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## LOCAL GOVERNMENT

### Local competitive bidding thresholds

- Increases statutory competitive bidding thresholds to \$75,000 for counties, townships, municipal corporations, libraries, fire and ambulance districts, regional airport authorities, and regional water and sewer districts, and subsequently increases the amount annually by 3%.
- Prohibits subdividing projects or purchases to avoid competitive bidding requirements.

### County road and public improvement projects

- Increases (from 10% to 20%) the allowable difference between a county road improvement project's estimate and the project's contract price.
- Increases (from 10% to 20%) the allowable difference between a local public improvement project's estimate and the project's contract price.

### County credit cards

- Requires each county to adopt a policy regarding the use of its credit cards.
- Requires purchases on a county credit card to be for work-related expenses that serve a public purpose.
- Disallows use of a county credit card for finance charges, late fees, or sales tax unless approved by the board of county commissioners.

### County recorder

- Allows a county recorder to extend current approved funding requests for the county recorder's technology fund beyond those formerly allowed, and requires a board of county commissioners to approve the extension.

### Jail commissary profits

- Allows a sheriff to use profits from a jail commissary fund to pay for construction or renovation of a jail facility to provide medical or mental health services.

### Drainage Assessment Fund

- Abolishes the Drainage Assessment Fund, which was funded by the General Assembly and was used to pay each state agency's share of local drainage assessments made under the county ditch laws.
- Eliminates an associated requirement that state agencies include the cost of the state's share of drainage assessments billed by county auditors in budget requests from the fund.

## **Township deputy fiscal officer**

- Clarifies that a board of township trustees may appoint a deputy fiscal officer to act as a fiscal officer, when the office is vacant, until a successor fiscal officer is appointed or elected, rather than until a successor fiscal officer is elected.

## **Township cemetery deeds**

- Allows a township to record cemetery lot/right deeds with the county recorder as an alternative to the township maintaining a book of the deeds.

## **Referendum on township zoning plan**

- Increases the number of signatures required to place a question of whether to repeal a township zoning plan on the ballot from not less than 8% of the total vote cast in that township for all candidates for Governor at the most recent general election at which a Governor was elected to 15%.

## **New community authorities (NCAs)**

- Allows inclusion of township-owned property in a new community district.
- Allows a board of township trustees to approve creation of a new community authority (NCA) or a change to the territory of an existing new community district, if the territory of the district (or the territory added or removed) is located entirely in the township and meets certain population criteria.
- Specifies that property subject to an NCA development charge may not also be exempted from taxation by a downtown redevelopment district (DRD) or transportation finance district (TFD).

## **Municipal notices**

- Allows a municipal corporation to publish certain items either via newspaper, on the state's public notice website, or on the municipal corporation's website and social media account.

## **Free assistance dog registration**

- Expands the types of assistance dogs that qualify for free dog registration from the county auditor to include those trained by for-profit special agencies, in addition to those trained by nonprofit special agencies as in continuing law.
- Eliminates an ambiguity in the law related to the training of assistance dogs.

## **Notify land banks of foreclosure sales**

- Requires the levying officer to notify land banks when residential property is to be sold at public auction.

## Regional transportation improvement projects (RTIPs)

- Authorizes an existing RTIP to enter into a memorandum of understanding with the Department of Transportation concerning improvements within 2,500 feet of the RTIP's right-of-way.
- Allows such an RTIP to exercise certain powers pursuant to that memorandum related to project funding, economic development, the operations of businesses, public-private partnerships, and the acquisition of property by appropriation or otherwise.
- Makes several changes to the procedures and requirements for the creation of a transportation financing district by an RTIP.

## Public meetings of economic development entities

- Authorizes a board of directors of a community improvement corporation, a board of directors of a joint economic development zone, and a joint economic development review council, to hold public meetings by interactive video conference or by teleconference, provided that certain criteria are met.

## Local regulation of tobacco and alternative nicotine products (VETOED)

- Would have prohibited local regulation of tobacco products and alternative nicotine products as well as fees, taxes, assessments, and charges on such products other than those expressly authorized by state law (VETOED).

