DEPARTMENT OF TAXATION

Income tax

- Phases down income tax rates and reduces the number of income tax brackets over two years, beginning with the 2023 taxable year.
- Suspends the annual inflation indexing adjustment of income tax brackets and personal exemption amounts for taxable years beginning in 2023 and 2024.
- Would have further suspended those inflation adjustments after 2024 until taxpayers paid no tax on their first $26,050 of income (VETOED).
- Would have required that, beginning in September 2024, TAX reduce income tax withholding rates so that the total estimated reduction in withholding collections equaled an amount earmarked from the Budget Stabilization Fund (VETOED).
- Authorizes an income tax deduction for individuals who contribute to a homeownership savings account.
- Authorizes, for homeownership savings account holders, an income tax deduction for interest earned on savings in, and employer contributions to, an account.
- Allows donations to scholarship granting organizations made by the state income tax return filing deadline (typically April 15) to be the basis of an income tax credit claim for the preceding taxable year (the year for which the return is filed).
- Allows taxpayers with income of $100,000 or more to qualify for the nonrefundable income tax credit for tuition paid to a nonchartered, nonpublic school.
- Increases the value of that credit.
- Includes certain pass-through entity (PTE) taxes remitted on behalf of an investor in the calculation of the investor’s Ohio income tax resident credit.
- Requires a PTE investor to add back certain PTE taxes imposed by another state that the investor deducts from federal adjusted gross income as a business expense.
- Applies the PTE provisions to taxable years ending on or after January 1, 2023, but allows taxpayers to apply, at their option, the provisions to taxable years ending on or after January 1, 2022, with an amended or original return.
- Removes the requirement for employers who withhold and remit employee income taxes on a partial weekly basis to file quarterly reconciliation returns, instead requiring such employers to file an annual return, starting in 2024.

Municipal income taxes

- Exempts the income of minors from municipal income taxation.
- Corrects an erroneous cross-reference governing the deduction of net operating losses and requires municipal corporations to incorporate the change in 2023.

- Allows a business with remote employees to use a modified municipal income tax apportionment formula with respect to those employees.
- Limits the circumstances under which municipal income tax inquiries or notices may be sent by a municipal tax administrator or the Tax Commissioner to a taxpayer subject to a filing extension.
- Limits the penalty that may be imposed on a taxpayer for failing to timely file municipal income tax returns from a $25 monthly penalty, up to $150, to a one-time $25 penalty. Exempts a taxpayer's first failure to timely file from the penalty.
- Provides an additional, automatic one-month extension for municipal income tax returns where a business entity has received a six-month federal extension.
- Requires the Department of Taxation (TAX) to provide information to municipal corporations on any businesses that had municipal taxable income apportioned to such a municipal corporation in the preceding five or seven months as opposed to in any prior year.
- Requires a municipal corporation to notify TAX any time there is a decrease in the municipal corporation's income tax rate.

Sales and use tax

- Authorizes a sales tax holiday for most items priced under $500 to be held sometime in August of 2024 (PARTIALLY VETOED).
- Requires the state to hold similar, possibly shorter, sales tax holidays in future years if the surplus revenue in the GRF reaches a certain threshold.
- Uses this mechanism to replace the income tax reduction fund, which had used surplus revenues to temporarily reduce income tax rates.
- Suspends the existing sales tax holiday for clothes and school supplies in any year in which the act's sales tax holiday applies.
- Exempts children's diapers, creams, and wipes and car seats, cribs, and strollers from sales and use tax, beginning October 1, 2023.
- Adds specific references to construction material and services sold or rented to government entities for temporary traffic control or drainage purposes to a sales and use tax exemption for sales and rentals to government entities (PARTIALLY VETOED).

Lodging taxes

- Authorizes Hamilton County to levy an additional 1% lodging tax to fund convention, entertainment, or Major League Soccer sports facilities, and to repurpose a portion of the revenue from its existing 3% general and special lodging tax to fund or promote such a facility.

