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## DEPARTMENT OF ADMINISTRATIVE SERVICES

### **Public Employees Health Care Plan Program**

- Requires the Department of Administrative Services (DAS) to study and release standards that may be considered best practices for certain public employer health care plans, instead of adopting and releasing a set of standards that must be considered best practices for those plans.
- Permits health care plans for certain public employees to consider best practices established by the former School Employees Health Care Board or identified by DAS.
- Removes a provision that permitted a political subdivision, upon consulting with DAS, to adopt a delivery system of benefits that is not the best practices.
- Requires DAS to study instead of publish information regarding the health care plans offered by certain public employers and consortiums.
- Requires DAS to provide representative cost estimates of options for health care plans instead of assisting in the design of the plans for certain public employers.
- Removes a requirement that DAS prepare and release an annual report on health plan sponsors' compliance with best practices, reducing insurance premium increases, employee expenses, and improving health.
- Removes DAS' authority to adopt rules for the enforcement of health plan sponsors' compliance with best practices.
- Allows the Director of DAS to convene a Public Health Care Advisory Committee, and removes requirements that the Committee make recommendations to DAS relating to best practices; that there are certain appointees; and that members serve without compensation.
- Eliminates the Public Employees Health Care Fund, which DAS used to carry out the provisions related to public employee health care plans.
- Authorizes DAS, in a reverse auction or competitive sealed bidding process, to deliver notice to a nonresponsive, nonresponsible low bidder by electronic means.

### **Veteran-Friendly Business Procurement Program**

- Requires the Director of DAS and the Director of Transportation to establish and maintain the Veteran-Friendly Business Procurement Program.



## **Classified service**

- Allows a state employee who holds a certified or permanent position in the classified service and who is appointed to a position in the unclassified service on or after January 1, 2016, to resume the classified position only within five years after the effective date of the employee's appointment in the unclassified service.
- Adds unsatisfactory performance to the list of reasons certain employees in the classified service may be reduced in pay or position, fined, suspended, or removed, or have the employee's longevity reduced or eliminated.

## **Job classification plans**

- Authorizes the Director of DAS to assign and modify job classification plans, and to establish experimental classification plans, without adopting rules.

## **Pay increase for exempt state employees**

- Increases pay for exempt state employees paid in accordance with salary schedules E-1 and E-2, creates a new step 7 pay range in the E-1 salary schedule, and recasts the former schedule E-1 "step seven only" pay range as "step eight only."
- Provides a one-time pay supplement for certain exempt state employees who are in active payroll status on July 1, 2015, and August 1, 2015, of \$750 for full-time permanent employees and \$375 for less than full-time employees.

## **Pay for employee assigned to higher level**

- Authorizes an appointing authority, whether or not a vacancy exists, to assign an exempt employee to work in a higher level position for a continuous period of more than two weeks but not more than two years.
- Specifies that such an employee's pay must be established at a rate that is approximately 4% above the employee's current base rate for the period of temporary assignment.

## **Benefit eligibility for nonpermanent state employees**

- Adds an exception to continuing law's provision that nonpermanent state employees are ineligible for employee benefits by providing that these employees are ineligible unless otherwise required by law.



## **Temporary furlough due to lack of federal funds**

- Permits the Director of DAS to authorize a state appointing authority to temporarily furlough any of its employees if the appointing authority's operation is dependent on federal funds and those funds are not available or have not been received.

## **Collective bargaining with the state**

- Prohibits the state from collectively bargaining with individuals who are excluded from coverage under the Public Employees' Collective Bargaining Law and the federal National Labor Relations Act.
- Specifies that the prohibition does not apply with respect to individuals who are exempt from the Public Employees' Collective Bargaining Law but with whom the state may elect to collectively bargain under continuing law.

## **Fund closures**

- Abolishes the Cost Savings Fund.
- Abolishes the Departmental MIS Fund and redirects the Fund's revenue to the Information Technology Fund.

## **State agency procurement procedures**

### **Preference review**

- Requires state agencies subject to DAS procurement policies to submit a purchase request to DAS when seeking to purchase supplies or services.
- Requires DAS to determine whether the purchase may be made from specified first or second requisite procurement programs that represent programs for which the law confers requisite preference status for state purchasing.
- Requires DAS to grant a requesting state agency a waiver when the purchase cannot be made from a first or second requisite procurement program, and a release and permit for a state agency to make the purchase directly except when the purchase is for telephone, other telecommunications, and computer services.
- Specifies that a release and permit for telephone, other telecommunications, and computer services must be provided in accordance with policies established by the Office of Information Technology within DAS.



- Authorizes DAS to adopt rules to provide for the manner of carrying out the functions and the powers and duties vested in and imposed upon the Director under the centralized procurement preference review authority.

### **Competitive selection**

- Eliminates certification authority for state agencies to purchase supplies or services costing between \$25,000 and \$50,000, and provides, instead, for a single competitive bidding threshold of \$50,000.
- Confers rule-making authority on DAS for making purchases by competitive sealed bid.
- Applies the statutory notice provision to "competitive sealed bid" procedures only, instead of to all forms of "competitive selection."
- Eliminates notice by mail of proposed purchases, and provides that any form of electronic notice the Director of DAS considers appropriate to sufficiently notify competing persons of the intended purchase is sufficient.
- Eliminates DAS' authority to divide the state into purchasing districts, and eliminates the ability for persons to be placed on or removed from the competitive selection notification list, which the act also eliminates.

### **Supplies and services**

- Reorganizes the State Procurement Law and clarifies that DAS must establish contracts for supplies and services (including telephone, telecommunications, and computer services) for state agencies, and may do so for certain political subdivisions.
- Eliminates the specific authority of DAS to enter into a contract to purchase bulk long distance telephone services for the immediate family of deployed persons.
- Clarifies the state entities exempt from the State Procurement Law.
- Permits the exempt entities to request DAS assistance with procurement of supplies and services and, upon DAS' approval, to participate in contracts awarded by DAS.

### **Release and permit**

- Requires DAS to grant a release and permit if DAS determines that it is not possible or advantageous for DAS to make a purchase.



- Requires DAS to adopt rules regarding circumstances and criteria for a state agency to obtain a release and permit.
- Permits DAS to grant a blanket release and permit for a state agency for specific purchases.