## Local government bidding thresholds

(R.C. 9.17, 307.86, 307.861, 308.13, 505.08, 505.37, 505.376, 511.01, 511.12, 515.01, 715.18, 731.141, 735.05, 737.03, 3375.41, 5549.21, and 6119.10)

The act increases statutory competitive bidding thresholds from \$50,000 to \$75,000 for counties, townships, municipal corporations, libraries, fire and ambulance districts, regional airport authorities, and regional water and sewer districts.<sup>186</sup> Starting in 2025, the act increases the threshold amount by 3% each year. The Director of Commerce must calculate and publish the new amount each year.

The increase from \$50,000 to \$75,000 also applies when a town hall is being built in a township. Under continuing law, to build, improve, enlarge, or remove a town hall at a cost exceeding that threshold, the trustees must get the approval of the voters.

The county competitive bidding requirement formerly allowed the commissioners to exempt an expenditure from the requirement if an emergency existed and the cost was less than \$100,000. The act increases this amount to \$125,000.

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<sup>186</sup> One threshold applicable to municipal corporations was formerly \$10,000. See R.C. 715.18.

Finally, throughout the competitive bidding laws applicable to each type of political subdivision, the act prohibits subdividing a purchase, lease, project, or other expenditure into components or separate parts in an effort to avoid a competitive bidding requirement.

## **County road improvements and public improvement projects**

(R.C. 153.12 and 5555.61)

Formerly, the contract price of a county road improvement project or a public improvement project could exceed the estimate by only 10%. The act increases this to 20%. The act does not impact state public improvement projects.

## **County credit cards**

(R.C. 301.27)

Counties, under prior law, had authority to use credit cards, but only for certain expenses set forth in the Revised Code (e.g., food, transportation, and lodging). The act requires each county to adopt a policy regarding the county's use of credit cards. The board of county commissioners adopts the policy in consultation with the county auditor. The policy must include a procedure for submitting itemized receipts for purchases, which the act requires be submitted for each purchase, and any other provision the commissioners determine is necessary. The act eliminates the list of allowable uses, and instead specifies that a credit card be used only for purchases that are work-related and serve a public purpose. The purchase must be payable with available money from an appropriate line item. A credit card cannot be used to pay finance charges, late fees, or sales tax unless the commissioners approve. The act retains many provisions, including for instance the requirement to reimburse the county for inappropriate charges.

## **County recorder**

(R.C. 317.321)

The act allows a county recorder to extend current approved funding requests for the county recorder's technology fund beyond those formerly allowed, and requires a board of county commissioners to approve these extensions, notwithstanding continuing statutory limitations. Under continuing law, a county recorder's funding request for technology fund purposes generally is limited to a five-year period. However, in 2013 and again in 2019,<sup>187</sup> the General Assembly enacted language that allowed, temporarily, for extensions of funding beyond the five-year period and a mandatory bump of up to \$3 of recoding fees to be directed to the county recorder's technology fund from the county general fund. Absent the extensions, it appears the law would resort to discretionary county commissioner approval, rejection, or modification with a mandatory bump of up to \$3, for a period of up to five years, provided the total of such allocations could not exceed \$8. Essentially, the General Assembly has

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<sup>187</sup> H.B. 59 of the 130<sup>th</sup> General Assembly and H.B. 166 of the 133<sup>rd</sup> General Assembly.

“grandfathered” allocation of recorder’s fees to the technology fund since 2013, notwithstanding the approved proposal agreement provided for the term of the funding.

The act similarly extends any proposal that was approved by the board of county commissioners before, and is in effect on October 3, 2023, to continue to January 1, 2030, notwithstanding the number of years of funding specified in the approved proposal. The act also provides that a proposal submitted between October 1, 2019, and October 1, 2028, for the mandatory bump of up to \$3 be credited to the technology fund, in addition to the other funding allocation; if the total of those two amounts does not exceed \$8, the board must approve the proposal.

## **Jail commissary profits**

(R.C. 341.25)

Continuing law allows a sheriff to establish a commissary for county jails. If a commissary is established, the sheriff also must establish a commissary fund, which is strictly controlled in accordance with procedures adopted by the Auditor of State. The sheriff currently may use profits from a jail commissary fund only for certain expenditures, including sheriff and employee salaries and for purchasing equipment. Under the act, the sheriff additionally may use these profits to pay for construction or renovation of a jail facility to provide medical or mental health services.