- Authorizes Cincinnati to repurpose a portion of the revenue from its 3% general lodging tax or 1% special convention center lodging tax to fund such facilities.
- Authorizes a county to use a portion of the revenue from its general lodging tax to fund public safety services in a municipality or township designated as a resort area.
- Authorizes a county with a population exceeding 800,000 or a municipality within such a county to wholly or partially exempt from county and municipal lodging taxes a designated hotel associated with a convention center ("headquarters hotel").
- Authorizes the county or municipality to require payments in lieu of taxes (PILOTs) from the headquarters hotel, to be used to finance facilities associated with the hotel or convention center.
- Authorizes the county or municipality, or a port authority, to enter into an agreement with the headquarters hotel operator for the operator to make binding payments to ensure funds for the completion of such associated facilities.
- Authorizes Delaware County or port authorities in that county, to issue bonds backed by proceeds from the county's existing or renewed special 3% lodging tax to finance permanent improvements at fairground sites.

Commercial activity tax (CAT)

- Excludes, for tax periods beginning in 2024, taxable gross receipts of $3 million or less and, for tax periods in 2025 and thereafter, taxable gross receipts of $6 million or less from the CAT (PARTIALLY VETOED).
- Would have indexed the $6 million exclusion threshold to increase with inflation in 2026 and thereafter (VETOED).
- Eliminates the CAT minimum tax, only applying the CAT to a business's gross receipts in excess of the applicable exclusion threshold.
- Eliminates calendar year CAT filing, which was principally available to taxpayers with less than $1 million in gross receipts, who are excluded from the CAT under the act.
- Excludes from gross receipts taxable under the CAT any federal, state, or local grants received or debt forgiven to provide or expand broadband service in Ohio.
- Modifies the method of allocating CAT revenue for the payment of tangible personal property tax replacement payments.

Financial institutions tax

- Clarifies which entities are included in a taxpayer group subject to the financial institutions tax (FIT).
- Repeals an expired FIT deduction allowed for investments in a qualifying real estate investment trust.

Sports gaming tax

- Increases the sports gaming receipts tax rate from 10% to 20% beginning July 1, 2023.
- Requires nearly all of the sports gaming tax revenue to be used for the general support of K-12 education.

Cigarette and tobacco and vapor product taxes

- Would have allowed a wholesaler or distributor to obtain a refund of excise taxes on cigarettes, other tobacco products, and nicotine vapor products remitted on bad debts arising from the sale of those products and charged off on or after January 1, 2024 (VETOED).
- Would have authorized an exemption from the vapor products tax for certain distributors (VETOED).
- Extends the deadline for renewing annual cigarette tax licenses to June 1 instead of the 4th Monday in May.
- Modifies the authority of Cuyahoga County to levy cigarette taxes and rescinds its authority to levy a new tax on nicotine vapor products.

Motor fuel taxes

- Authorizes townships to use motor fuel tax revenue to purchase buildings suitable for housing road machinery and equipment, in addition to the currently permitted uses of planning, constructing, and maintaining such buildings.
- Imposes personal liability for the fuel use tax on individual owners, employees, officers, and trustees who are responsible for reporting and paying the tax for a taxpayer.

Public utility taxation

- Exempts heating companies from the state's public utilities excise tax, and instead subjects such companies to the CAT.

Tax incentives

Low-income housing tax credit

- Authorizes a nonrefundable credit against the insurance premiums, financial institution, or income tax for the development of low-income rental housing that is awarded in conjunction with the federal low-income housing tax credit (LIHTC).
- Allows the Ohio Housing Finance Agency (OHFA) to reserve a state tax credit for any project in Ohio that receives a federal LIHTC allocation, as long as the project is located in Ohio and begins renting units after July 1, 2023.
- Prohibits OHFA from reserving any credits after June 30, 2027.

- Generally limits the amount of state credits that may be reserved in a fiscal year to $100 million, but allows unreserved credit allocations and recaptured or disallowed credits to be added to the credit cap for the next fiscal year.
- Limits the amount of credit reserved for any single project to an amount necessary, when combined with the federal credit, to ensure financial feasibility.
- Requires OHFA to reserve credits in a manner that ensures projects create additional housing units they would not otherwise create.