### **Purchasing agreements**

- Permits DAS to enter into cooperative purchasing agreements with certain other state entities.
- Permits the federal government, other states, other purchasing consortia, or any interstate compact authority to purchase supplies or services from DAS contracts.
- Permits DAS to allow state institutions of higher education and governmental agencies to participate in DAS contracts.
- Requires DAS to include in its annual report an estimate of the purchases made by other entities from DAS contracts.

### **Financial assurance**

- Permits DAS to require that all bids and proposals be accompanied by a performance bond or other financial assurance, instead of a performance bond or other cash surety.

### **Meat and poultry**

- Specifies, for meat and poultry products, who are eligible vendors.
- Repeals the requirement that DAS establish and maintain a list of approved meat and poultry vendors.

### **Produced or mined in U.S.**

- Requires DAS and other state agencies first to consider bids that offer products that have been or that will be produced or mined in the U.S.

### **Exemptions removed**

- Requires the Workers' Compensation Administrator to make purchases for supplies and services in accordance with the State Procurement Law.
- Eliminates the Administrator's authority to make contracts for and supervise the construction of any project or improvement, or the construction or repair of buildings, under the Bureau's control.



- Eliminates the Administrator's authority to transfer surplus computers and computer equipment directly to a public school.
- Removes State Procurement Law exemptions for the Ohio Tuition Trust Authority, and instead states that Law does not apply to contracts approved under the Ohio Tuition Trust Authority Board's powers.

### **Transportation contracts**

- Allows the Director of Transportation to permit a state agency to participate in contracts the Director has entered into for purchases of machinery, materials, supplies, or other articles.

### **Emergency procedures**

- Repeals and reenacts the law authorizing DAS to suspend normal contracting requirements for the Emergency Management Agency or any other state agency involved in response and recovery during a declared emergency period.
- Provides that state agencies acting under this emergency authority are exempt from Controlling Board approval to contract without competitive selection, but requires the agencies to file a report with the Board's President describing all such purchases made during the period of the declared emergency.
- Requires the Director of DAS to notify the Director of Budget and Management and the Controlling Board members of the Director's approval of a request for suspension during a declared emergency period, and precludes purchases under the suspension authority until after the notice is sent.

### **Purchase of recycled products**

- Allows state entities and offices to purchase recycled products under rules adopted by the Director of DAS that establish guidelines, and removes the specific requirements that the guidelines must include.
- Eliminates the specific authority for the Director to adopt rules establishing a maximum percentage by which the cost of purchased recycled products may exceed the cost of comparable products.
- Eliminates the requirement that DAS and the Environmental Protection Agency annually submit a report that describes the value and types of recycled products that the various state entities and offices purchase with state moneys.



## **Excess and surplus supplies**

- Requires each state agency to provide the Director of DAS with a list of its excess and surplus supplies, including the supplies' location and whether the agency has control of the supplies.
- Requires the Director to take immediate control of excess and surplus supplies and to make arrangements for their disposition, except for excess or surplus supplies that are part of an approved interagency transfer or that are donated food.
- Prohibits the Director from charging a fee for the collection or transportation of excess and surplus supplies.
- Requires the Director to post on a public website a list of the excess and surplus supplies available for acquisition.
- Removes the requirement that the Director dispose of excess and surplus supplies in a specific order of priority, and instead permits the Director to dispose of excess and surplus supplies in any of the enumerated manners.
- Eliminates a prohibition that certain entities sell, lease, or transfer excess or surplus supplies acquired to private entities or the general public at a price greater than the price it originally paid for those supplies.
- Removes an exemption that allows the Department of Youth Services to transfer its excess or surplus supplies to community corrections facilities.

## **Funding of building operation and maintenance**

- Modifies the manner in which DAS seeks reimbursement from state agencies for space occupied in state buildings and funds the maintenance and improvement of those buildings.
- Abolishes the Building Operation Fund.
- Expands the use of the Building Improvement Fund to any facility maintained by DAS.

## **Ohio Geographically Referenced Information Program Council**

- Removes from the Ohio Geographically Referenced Information Program Council all members appointed by the Governor and replaces them with specified officials and the executive directors of specified local government associations.
- Requires that Council members serve without compensation.



## **State printing and forms management**

- Eliminates the Statewide Forms Management Program within DAS.
- Modifies the public printing responsibilities of DAS.
- Places public printing for the Bureau of Workers' Compensation under DAS's supervision.
- With respect to certain state publications, eliminates the requirement that each copy indicate the total number of copies produced and the cost of each copy.

## **Administration of 9-1-1 funding**

- Gives the 9-1-1 Program Office oversight over the administration of three different funds related to 9-1-1 law, rather than administrative authority over one of those funds.
- Repeals a requirement that, although unclear under prior law, appeared to require the Statewide Emergency Services Internet Protocol Network Steering Committee to annually transfer excess funds remaining in the Wireless 9-1-1 Program Fund to the Next Generation 9-1-1 Fund.

## **Public safety answering point operational standards**

- Requires the Statewide Emergency Services Internet Protocol Network Steering Committee to update the operational standards for public safety answering points to ensure that personnel prioritize life-saving questions when responding to 9-1-1 calls and have proper training to give emergency instructions.

## **Electronic record certificate of authenticity**

- Eliminates a requirement that a state agency, if it alters the format of an electronic record, create a certificate of authenticity for each set of records that is altered.
- Eliminates a complementary requirement that DAS adopt rules to establish methods for creating certificates of authenticity.
- Removes a provision that allows DAS to permit a state agency to deviate from the rules adopted by DAS regarding electronic records and signatures.



## **Enterprise information technology strategy**

- Requires the Director of DAS to implement strategies that benefit enterprise information technology solutions by improving efficiency, reducing costs, or enhancing the capacity of information technology services.

## **Vehicle Management Commission**

- Effective January 1, 2016, eliminates the Vehicle Management Commission, which is part of DAS and is required to periodically review the implementation of the Department's fleet management program.

## **Public Employees Health Care Plan Program**

(R.C. 9.901, 9.833, and 9.90)

Under the act, the Department of Administrative Services (DAS) is no longer required to adopt and release a set of standards of best practices for certain public employee health care plans. Correspondingly, the health care plans provided by public employers<sup>2</sup> are no longer required to provide health care plans that contain best practices established by DAS or the former School Employees Health Care Board.