## **Drainage Assessment Fund**

(R.C. 6131.43; repealed R.C. 6133.15)

The act abolishes the Drainage Assessment Fund. The fund was established in the state treasury and funded by the General Assembly. It was used to pay each state agency’s share of local drainage assessments made under the county ditch laws. Correspondingly, the act eliminates an associated requirement that state agencies include the cost of the state’s share of drainage assessments billed by county auditors in budget requests from the fund.

## **Township deputy fiscal officer appointments**

(R.C. 507.02)

The act clarifies that a township deputy fiscal officer temporarily acting as a fiscal officer serves until a new fiscal officer is elected or appointed, rather than only elected as under former law.

Under continuing law, when a township fiscal officer’s office becomes vacant, or the officer is incapacitated, the board of township trustees must appoint a deputy fiscal officer to exercise the full power to discharge the duties of the office. Appointing the deputy fiscal officer is temporary, and not the same as filling a vacancy in the office. To fill a vacancy, the township board of trustees must appoint a person with the qualifications of an elector for the unexpired term, or until a successor is elected.<sup>188</sup>

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<sup>188</sup> R.C. 503.24, not in the act.

Continuing law specifies that, until a successor is elected, a deputy fiscal officer must fill the position. Because a vacancy can be filled by election or appointment under continuing law, the act clarifies that a deputy fiscal officer must fill the position until a successor is elected or appointed, rather than only elected.

## **Township cemetery deeds**

(R.C. 317.08, 517.07, and 517.271)

The act provides townships an alternative means of maintaining a record of cemetery lot/right deeds. Prior law gave townships only one option: each township fiscal officer must record the deeds in a book kept by the township. Alternatively under the act, a township may record the deeds with the county recorder.

## **Referendum on township zoning plan**

(R.C. 519.12 and 519.25)

The act increases the number of signatures required to place a question of whether to repeal a township zoning plan on the ballot, from not less than 8% of the total vote cast in that township for all candidates for Governor at the most recent general election at which a Governor was elected to 15%. Under continuing law, a township zoning plan may be repealed if the board of township trustees receives a petition to submit to the electors the question of whether or not the zoning plan in effect in the township must be repealed. If the petition is signed by the required number of qualified electors residing in the unincorporated area of a township included in the zoning plan which seeks to be repealed, the board will adopt the resolution presented in the petition. The resolution is then certified to the board of elections not later than 90 days before the day of an election at which the question is to be voted on. If a majority of the vote cast is in favor of repealing the zoning plan, the zoning plan will no longer be in effect. Additionally, a board of township trustees can adopt its own resolution to repeal a zoning plan that does not need to be submitted to the electors for a vote.

## **New community authorities**

(R.C. 349.01, 349.03, 349.04, and 349.14)

### **Background**

Continuing law allows for the creation and implementation of “new community development programs,” which aim to develop new properties in relation to existing communities while incorporating planning concepts that promote utility, open space, and supportive facilities for industrial, commercial, residential, cultural, educational, and recreational activities. The resulting “new community districts,” each of which is governed by a body referred to as a new community authority (NCA), are intended to be characterized by well-balanced and diversified land-use patterns.

### **Township developers**

Under Ohio law, changed in part by the act, a developer that controls or owns land and would like to form a new community district must file a petition with the clerk of the appropriate organizational board of commissioners to create an NCA. A “developer,” under continuing law,

includes a person, municipal corporation, county, or port authority. The act adds a township to that definition and, thereby, explicitly authorizes townships to petition to form a new NCA, or add or delete territory from an existing new community district.

### **New NCAs**

Under prior law, the board of county commissioners or sometimes, depending on the location of the new community district, the legislative authority of a municipal corporation, is the organizational board of commissioners with the authority to approve the district and create an NCA. Additionally, depending on the location of the proposed district, the petition must also be approved by the most populous municipal corporation of the county or the most populous municipal corporation of a neighboring county. If more than half of the proposed NCA is located within the most populous municipal corporation of a county, the legislative authority of that municipal corporation, and not the board of county commissioners of the county, must approve the petition.