Single-family housing development credit

- Authorizes a nonrefundable tax credit against the insurance premiums tax, FIT, or income tax for investment in the development and construction of affordable single-family homes.
- Requires local governments and quasi-public development entities to submit applications for the credit, but allows them to allocate credits to project investors.
- Allows OHFA to reserve a tax credit for any project in Ohio that may qualify for the credit, as long as the project meets affordability qualifications adopted by OHFA.
- Prohibits OHFA from reserving any credits after June 30, 2027.
- Generally limits the amount of credits that may be reserved in a fiscal year to $50 million, but allows unreserved credit allocations and recaptured or disallowed credits to be added to the credit cap for the next fiscal year.
- Limits the amount of credit reserved for any single project to the amount by which the project's development costs exceed the fair market value of the project's homes.

Film and theater credits

- Increases the total amount of film and theater production tax credits that may be awarded each fiscal year from $40 million to $50 million and requires that $5 million of the total be reserved for Broadway theatrical productions.
- Authorizes, beginning in FY 2025, a refundable tax credit against the FIT, income tax, and CAT for production companies that complete certain capital improvement projects in Ohio.
- Sets the credit amount at 25% of the amount a production company spends to construct, acquire, repair, or expand facilities that will be used in a motion picture or theatrical production, up to $5 million per project.
- Caps the total amount of new credits that may be awarded each fiscal year at $25 million and caps the credits that may be awarded to projects in a single county at $5 million per fiscal year.
- Allows DEV to allocate any amount of the otherwise allowable capital improvement credit to the film and theater production credit.

Job creation and retention credits

- Authorizes the Tax Credit Authority to adjust the amount that a noncompliant taxpayer must repay from a job creation or job retention tax credit one time within 90 days after initially certifying a repayment.

Research and development credits

- Modifies the manner in which a taxpayer that consists of multiple individuals or entities may compute and claim a research and development (R&D) tax credit against the FIT or CAT.
- Requires a taxpayer claiming a R&D credit to retain records substantiating the claim for four years.
- Allows TAX to audit a representative sample of a taxpayer's R&D expenses to verify that the taxpayer correctly computed the R&D credit.

Exemption and exclusion for consumer-grade fireworks fee

- Exempts the 4% fee on the sale of consumer-grade fireworks from sales and use tax, so long as the fee is separately stated on the sales receipt.
- Authorizes a CAT exclusion for collections of the separately stated fireworks fees.

Deduction and exclusion for East Palestine derailment payments

- Authorizes a personal income tax deduction for government or railroad company payments received by a taxpayer as the result of the February 3, 2023, train derailment in East Palestine.
- Authorizes a CAT exclusion for compensation for business losses resulting from that derailment.

Property tax

- Authorizes a park district to renew, increase, or decrease an existing voted property tax levy.
- Indexes the amount of all homestead exemptions so that each exemption, and the resulting tax savings, increase in proportion to the increase in a broad price inflation index (gross domestic product deflator).
- Requires the Tax Commissioner to prescribe a formula for uniformly valuing federally subsidized rental housing that takes into account a property's operating income and expenses and a uniform capitalization rate.
- Sets a minimum total value for such property of 150% of the value of the underlying land or $5,000 per dwelling unit, whichever is greater.
- Requires the owner of such property to regularly report the property's operating income and expenses to the county auditor of the county in which the property is located.

- Removes law explicitly authorizing a county auditor to value LIHTC property by employing the income approach, cost approach, or comparable sales approach.
- Requires OHFA to prepare and annually update a list of all Ohio federally subsidized residential rental property and annually certify the list to the Auditor of State, the Board of Tax Appeals, and TAX, who in turn certifies it to all county auditors.
- Exempts from property tax the value of unimproved land subdivided for residential development in excess of the last arms-length sales price of the property from which that land was subdivided, apportioned according to the relative value of each subdivided parcel.
- Authorizes the development exemption for up to eight years, or until residential construction begins or the land is sold.
- Does not allow the exemption for development land included in a tax increment financing (TIF) project.
- Authorizes owners of real property which qualified for a brownfield tax abatement in 2020 but which was not subject to the abatement until 2022 to apply for the abatement to apply retroactively for two years and terminate two years earlier than scheduled.
- Allows a subdivision to remove a parcel from a TIF and include the parcel in a new TIF under certain circumstances.
- Authorizes an impacted city, i.e., a city that meets certain urbanization or disaster criteria, to, before July 1, 2024, reallocate TIF service payments to certain projects that do not directly benefit the assessed parcels.
- Extends the circumstances under which a county, municipality, or township may extend the maximum term of a parcel TIF by up to 30 years.
- Allows a municipality to extend the life of an existing TIF for up to 15 years if certain conditions are met.
- Authorizes the second and third publication of a notice of an impending property tax foreclosure action to be made online, provided the notice's first publication continues to be made in a newspaper of general circulation.
- Specifies that existing abbreviated newspaper publication procedures for government notices apply to the publication of a property tax foreclosure notice if the second and third publication of the notice continues to be made in a newspaper.
- Extends the sunset date of a property tax exemption for qualified energy projects from 2025 to the later of 2029 or the year the federal government determines there has been a 75% reduction in greenhouse gas levels compared to 2022.
- Reduces the ratio of Ohio-domiciled full-time equivalent (FTE) employees required to be employed, as a condition of receiving that exemption, at a new solar energy project from 80% to 70% of all FTE project employees.