Instead, the act permits health care plans that provide benefits to those public employees, and all policies or contracts for health care benefits that are issued or renewed after the expiration of any applicable collective bargaining agreement, to consider best practices identified by DAS or established by the former School Employees Health Care Board. The act removes a provision that permitted a political subdivision, upon consulting with DAS, to adopt a delivery system of benefits that is not the best practices if DAS considered it to be most financially advantageous to the political subdivision.

The act generally modifies DAS's duties related to public employee health care plans by:

--Requiring DAS to study instead of publish information regarding the health care plans offered by certain public employers and consortiums;

--Requiring DAS to provide representative cost estimates of options for health care plans instead of assisting in the design of the plans for certain public employers;

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<sup>2</sup> As used in this provision, "public employer" means political subdivisions, public school districts, and state institutions of higher education.



--Requiring DAS to study and release standards that may be considered best practices for certain public employer health care plans instead of adopting and releasing a set of standards that must be considered best practices for those plans;

--Removing a requirement that DAS prepare and release an annual report on the status of health plan sponsors' effectiveness in complying with best practices and in making progress to reduce the rate of insurance premium increases and employee out-of-pocket expenses, as well as progress in improving the health status of employees and their families; and

--Removing the authority of DAS to adopt rules for the enforcement of health plan sponsors' compliance with the best practices standards.

DAS continues to have duties under continuing law relating to health care plans for public employers, including identifying strategies to manage health care costs.

Under continuing law, the Director of DAS may convene a Public Health Care Advisory Committee. Under the act, the Committee is tasked to assist in studying the issues discussed in the law described here. The act removes the following specific requirements of the Committee: that the Committee make recommendations to the Director of DAS or the Director's designee on the development and adoption of best practices; that the Committee consist of 15 members with five each appointed by the Speaker of the House, the Senate President, and the Governor; that appointees include representatives from state and local government employers and employees, insurance agents, health insurance companies, and joint purchasing arrangements; and that the members serve without compensation.

Finally, the act eliminates the Public Employees Health Care Fund, which DAS used to carry out the provisions relating to public employee health care plans and related administrative costs.

### **Notification to low bidder**

(R.C. 9.312)

The act authorizes DAS to provide notice by electronic means or by first class mail to a nonresponsive, nonresponsible low bidder in a reverse auction or competitive sealed bidding process. Under prior law, first class mail was the only means authorized.



## **Veteran-Friendly Business Procurement Program**

(R.C. 9.318)

The act requires the Director of DAS and the Director of Transportation to establish and maintain the Veteran-Friendly Business Procurement Program. The Director of DAS must adopt rules to administer the program for all state agencies except the Department of Transportation, and the Director of Transportation must adopt rules to administer the program for the Department of Transportation. The rules must be adopted under the Administrative Procedure Act. The rules, as adopted separately by but with the greatest degree of consistency possible between the two directors, must do all of the following:

- (1) Establish criteria, based on the percentage of an applicant's employees who are veterans, that qualifies an applicant for certification as a veteran-friendly business enterprise;
- (2) Establish procedures by which a sole proprietorship, association, partnership, corporation, limited liability company, or joint venture may apply for certification as a veteran-friendly business enterprise;
- (3) Establish procedures for certifying a sole proprietorship, association, partnership, corporation, limited liability company, or joint venture as a veteran-friendly business enterprise;
- (4) Establish standards for determining when a veteran-friendly business enterprise no longer qualifies for certification as a veteran-friendly business enterprise;
- (5) Establish procedures, to be used by state agencies or the Department of Transportation, for the evaluation and ranking of proposals, which provide preference or bonus points to each certified veteran-friendly business enterprise that submits a bid or other proposal for a contract with the state or an agency of the state for the rendering of services, the supplying of materials, or the construction, demolition, alteration, repair, or reconstruction of any public building, structure, highway, or other improvement;
- (6) Implement an outreach program to educate potential participants about the Veteran-Friendly Business Procurement Program;
- (7) Establish a process for monitoring overall performance of the Veteran-Friendly Business Procurement Program.



Because of the dual rule-making authority in the act, the criteria, procedures, standards, programs, and processes that will apply to the Department of Transportation may not be the same as those that apply to the state and other state agencies.

## **Definitions**

For purposes of the Veteran Friendly Business Procurement Program:

"Armed forces" means (1) the U.S. armed forces, including the Army, Navy, Air Force, Marine Corps, Coast Guard, or any reserve component of those forces, (2) the national guard of any state, (3) the commissioned corps of the U.S. Public Health Service, (4) the merchant marine service during wartime, (5) such other service designated by Congress, and (6) the Ohio organized militia when engaged in full-time national guard duty for a period of more than 30 days.

"State agency" means every organized body, office, or agency established by the laws of the state for the exercise of any function of state government. "State agency" does not include the nonprofit corporation formed as JobsOhio.

"Veteran" means any person who has completed service in the armed forces who has been honorably discharged or discharged under honorable conditions or who has been transferred to the reserve with evidence of satisfactory service.

"Veteran-friendly business enterprise" means a sole proprietorship, association, partnership, corporation, limited liability company, or joint venture that meets veteran employment standards established by the Director of DAS and the Director of Transportation.

## **Classified service**

### **Right to resume a position**

(R.C. 124.11, 4121.121, 5119.18, 5120.38, 5120.381, 5120.382, 5123.08, and 5139.02)

Continuing law allows state employees who move from a certified or permanent classified position to an unclassified position to resume the classified position held by the employee immediately prior to the move. The act specifies that such an employee who is appointed to a position in the unclassified service on or after January 1, 2016, has the right to resume the classified position only within five years after the effective date of the employee's appointment in the unclassified service. Under continuing law, an employee who holds a certified or permanent position in the classified service and who is appointed to a position in the unclassified service prior to January 1, 2016, has the right to resume the classified position with no time limit on the right.