The act specifies that if a proposed new community district is comprised entirely of unincorporated territory within the boundaries of a township with a population of at least 5,000, and it is also located in a county with a population of at least 200,000 and not more than 400,000 (i.e., Butler, Stark, Lorain, Warren, Lake, Mahoning, Delaware, Clermont, or Trumbull county), then the organizational board of commissioners may be either the board of county commissioners or the board of township trustees of the township. Furthermore, if the petition to create an NCA for such a district is submitted to the board of county commissioners, and not to the board of township trustees, the act allows the board of township trustees to intervene and disallow the NCA.

### **Existing NCAs**

Under Ohio law, changed in part by the act, a developer that wishes to add or delete territory from an existing new community district may file an application with the clerk of the organizational board of commissioners that originally approved creation of the NCA. If the territory proposed to be added or deleted from the district is (1) located entirely within a municipal corporation, (2) mostly located in the most populous municipal corporation in the county, or (3) located in the unincorporated area of a township described above, the act requires the developer to submit the petition to both the original organizational board of commissioners and the legislative authority of the municipal corporation or board of trustees of the township, as applicable. The act specifies that the legislative authority of the municipal corporation or board of trustees of the township is the “acting organizational board of commissioners” for the purposes of the petition and, therefore, has the authority to approve or disapprove the proposed territory changes.

### **Community development charge**

Under continuing law, an NCA may levy a “community development charge” within its boundaries to pay for its community development programs. If an NCA imposes a community development charge determined on the basis of rentals received from leases of real property, that real property cannot be exempted from taxation under a tax increment financing (TIF) arrangement. The act also prohibits exemption of such property under a downtown

redevelopment district (DRD) or transportation finance district (TFD) arrangement. Under continuing law, a DRD and TFD generate revenue for economic development projects in the same manner as a TIF – by exempting improvements to real property and requiring the property owner to make service payments in lieu of taxes.

## **Municipal notices**

(R.C. 125.182, 731.21 to 731.25; related changes in R.C. 504.12, 504.121, 504.122, 504.123, 504.124, 504.125, 504.126, 715.691, 715.70, 755.13, and 1545.09)

Continuing law requires a municipal corporation to publish a succinct summary of each municipal ordinance or resolution. Rather than require publication via newspaper as under prior law, the act allows a municipal corporation to select one (or more) of three methods: (1) newspaper, (2) the state’s public notice website, or (3) the municipal corporation’s website and social media account. Continuing law specifically requires some items to be published via newspaper. For other items (statements, orders, proclamations, notices, and reports) that require publication but not specifically via newspaper, the municipal corporation may select one of the three methods under the act, rather than use newspaper publication as previously required.

Many provisions related to other types of political subdivisions (e.g., limited home rule townships and park districts) tie their requirements to the municipal requirements. The act only changes requirements for municipal corporations, so in order to maintain the status quo with respect to the other political subdivisions, the act makes numerous changes to their provisions. While it may appear to be modifying the requirements, the changes effectively keep those requirements as they currently stand.

## **Free assistance dog registration**

(R.C. 955.011)

The act expands the types of assistance dogs that qualify for free dog registration issued by the county auditor. Under continuing law, an assistance dog is a guide dog, hearing dog, or dog that has been trained to assist a person with a mobility impairment (service dog). An assistance dog owner is exempt from county dog registration fees if the owner shows proof that the dog is, in fact, an assistance dog. Previously, to qualify for free registration, the dog must have been trained by a nonprofit special agency. The act allows an assistance dog to be trained by a for-profit special agency, in addition to a nonprofit, to qualify for free dog registration.

In addition, the act eliminates an ambiguity in the law related to the training of assistance dogs. Under prior law, it was unclear what qualifies as “training” because the phrase “by a nonprofit special agency” appeared to apply only to the training of a service dog under a legal interpretation known as the doctrine of the last antecedent. R.C. 1.42 provides that statutory words and phrases must be read in context and construed according to the rules of grammar and common usage. The rules of grammar provide that absent of legislative intent to the contrary,



qualifying words and phrases must be applied only to their immediate or last antecedent, and not to the other remote or preceding words.<sup>189</sup>

Prior law defined “assistance dog” to mean “a guide dog, hearing dog, or service dog that has been trained by a nonprofit special agency.” Therefore, when applying the doctrine of the last antecedent, the phrase “that has been trained by a nonprofit special agency” may have only applied to a service dog. The act eliminates this ambiguity by removing the last antecedent and clarifying that the training applies to each type of assistance dog, not just service dogs.