- Requires new large renewable energy projects to comply with prevailing wage and apprenticeship requirements as a condition of obtaining that exemption.
- Allows existing solar energy projects that voluntarily comply with the prevailing wage and apprenticeship requirements that apply to new projects to apply the same reduced 70% ratio for Ohio-domiciled FTE employees.
- Would have included out-of-state workers who reside within 50 miles of Ohio and are members of certain labor organizations as "Ohio-domiciled" employees for purposes of calculating compliance ratios for that exemption (VETOED).
- Changes the calculation of FTE employee hours for the purpose of complying with the terms of that exemption.
- Creates a joint legislative committee to make recommendations on reforms to property tax law and hold hearings on pending property tax legislation.

Special improvement districts

- Prohibits park district property from being included in a special improvement district unless the park district consents to its inclusion.

Tax administration

- Authorizes TAX to send any tax notice previously required to be sent by certified mail by ordinary mail or, with the taxpayer's consent, electronically.
- Removes required recordkeeping standards a delivery service must meet before it may be used by TAX to deliver tax notices.
- Requires county auditors to accept real property and manufactured home conveyance forms electronically.
- Eliminates a requirement that taxpayers file amended reports with respect to the defunct corporation franchise tax.
- Streamlines the authority of TAX to share confidential tax information with state agencies.
- Makes conforming changes to a recently enacted law that allows taxpayers to obtain a refund of tax-related penalties and fees.

Local Government and Public Library Funds

- Permanently increases the percentage of state tax revenue that the Local Government Fund (LGF) and Public Library Fund (PLF) each receive per month, from 1.66% to 1.7%.
- Increases the minimum amount that may be distributed from the LGF to each county to $850,000, beginning in FY 2024.
- Requires the county budget commission of a county that adopts an alternative distribution formula for the county undivided local government fund, using the standard procedure to adopt such a formula, to hold a hearing on the formula every five years.

Income tax

Rate reduction

(R.C. 5747.02)

The act phases-down the income tax rates applicable to nonbusiness income over two years. For the 2023 taxable year, the act reduces the number of brackets from four to three, by consolidating and modifying the two lowest tax brackets, and reduces the rates of the lowest and highest tax brackets. Beginning with the 2024 taxable year, the act consolidates the remaining three brackets into two, and further reduces the highest tax rate. The tax table for the 2022 taxable year compared to the 2023 tax table, as modified by the act, is as follows:

TY 2022		TY 2023, as modified by the act	
Ohio taxable income	Marginal tax rate	Ohio taxable income	Marginal tax rate
$26,050-$46,100	2.765%	$26,050-$100,000	2.75%
$46,100-$92,150	3.226%	$100,000-$115,300	3.688%
$92,150-$115,300	3.688%	More than $115,300	3.75%
More than $115,300	3.99%		

The tax table for the 2024 taxable year, as modified by the act, is as follows:

Ohio taxable income	TY 2024 marginal tax rate, as modified by the act
$26,050-$100,000	2.75%
More than $100,000	3.5%

Inflation indexing adjustments (PARTIALLY VETOED)

(R.C. 5747.02 and 5747.025; Section 757.50)

Continuing law requires the Tax Commissioner to adjust the income tax brackets and personal exemption amounts for inflation on an annual basis.[158] The act suspends these adjustments for taxable years beginning in 2023 and 2024. Consequently, the 2022 income tax brackets will also apply in 2023 and 2024 (although the tax rates corresponding with two of those brackets will be reduced as described above).