## **Unsatisfactory performance**

(R.C. 124.34)

The act adds unsatisfactory performance to the list of reasons an employee in the classified service of the state and the counties, civil service townships, cities, city health districts, general health districts, city school districts, or regional water and sewer districts may be reduced in pay or position, fined, suspended, or removed, or have the employee's longevity reduced or eliminated. The act requires the Director of DAS to adopt a rule to define unsatisfactory performance for employees in the service of the state for purposes of this provision.

## **Job classification plans**

(R.C. 124.14 and 124.15; Sections 690.10 (repealing Section 701.61 of H.B. 59 of the 130th G.A.) and 701.20)

The act authorizes the Director of DAS to assign and modify job classification plans, and to establish experimental classification plans, without adopting rules. The Director had been authorized to take these actions without adopting rules under temporary authority that expired July 1, 2015. The act specifies that the Director may take these actions without adopting rules on a permanent basis.

Under prior law, when the Director proposed to modify a classification or the assignment of classes to pay ranges, the Director was required to send written notice of the proposed rule to the appointing authorities of the affected employees 30 days before a hearing on the proposed rule. The appointing authorities were required to notify the affected employees regarding the proposed rule. The Director also was required to send these appointing authorities notice of any final rule that is adopted within ten days after adoption.

The act instead requires the Director to notify the appointing authorities of the affected employees before implementing a modification in a classification or in the assignment of classes to pay ranges. The notice must include the effective date of the modification. The appointing authorities must notify the affected employees regarding the modification.

## **Pay increases for exempt state employees**

(R.C. 124.152 and 124.183 (repealed and reenacted); Section 503.120; conforming changes in R.C. 124.181, 124.382, and 126.32)

The act increases pay for exempt state employees paid in accordance with salary schedule E-1 by approximately 2.5% beginning in the pay period that includes July 1,



2015, an additional 2.5% beginning in the pay period that includes July 1, 2016, and an additional 2.5% beginning in the pay period that includes July 1, 2017. The sections amended by the act to revise the pay schedules take effect September 29, 2015.

The act also adds a new step 7 to schedule E-1 pay ranges 12 through 16 and establishes pay in step 7 at an amount that is 9% higher than pay for those ranges in new step 6. An employee who is being paid a salary or wage at step 6 on July 1, 2015, is eligible to move to step 7 beginning on the first day of the pay period that immediately follows July 1, 2015, if the employee has maintained satisfactory performance in accordance with the criteria established by the employee's appointing authority and the employee has not advanced a step within the 12-month period immediately preceding the advancement to step 7. The act recasts the pay range formerly known as "step seven only" as "step eight only." Similar to prior law governing former step seven only, an employee in step eight only is not eligible to be paid a salary or wage at step 7 in schedule E-1 for as long as the employee remains in the position the employee held as of July 1, 2003.

For exempt state employees paid in accordance with salary schedule E-2, the act also increases the maximum pay range amounts by approximately 11.7% beginning in the pay period that includes July 1, 2015, an additional 2.5% (approximate) beginning in the pay period that includes July 1, 2016, and an additional 2.5% (approximate) beginning in the pay period that includes July 1, 2017. Similar to the E-1 schedule pay increase, the sections amended by the act for this pay increase take effect on September 29, 2015.

The act also provides a one-time pay supplement to certain exempt state employees who are in active payroll status (employees in active pay status or eligible to receive paid leave) on July 1, 2015, and August 1, 2015, to be paid in the earnings statement the employee receives in the pay period that includes August 21, 2015. The supplement amount is \$750 for full-time permanent employees who are paid under schedule E-1 or E-2 or full-time permanent employees who are exempt from collective bargaining and who are not paid in accordance with those schedules, and \$375 for less than full-time employees paid in accordance with schedule E-1 or E-2. An employee who is not in active payroll status on these dates due to military leave or an absence taken under the Federal Family and Medical Leave Act is eligible to receive the one-time pay supplement. The pay supplement is not subject to withholding for deposit into any state retirement system and cannot be used for calculating an employee's retirement benefits. The section enacted by the act to provide for the pay supplement takes effect September 29, 2015.

The act's pay supplement does not apply to employees of the Supreme Court, the General Assembly, the Legislative Service Commission, the Secretary of State, the



Auditor of State, the Treasurer of State, or the Attorney General unless the entity decides that its employees should be eligible for the one-time pay supplement and notifies the Director of DAS in writing on or before July 10, 2015, of the decision to participate in the one-time pay supplement.

The act authorizes each state appointing authority to make expenditures from current state operating appropriations to provide for the one-time pay supplements and compensation increases pursuant to approved collective bargaining agreements between employee organizations and the state and pursuant to the act for employees exempt from collective bargaining.

### **Pay for employee temporarily assigned to a higher level**

(R.C. 124.181; Section 690.10 (repealing Section 701.10 of H.B. 59 of the 130th G.A.))

The act authorizes an appointing authority, whether or not a vacancy exists, to assign an employee to work in a higher level position for a continuous period of more than two weeks but not more than two years. The act requires the employee's pay to be established at a rate that is approximately 4% above the employee's current base rate for the period of temporary assignment.

Under prior law, whenever an employee was assigned to work in a higher level position for a continuous period of more than two weeks but not more than two years because of a vacancy, the employee's pay was to be established at a rate of approximately 4% above the employee's current base rate for the period of temporary assignment. When a vacancy did not exist, an appointing authority, with an exempt employee's written consent, was authorized to assign the duties of a higher classification to the exempt employee for not more than two years, and the exempt employee was entitled to compensation at a rate commensurate with the duties of the higher classification.

### **Benefit eligibility for nonpermanent state employees**

(R.C. 124.14)

The act adds an exception to continuing law's provision that nonpermanent state employees (such as seasonal and temporary employees) are ineligible for employee benefits by providing that these employees are ineligible unless otherwise required by law.



## **Temporary furlough due to lack of federal funds**

(R.C. 124.29)

The act permits the Director of DAS, notwithstanding continuing law governing layoffs of state employees, to authorize a state appointing authority (such as a board or commission) to temporarily furlough any of the appointing authority's employees if the appointing authority's operation is dependent on federal funds and those funds are not available or have not been received by the appointing authority. The act requires the Director to adopt rules to implement this provision. The rules must be adopted in accordance with the Administrative Procedure Act.