## **Notify land banks of foreclosure sales**

(R.C. 2329.261 and 2329.27)

Under continuing law, when a court orders the sale of real property due to the owner’s failure to pay a debt (a writ of execution), the property must be sold at a public auction. Under the act, if the sale is of “qualifying residential property” located in an area that has a land reutilization program, then the officer selling the property must notify the electing subdivision or county land reutilization corporation (both commonly referred to as “land banks”) of the sale to give the land bank a chance to purchase the property. “Qualifying residential property” is defined in the act as a single-family residential property, including a single unit in a multi-unit property containing not more than ten units but excluding manufactured homes, that has at least 1,000 square feet of habitable space per unit.

The act requires the officer selling the property at the foreclosure sale to maintain a website and phone number to provide information on applicable properties, which may be an existing website it uses for other information, including the official public sheriff sale website used to conduct online auctions.

## **Regional transportation improvement projects (RTIPs)**

Continuing law authorizes the boards of county commissioners of two or more counties to enter into a cooperative agreement creating a regional transportation improvement project (RTIP). The purpose of an RTIP is to undertake transportation improvements within the participating counties. The agreement governs the scope of the project and includes a comprehensive plan for its completion. The only existing RTIP encompasses Carroll, Columbiana, and Stark counties.

The act makes several changes to RTIPs and the special financing districts that counties participating in an RTIP may create to generate funding for projects.

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<sup>189</sup> See *Ohio Neighborhood Fin., Inc. v. Scott*, 139 Ohio St.3d 536, 2014-Ohio-2440, 13 N.E.3d 1115 and *Hedges v. Nationwide Mut. Ins. Co.*, 109 Ohio St.3d 70, 2006-Ohio-1926, 846 N.E.2d 16.

## Memorandum of understanding with ODOT

(R.C. 4504.22, 5595.01, 5595.03, 5595.04, 5595.041, 5595.042, 5595.05, 5595.06, 5709.481, and 5709.50)

The act allows the governing board of an RTIP formed before October 3, 2023 (“qualified RTIP”), to negotiate and enter into a memorandum of understanding with the Department of Transportation (ODOT) concerning infrastructure improvements and economic development activities that are at least partially funded by private sources and are in close proximity to the RTIP right-of-way (“opportunity corridor improvements”).

A qualified RTIP that enters into a memorandum of understanding with ODOT, in addition to all current authority an RTIP possesses, may do any or all of the following:

- Purchase property located within the RTIP “development area,” i.e., the area within 2,500 feet of RTIP right-of-way and in which opportunity corridor improvements may be undertaken, except by eminent domain, for use by the RTIP board for transportation or opportunity corridor improvements.
- Appropriate property, through eminent domain, within the RTIP right-of-way exclusively for a transportation improvement, i.e., transportation infrastructure, described in the memorandum of understanding, provided the appropriation authority would be within ODOT’s existing authority if ODOT undertook the appropriation and the authority is described in the memorandum. Previously, Ohio law explicitly prohibited all RTIP boards from appropriating property.
- Receive and reinvest funds from the development area.
- Contract for the use of digitalized procurement planning and permitting systems.
- Request and receive grants and private contributions.
- Establish, acquire, own, control, manage, sell, or transfer businesses.
- Form and manage public-private enterprises, i.e., private corporations, jointly owned by the RTIP board and a private party, to manage opportunity corridor improvements, subject to the approval of ODOT.
- Enter into an agreement with the Ohio Academic Resource Network for the purpose of establishing, expanding, or improving broadband or other digital services in the development area.

While not specifically intertwined with a memorandum of understanding, the act also allows revenue sources of a qualified RTIP authorized under continuing law to be used for opportunity corridor improvements and clarifies that land within the RTIP development may be exempted from property taxation and subject to payments in lieu of taxes (PILOTs) by a municipal corporation, township, or county under continuing tax increment financing (TIF) law.

