by the Speaker of the House of Representatives and the Senate President, based on their expertise in business or STEM fields.⁶

⁴ R.C. 3326.03.

⁵ R.C. 3326.03(A).

⁶ R.C. 3326.02 (not in the act).

Temporary subcommittee of STEM Committee

The act establishes a temporary subcommittee of the STEM Committee to convene to consider proposals for new STEM schools. The subcommittee shall consist of the Superintendent of Public Instruction, the Chancellor of the Ohio Board of Regents, and the Director of Development or their designees. For the period beginning June 29, 2012, through July 31, 2012, the subcommittee, instead of the whole STEM Committee, may approve new STEM school proposals. On August 1, 2012, the whole Committee is to resume its duties. Proposals approved by the subcommittee must be treated as though they were approved by the whole Committee, and the schools described in approved proposals are entitled to open and operate in the same manner as any other school approved under the STEM school law (R.C. Chapter 3326.).⁷

Holocaust Memorial

The act provides for the design and erection on the Capitol Square grounds of a memorial to victims of the Holocaust and to the Ohioans who participated in the liberation of the death camps during World War II. The act requires the Capitol Square Review and Advisory Board to designate, by October 1, 2012, a prominent place on the lawn or outside grounds of Capitol Square for the erection of the memorial. The Ohio Arts Council and the Board are required to work together to invite, accept, and evaluate proposals for the concept, design, and erection of the memorial, and to jointly select from among the proposals the memorial to be designed and erected at the place designated.

The act specifies that the preliminary construction activities, including site preparation and utility placement, are to be paid for with public funds, and that planning for and designing and erecting the memorial are to be paid for with only private contributions. The Capitol Square Foundation is to accept private donations for those purposes and deposit them into the Capitol Square Holocaust Memorial Fund.

The procedures specified in the act for the creation of the memorial supersede any contrary provision in law or in any rule or procedure adopted by the Board.⁸

⁷ Section 733.10.

⁸ Section 701.10.

HISTORY

ACTION	DATE
Introduced	03-13-12
Reported, S. Finance	03-21-12
Passed Senate (33-0)	03-21-12
Reported, H. Finance & Appropriations	03-28-12
Passed House (92-0)	03-28-12
Senate concurred in House amendments (33-0)	03-28-12

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