## **Collective bargaining with the state**

(R.C. 4113.81)

The act prohibits the state from engaging in collective bargaining with individuals who are excluded from coverage under the Public Employees Collective Bargaining Law (PECBL) and the federal National Labor Relations Act. The prohibition does not apply to individuals who are specifically not public employees under the PECBL but with whom the PECBL allows the state to elect to collectively bargain.

## **Fund closures**

(R.C. 124.392; Section 610.40 (amending Section 20.15 of H.B. 215 of the 122nd G.A.))

The act abolishes the Cost Savings Fund, which consisted of savings accrued through employee participation in the Mandatory Cost Savings Program and mandatory cost savings days. The Fund could have been used to pay employees who participated in the Program and the costs savings days.

The act also abolishes the Departmental MIS Fund. Continuing law requires DAS to establish charges for recovering the costs of management information systems activities. Formerly, those charges were deposited to the credit of the Fund. Under the act, the charges are to be deposited into the Information Technology Fund<sup>3</sup> instead.

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<sup>3</sup> R.C. 125.15, not in the act.



## **State agency procurement procedures**

(R.C. 9.83, 113.07, 122.87, 125.02, 125.03, 125.035, 125.04, 125.041, 125.05, 125.061, 125.07, 125.08, 125.081, 125.10, 125.11, 125.45, 125.48, 125.52, 125.601, 125.607, 125.609, 918.41, 1349.04, 3334.08, 4121.03, 4121.121, 4123.322, 5147.07, 5162.11, and 5513.01; R.C. 125.021, 125.022, 125.023, 125.03, 125.051, 125.06, and 125.17 (all repealed))

### **Procurement preference review**

(R.C. 125.035, 113.07, 122.87, 125.04, 125.041, 125.05, 125.07, 125.08, 125.081, 125.601, 125.607, 125.609, 5147.07, 5162.11, and 5513.01; R.C. 125.051 and 125.06 (repealed))

The act establishes a centralized procurement preference review process whereby state agencies that are subject to DAS procurement policies must submit a purchase request to DAS when seeking to purchase supplies or services. Under the preference review, DAS must ascertain whether the purchase can be made from Ohio Penal Industries or the Community-based Rehabilitation Program (referred to as the first requisite procurement programs) or specified "second requisite procurement programs."

DAS must direct the requesting agency to use one of the first requisite programs or provide the agency with a waiver from one of the first requisite programs. DAS then must determine whether the purchase can be fulfilled by a second requisite procurement program. DAS must generally complete its determination within five business days after receipt of the agency request; if no program responds concerning its ability to fulfill the request, the requesting agency is authorized to use its direct purchasing authority to obtain the services or supplies, subject to the requirements of the release and permit and applicable competitive bidding thresholds.

The act authorizes DAS to adopt rules under the Administrative Procedure Act to provide for the manner of carrying out the functions and the powers and duties contemplated by the procurement review process. It specifies that the procurement review process also applies to agency purchases *below* the competitive bid threshold.

### **Competitive selection threshold and notice**

The act eliminates certification requirements for state agencies to purchase supplies and services that cost more than \$25,000 but less than \$50,000, and instead adopts a single \$50,000 threshold. So, state agencies may, without competitive selection, make purchases below \$50,000 after complying with the new DAS preference review. For purchases of \$50,000 or more, the agency must purchase through DAS unless a waiver or release and permit is granted in conjunction with the review.



The act confers rule-making authority on DAS for making purchases by competitive sealed bid, but specifies that contracts are to be awarded as provided in continuing law to the lowest responsive and responsible bidder and according to the criteria and procedures affording a preference for U.S. and Ohio products. Notice provisions that applied to "competitive selection" under prior law apply only to competitive sealed bids under the act. Under continuing law, "competitive selection" includes competitive sealed bidding, competitive sealed proposals, and reverse auctions. Continuing law requires DAS to adopt rules regarding notice for competitive sealed proposals but is silent about notice for reverse auctions; so, presumably, DAS may adopt rules under its continuing rule-making authority for reverse auctions but is not required to do so.

The act eliminates the requirement that DAS provide notice by mail and provides that the manner of providing notice of a purchase by DAS by competitive sealed bid may be in any electronic form the Director of DAS considers appropriate to sufficiently notify competing persons of the intended purchases. The act removes the requirement for DAS to make a public posting of notice on a bulletin board, and the corresponding penalty for a failure to post.

### **Competitive selection notification list**

The act eliminates DAS authority to divide the state into purchasing districts, and eliminates the competitive selection notification list. Similarly, the act removes authority for DAS to charge an annual registration fee of not more than \$10 for a person to be included on the list.

The act retains authority for persons certified as a minority business enterprise to be placed on a special minority business enterprise notification list. Presumably, the requirement for maintaining this list may be provided in rules because the act eliminates the former direction for the list to be maintained in similar fashion to the competitive selection notification list that the act eliminates. The act also removes authority for DAS to charge a fee of not more than \$10 for a person to be included on this list.

### **Contracts for supplies and services**

Generally, the act reorganizes the State Procurement Law and clarifies that DAS must establish contracts for supplies and services (including telephone, telecommunications, and computer services) for the use of state agencies, and may do so for certain political subdivisions. The act eliminates the specific authority of DAS to enter into a contract to purchase bulk long distance telephone services for members of the immediate family of deployed persons. Therefore, the Attorney General is no longer



charged with expediting cases or issues that relate to this telephone service for members of deployed persons' families.

The act clarifies the state entities that are exempt from the requirement described above. The exempt entities are the Adjutant General for military supplies and services, the General Assembly, the judicial branch, state institutions of higher education, certain state elected officials,<sup>4</sup> and the Capitol Square Review and Advisory Board. These are largely the same as prior law, but the act adds state elected officials into the exception and further clarifies the application of the exception to state institutions of higher education; prior law applied to institutions administered by boards of trustees. However, the act permits the exempt entities to request DAS assistance with procurement of supplies and services and, upon DAS's approval, to participate in contracts awarded by DAS. Additionally, the act specifies that nothing in the provision exempting certain state elected officials from following certain State Procurement Law provisions prevents those officials from complying with or participating in any aspect of that Law through DAS.