## **Transportation financing districts (TFDs)**

(R.C. 5709.48, 5709.49, 5709.50, and 5709.83; Section 803.260)

Counties participating in an RTIP may create a transportation financing district (TFD) that, similar to a TIF incentive district, generates funding for projects by exempting the increase in assessed value of property in the district from taxation and collecting service payments from property owners. Service payments may be used in furtherance of the RTIP and in accordance with the cooperative agreement and, as authorized by the act, any memorandum of understanding.

The act makes several changes to TFDs. First, the act requires that a TFD must generally include all of the territory of the counties participating in the RTIP. Under prior law, a TFD could, but was not required to, include territory from all of the participating counties. Under continuing law, which the act retains, a TFD may not include residential property or property that is already exempt under a TIF arrangement.

Second, the act requires that the RTIP governing board enter into an agreement with each property owner whose property will be included in the TFD. Previously, the board was required to get the approval of all property owners, but was not required to enter into a formal agreement with each owner. Under the act, each agreement must specify the projects and purposes for which the owner's service payments will be used. If an owner refuses to enter into an agreement, the owner's property must be excluded from the TFD.

Third, the act aligns the notice and approval requirements for creating TFD with those that apply to a TIF arrangement. Specifically, the act eliminates a requirement that all taxing districts within the territory of a proposed TFD approve its creation. Instead, similar to the creation of a TIF, only the approval of school districts within the territory is required, and only if the proposed exemption is greater than 75% or longer than ten years. In lieu of seeking school district approval, the RTIP may agree to fully compensate school districts for their resulting revenue loss or, similar to prior law, a district may negotiate a compensation agreement in exchange for its approval. A school district may also waive its right to approve TFDs.

The act's TFD changes apply to any resolution granting a TFD tax exemption adopted on or after October 3, 2023.

## **Public meetings of economic development entities**

(R.C. 715.693 and 1724.11)

The act authorizes a board of directors of a community improvement corporation, a board of directors of a joint economic development zone, and a joint economic development review council to hold public meetings by interactive video conference or by teleconference. The meetings must comply with the following requirements:

1. The board or council establishes a primary meeting location that is open and accessible to the public.
2. Meeting-related materials that are available before the meeting are sent via electronic mail, facsimile, hand-delivery, or U.S. postal service to each member.

3. In the case of an interactive video conference, the board or council causes a clear video and audio connection to be established that enables all meeting participants at the primary meeting location to see and hear each member.

4. In the case of a teleconference, the board or the council causes a clear audio connection to be established that enables all meeting participants at the primary meeting location to hear each member.

5. All board or council members have the capability to receive meeting-related materials that are distributed during a meeting.

6. A roll call voice vote is recorded for each vote taken.

7. The minutes of the board or council meeting identify which members remotely attended the meeting by interactive video conference or teleconference.

The act requires a board or council that wishes to exercise its authority to meet by interactive video conference or by teleconference to adopt rules necessary to implement that authority. At a minimum, the rules must do all of the following:

1. Authorize board members to remotely attend a meeting by interactive video conference or teleconference, or by a combination thereof, in lieu of attending the meeting in person;

2. Establish a minimum number of members that must be physically present in person at the primary meeting location;

3. Require that not more than one member remotely attending a meeting by teleconference is permitted to be physically present at the same remote location;

4. Establish geographic restrictions for participation in meetings by interactive video conference and by teleconference;

5. Establish a policy for distributing and circulating meeting-related materials to members, the public, and the media in advance of or during a meeting at which members are permitted to attend by interactive video conference or teleconference;

6. Establish a method for verifying the identity of a member who remotely attends a meeting by teleconference.

## **Local regulation of tobacco and alternative nicotine products (VETOED)**

(R.C. 9.681)

The Governor vetoed a provision that would have prohibited local governments from adopting, renewing, maintaining, enforcing, or continuing in existence regulations related to tobacco and alternative nicotine products. The vetoed provision also would have prohibited local taxes, fees, assessments, or charges other than those established or authorized by state law. A detailed description of the vetoed provision is available on pages 688 and 689 of [LSC's analysis of H.B. 33, As Passed by the Senate \(PDF\)](#). The analysis is available online at the General Assembly's website: [legislature.ohio.gov](http://legislature.ohio.gov).