### **Release and permit**

An agency that has been granted a release and permit for a purchase may make the purchase without competitive selection, and DAS must grant a release and permit if DAS determines that it is not possible or advantageous for DAS to make the purchase. DAS must adopt rules regarding circumstances and criteria for a state agency to obtain a release and permit to make a purchase not under DAS. Upon request, DAS can grant a blanket release and permit for a state agency for specific purchases. A blanket release and permit runs for a fiscal year or for a biennium, as determined by the Director of DAS.

### **Purchasing agreements and participation in DAS contracts**

Under the act, DAS can enter into cooperative purchasing agreements with certain other state entities.<sup>5</sup> Under continuing law, DAS also may enter into purchasing agreements with other states, the federal government, other purchasing consortia, and political subdivisions. Additionally, the act permits the federal government, other states, other purchasing consortia, or any interstate compact authority to purchase supplies or services from contracts entered into by DAS.

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<sup>4</sup> The Attorney General, Auditor of State, Secretary of State, and Treasurer of State.

<sup>5</sup> The Adjutant General, the General Assembly, the judicial branch, state institutions of higher education, the Attorney General, Auditor of State, Secretary of State, and Treasurer of State.



The act permits DAS to allow state institutions of higher education and governmental agencies<sup>6</sup> to participate in DAS contracts. Under continuing law, DAS may charge an entity a reasonable fee to cover the administrative costs incurred because an entity participates in a DAS contract. An entity desiring to participate in a DAS contract must file certain documents with DAS. A governmental agency desiring to participate in a DAS contract must file a written request for inclusion in the contract. A state institution of higher education desiring to participate in a DAS contract must file a certified copy of a resolution of the board of trustees or similar authorizing body. The resolution must request that the state institution of higher education be authorized to participate in the contracts.

DAS must include in its annual report an estimate of the purchases made by other entities from DAS contracts. Under prior law, the annual report was to include an estimate of the cost DAS incurred by permitting other entities to participate in DAS contracts.

### **Financial assurance**

The act makes a slight change to permit DAS to require that all bids and proposals be accompanied by a performance bond or other financial assurance. Prior law allowed DAS to require that bids and proposals be accompanied by a performance bond or other cash surety.

### **Meat and poultry**

The act specifies, for meat products and poultry products, that only bids received from vendors under inspection by the U.S. Department of Agriculture or that are licensed by the Ohio Department of Agriculture are eligible for acceptance. Prior law required only those bids received from vendors offering products from establishments on DAS's list of meat and poultry vendors to be eligible. However, the act repeals the requirement that DAS establish and maintain a list of approved meat and poultry vendors.

### **Produced or mined in the U.S.**

The act requires DAS and other state agencies first to consider bids that offer products that have been or that will be produced or mined in the U.S. Contrarily, prior law required DAS and other state agencies first to remove bids that offered products that had not been or that would not be produced or mined in the U.S.

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<sup>6</sup> A political subdivision or special district in Ohio, or any combination of these entities; the federal government; other states or groups of states; other purchasing consortia; and any agency, commission, or authority established under an interstate compact or agreement.



## **Exemptions removed**

The act requires the Workers' Compensation Administrator to make purchases for supplies and services in accordance with the State Procurement Law, and removes the Administrator's authority to purchase supplies and services, make contracts for telecommunications services, and perform office reproduction services; thereby requiring the Bureau of Workers' Compensation to use DAS for these services. Further, the act eliminates the Administrator's authority to make contracts for and supervise the construction of any project or improvement, or the construction or repair of buildings, under the Bureau's control. The act also eliminates the Administrator's authority to transfer surplus computers and computer equipment directly to an accredited public school.

The act removes exemptions for the Ohio Tuition Trust Authority that state that the State Procurement Law does not apply to the Authority, and instead states that the Law does not apply to contracts approved under the Ohio Tuition Trust Authority Board's powers. The act further eliminates the requirement that DAS, upon the Authority's request, act as the Authority's agency for the purchase of equipment, supplies, insurance, or services, or the performance of administrative services under the State Procurement Law.

## **Transportation contracts**

Under the act, the Director of Transportation, in addition to other entities under continuing law,<sup>7</sup> can permit a state agency to participate in contracts the Director has entered into for purchases of machinery, materials, supplies, or other articles. These purchases are exempt from competitive bidding requirements.

## **Emergency procurement procedures**

(R.C. 125.04 and 125.061; R.C. 125.023 (repealed))

The act repeals but reenacts law that authorizes DAS to suspend normal contracting and purchasing requirements for the Emergency Management Agency and other state agencies engaged in response and recovery activities during the period of an emergency declared by the Governor or the President of the United States.<sup>8</sup> The act

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<sup>7</sup> The Ohio Turnpike and Infrastructure Commission, any political subdivision, and any state university or college.

<sup>8</sup> Continuing law specifies that the Director of Public Safety or the Executive Director of the Emergency Management Agency must request the suspension from DAS at the same time either requests the Governor or U.S. President to declare an emergency. The Governor must include, in any proclamation issued by the Governor declaring an emergency, language requesting the suspension during the emergency period.



specifies that purchases made under the emergency authority are exempt from the requirement for Controlling Board approval for an exemption from competitive selection, but requires state agencies making these purchases to make a report to the President of the Controlling Board describing all purchases made during the emergency period. The report must be filed within 90 days after the declaration of emergency expires.

The act provides that before any purchases may be made under the emergency authority, the Director of DAS must send notice of the Director's approval of the suspension to the Director of Budget and Management and to the members of the Controlling Board. The notice must provide details of the request for suspension and a copy of the Director's approval.

## **Purchase of recycled products**

(R.C. 125.082)

The act specifies that state entities and offices<sup>9</sup> may purchase recycled products under rules adopted by the Director of DAS that establish guidelines. Further, the act removes the specific requirements that the guidelines: (1) be consistent with and substantially equivalent to certain regulations adopted by the U.S. Environmental Protection Agency, (2) establish the minimum percentage of recycled materials the products must contain, and (3) incorporate specifications for recycled-content materials. The act eliminates the specific authority for the Director to adopt rules establishing a maximum percentage by which the cost of purchased recycled products may exceed the cost of comparable products made of virgin materials.

Additionally, the act eliminates the requirement that DAS and the Environmental Protection Agency must annually prepare and submit a report that describes the value and types of recycled products that are purchased with state moneys by the various state entities and offices.

## **Excess and surplus supplies**

(R.C. 125.13 and 5139.03)

The act requires a state agency to provide the Director of DAS with a list of its excess and surplus supplies, including the supplies' location and whether the agency

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<sup>9</sup> The General Assembly, the offices of all elected state officers, all departments, boards, offices, commissions, agencies, institutions, including state institutions of higher education, and other Ohio instrumentalities, the Supreme Court, all courts of appeals, and all common pleas courts.



has control of the supplies. Prior law required a state agency to provide a list of its excess and surplus supplies and an appraisal value upon the Director's request.

Upon receipt of notification and at no cost to the state agency, the Director must take immediate control of the excess and surplus supplies and make arrangements for their disposition. However, the Director must not take immediate control of excess or surplus supplies that are part of an approved interagency transfer or that are donated food. The act allows excess and surplus supplies of food to be donated directly to nonprofit food pantries and institutions without notification to the Director.

Also, the Director cannot charge a fee for the collection or transportation of excess and surplus supplies. The Director must post on a public website a list of the excess and surplus supplies available for acquisition.

The act removes the requirement that the Director dispose of excess and surplus supplies in a specific order of priority, and instead permits the Director to dispose of excess and surplus supplies in any of the following ongoing manners: (1) to state agencies, (2) to state-supported or state-assisted institutions of higher education, (3) to tax-supported agencies, municipal corporations, or other Ohio political subdivisions, private fire companies, or private, nonprofit emergency medical service organizations, (4) to nonpublic elementary and secondary schools chartered by the State Board of Education, or (5) to the general public by auction, sealed bid, sale, or negotiation. In addition to ongoing manners of disposal, the act permits the Director to dispose of excess and surplus supplies by interagency trade or to a 501(c)(3) nonprofit organization that also receives state funds or has a state contract.

The act eliminates a prior law prohibition that no state-supported or state-assisted institution of higher education, tax-supported agency, municipal corporation, or other Ohio political subdivision, private fire company, or private, nonprofit emergency medical service organization was to sell, lease, or transfer excess or surplus supplies acquired to private entities or the general public at a price greater than the price it originally paid for those supplies.

Finally, the act removes an exemption that allows the Department of Youth Services to transfer its excess or surplus supplies to community corrections facilities, which remain the Department's property for five years and then become the facility's property. Presumably, the Department would be required to follow the normal procedures for disposition of these excess or surplus supplies.



## **Funding of building operation and maintenance**

(R.C. 125.27 and 125.28)

The act modifies the manner in which DAS seeks reimbursement from state agencies for space occupied in state buildings and funds the maintenance and improvement of those buildings, as follows:

--It removes the specific provisions detailing how state agencies funded in whole or in part by non-GRF money are to reimburse the state for the cost of occupying space in state facilities. It retains, however, the requirement that the DAS Director determine the reimbursable cost of space in state-owned or state-leased facilities and collect reimbursements for that cost.

--It abolishes the Building Operation Fund; consequently, *all* money collected by DAS for operating expenses of facilities owned or maintained by DAS is to be deposited into the ongoing Building Management Fund.

--It removes the requirement that all money collected by DAS for debt service be deposited into the GRF.

--It eliminates the former funding source for the Building Improvement Fund and, instead, requires that money collected from state agencies for depreciation and related costs be deposited into the Fund *or* deposited into the Building Management Fund and then transferred to the Building Improvement Fund. Under the act, the Building Improvement Fund is to be used for major maintenance or improvements required in any facility maintained by DAS, rather than just the Rhodes or Lausche state office towers, Toledo Government Center, Ocasek Government Office Building, and Vern Riffe Center for Government and the Arts, as provided under prior law.

## **Ohio Geographically Referenced Information Program Council**

(R.C. 125.901; Section 701.40)

The act revises the membership of the Ohio Geographically Referenced Information Program Council in DAS by removing all members appointed by the Governor and replacing those members with all of the following or their designees:

(1) The Chancellor of Higher Education;

(2) The Chief of the Division of Oil and Gas Resources Management in the Department of Natural Resources;

(3) The Director of Public Safety;



- (4) The Executive Director of the County Auditors' Association;
- (5) The Executive Director of the County Commissioners' Association;
- (6) The Executive Director of the County Engineers' Association;
- (7) The Executive Director of the Ohio Municipal League; and
- (8) The Executive Director of the Ohio Townships Association.

Continuing law requires the Council to develop and annually update a real property management plan containing specified information and a real property inventory, both regarding state-owned property. Excluded from the plan and inventory is property owned by the General Assembly and legislative agencies, any court or judicial agency, and the offices of the Secretary of State, Auditor of State, Treasurer of State, and Attorney General.

The act retains as members of the Council the state chief information officer, the Directors of Natural Resources, Transportation, Environmental Protection, and Development Services, and the Treasurer of State or their designees. Under prior law, the members appointed by the Governor had to represent county auditors, county commissioners, county engineers, regional councils, municipal corporations, regulated utilities, and a public university. The act states that the Council as revised by the act constitutes a continuation of the Council rather than a new council.

Finally, the act expressly requires that Council members serve without compensation.

## **State printing and forms management**

### **Statewide Forms Management Program**

(R.C. 125.91, 125.92, 125.93, 125.96, and 125.98 (all repealed))

The act eliminates the State Forms Management Control Center under the supervision of DAS. The Center was tasked with developing and maintaining a Statewide Forms Management Program designed to simplify, consolidate, or eliminate, where possible, forms, surveys, and other documents used by state agencies.



## **Public printing**

(R.C. 125.31, 125.36, 125.38, 125.39, 125.42, 125.43, 125.45, 125.49, 125.51, 125.58, 125.76, and 5709.67; R.C. 125.32, 125.37, 125.47, 125.48, 125.50, 125.52, 125.53, 125.54, 125.55, 125.57, 125.68, and 149.13 (repealed))

The act modifies the public printing responsibilities of DAS, as follows:

--It replaces the term "paper" with the term "printing goods and services" and updates other references with respect to the printing process.

--It provides for the use of requests for proposals in addition to invitations to bid on printing contracts.

--It places public printing for the Bureau of Workers' Compensation under DAS's supervision.

--It permits DAS to advertise an invitation to bid or request for proposal for the purchase of printing goods and services a second time, if the bids or proposals are rejected the first time as not being in the interest of the state.

--It eliminates the requirement that printing for the state be divided into four classes and separate contracts be entered into for each class.

--It eliminates specific duties of DAS with respect to the determination of paper to be used and provisions for the binding of publications.

Lastly, the act removes the requirement that each copy of certain state publications indicate the total number of copies produced and the cost of each copy.

## **Administration of 9-1-1 funding laws**

(R.C. 128.40 and 128.54(A)(5))

### **9-1-1 Program Office: fund administration**

The act requires the 9-1-1 Program Office to oversee the administration of three different funds related to 9-1-1 law, whereas prior law required the Office to "administer" only the Wireless 9-1-1 Government Assistance Fund. Under the act, the Office must oversee the administration of not only the Wireless 9-1-1 Government Assistance Fund, but also the Wireless 9-1-1 Program Fund and the Next Generation 9-1-1 Fund.



Under continuing law, the Wireless 9-1-1 Government Assistance Fund is used by the Tax Commissioner to make monthly disbursements to county 9-1-1 systems.<sup>10</sup> The Wireless 9-1-1 Program Fund is an administrative fund used by the Statewide Emergency Services Internet Protocol Network Steering Committee to defray the committee's costs in carrying out its duties. And the Next Generation 9-1-1 Fund goes toward costs associated with phase II wireless systems and a county's migration to next generation 9-1-1 systems and technology.<sup>11</sup>

### **Transfers to the Next Generation 9-1-1 Fund**

The act repeals a requirement that, although unclear under prior law, appeared to require the Statewide Emergency Services Internet Protocol Network Steering Committee to annually transfer excess funds remaining in the Wireless 9-1-1 Program Fund to the Next Generation 9-1-1 Fund. This requirement was unclear because the Tax Commissioner and the Steering Committee, after paying administrative costs, were required to transfer any excess remaining in "the administrative funds" to the Next Generation 9-1-1 Fund. This probably meant each entity's respective administrative fund.

Under the act, the Tax Commissioner, and not the Steering Committee, is clearly required to annually transfer any excess remaining in the Wireless 9-1-1 Administrative Fund to the Next Generation 9-1-1 Fund. Therefore, the only other source of funding for the Next Generation 9-1-1 Fund is now assessments for unpaid wireless charges.<sup>12</sup>

### **Public safety answering point operational standards**

(R.C. 128.021)

The act requires the Statewide Emergency Services Internet Protocol Network Steering Committee to assess the operational standards for public safety answering points (PSAPs). Under the act, the Steering Committee also is required to revise the standards as necessary to ensure that they contain (1) policies to ensure that PSAP personnel prioritize life-saving questions when responding to each 9-1-1 call and (2) a requirement that all PSAP personnel complete proper training or provide proof of prior training to give instructions regarding emergency situations. The assessment and revision of the standards must be done in accordance with the Administrative Procedure Act and not later than September 29, 2016 (one year after this requirement takes effect).

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<sup>10</sup> R.C. 128.42, not in the act.

<sup>11</sup> R.C. 128.022, not in the act.

<sup>12</sup> R.C. 128.46(E)(4), not in the act.



Under continuing law, a PSAP is a facility to which 9-1-1 system calls for a specific territory are initially routed for response and where PSAP personnel respond to specific requests for emergency service by directly dispatching the appropriate emergency service provider, or relaying a message or transferring the call to the appropriate provider.<sup>13</sup>

## **Electronic record certificate of authenticity**

(R.C. 1306.20)

The act eliminates a prior law requirement that a state agency create a certificate of authenticity when the state agency alters the format of an electronic record. The act also removes a complementary provision requiring DAS, in consultation with the State Archivist, to adopt rules that establish the methods for creating a certificate of authenticity. Under continuing law, a state agency that retains an electronic record is permitted to retain it in a format that is different from the format in which it was originally created, used, sent, or received if it can be demonstrated that the alternative format used accurately and completely reflects the record as it was originally created, used, sent, or received.

Prior law also required a state agency that created, used, or received an electronic signature, or created, used, received, or retained an electronic record, to do so in compliance with rules adopted by DAS, unless DAS had authorized noncompliance upon written request of the state agency. The act removes the ability of a state agency to request, and DAS to authorize, noncompliance.

## **Enterprise information technology strategy implementation**

(Section 207.230)

The act establishes a policy of modernizing the state's information technology (IT) management and investment practices by shifting away from a limited, agency-specific IT focus toward a statewide method supporting development of enterprise IT solutions.<sup>14</sup> In furtherance of this policy, the act requires the Director of DAS to determine and implement strategies that will benefit the enterprise IT shift by improving efficiency, reducing costs, or enhancing the capacity of IT services.

These improvements and efficiencies may result in the consolidation and transfer of IT services. Notwithstanding any law to the contrary, as determined to be necessary for successful implementation of these enterprise IT shift improvements and

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<sup>13</sup> R.C. 128.01(P), not in the act.

<sup>14</sup> Section 207.210 of the act.



efficiencies, the Director of DAS may request the Director of Budget and Management to consolidate or transfer IT-specific budget authority between agencies or within agencies as necessary to implement enterprise IT cost containment strategies and related efficiencies. When the Director of Budget and Management is satisfied that the proposed consolidations and transfers are cost advantageous to the enterprise IT shift, the Director may transfer appropriations, funds, and cash as needed to implement the enterprise IT shift. The establishment of any new fund or additional appropriation is subject to approval by the Controlling Board.

The Director of Budget and Management and Director of DAS may transfer any employees and any assets and liabilities, including, but not limited to, records, contracts, and agreements, in order to facilitate improvements required by the enterprise IT shift.

## **Vehicle Management Commission**

(R.C. 125.833; Section 106.01)

The act eliminates the seven-member Vehicle Management Commission, which is part of DAS, effective January 1, 2016. The Commission is required to periodically review DAS' implementation of its fleet management program and may recommend to DAS and the General Assembly modifications to DAS procedures and functions and other statutory changes.