[158] R.C. 5747.02(A)(5); R.C. 5747.025, not in the act.

The Governor vetoed a provision that would have further suspended the inflation adjustments after 2024. Under the vetoed provision, the amounts would have remained suspended until taxpayers paid no tax on their first $26,050 of income.

Under continuing law, taxpayers with less than $26,050 of income pay no tax, but taxpayers with income of $26,050 or more do pay tax on that first $26,050. That first tax amount currently equals $360.69. Under the act, the Tax Commissioner would have been required to determine the amount by which that dollar amount could be reduced each year, based on the annual savings from the indexing suspension. The amount would have been reduced each year until it equaled $0, at which time the inflation adjustments would have resumed.

Withholding rate adjustments (VETOED)

(R.C. 131.43 and 5747.06)

The Governor vetoed a provision that would have required TAX to reduce income tax employee withholding rates. The act would have earmarked $650 million of the Budget Stabilization Fund's (BSF) investment earnings for that purpose. (Recall that the act would have, if not for the Governor's veto, directed all BSF investment earnings to the GRF, instead of the BSF itself, see "**Budget Stabilization Fund**," above.)

Every July, beginning in 2024, the Director of OBM would have been required to certify to the Tax Commissioner the amount of BSF investment earnings that were credited to the GRF in the preceding fiscal year, until the $650 million threshold was met. The Commissioner, beginning in the following September, would have been required to reduce income tax employee withholding rates so that the estimated reduction in employee withholding collections during the period of September 1 through August 31 equaled the amount so certified.

In essence, this mechanism would have, over a period of likely several years, gradually required TAX to reduce employee withholding rates such that collections were reduced by a total of $650 million. The mechanism only would have affected the amount of income taxes withheld from an employee's compensation, not the amount of taxes the employee actually owed.

Deduction for contributions to homeownership savings accounts

(R.C. 5747.01(A)(42) and (43) and 5747.85; Section 803.220)

The act authorizes an income tax deduction for individuals who contribute to homeownership savings accounts, which are accounts authorized in the act that can be used towards the down payment and closing costs associated with the purchase of a home (see "**Home Improvement Linked Deposit Program**," below).

The deduction has two components:

- A deduction for contributions to an account. This deduction is limited to $10,000 per year, per account for joint filers and $5,000 per year, per account for all other filers, with a lifetime maximum per contributor, per account of $25,000. Only the account holder, or the account holder's parent, spouse, sibling, stepparent, or grandparent are eligible to take this deduction.

- A deduction for the interest earned on deposits in, and employer contributions to, an account. This deduction is only available to the account holder.

Under the act, if an account holder withdraws money from a homeownership savings account, but does not use the money to pay the closing costs on a home that will be the account holder's primary residence, that individual is required to pay income tax on the amount withdrawn. The amount is added back to the account holder's taxable income, even if the amount was originally contributed by someone else.

The tax deduction is available for taxable year 2024 and thereafter. The act allows the Tax Commissioner to adopt rules to administer the deductions.

Scholarship granting organization donation credit

(R.C. 5747.73; Section 803.360)

The act allows donations to scholarship granting organizations (SGOs) made by the state income tax return filing deadline (typically April 15) to be the basis of a tax credit claim against the income tax for the preceding taxable year (the year for which the return is filed). Under prior law, such donations could be the basis for an income tax credit claim, but only for the taxable year in which the donations were made. The act does not change other aspects of the credit, such as a $1,500 cap for spouses filing jointly, and a $750 cap for single filers.

An SGO is a charitable organization certified by the Attorney General that primarily awards academic scholarships to primary and secondary school students.

Income tax credit for nonchartered, nonpublic school tuition

(R.C. 5747.75; Section 803.320)

Continuing law authorizes taxpayers to claim a nonrefundable income tax credit for tuition paid to a nonchartered, nonpublic school. The credit equals the amount of tuition paid by the taxpayer, up to certain annual maximums. Under prior law, the credit could only be claimed if the taxpayer's and the taxpayer's spouse's total federal adjusted gross income (FAGI) for the year was less than $100,000.

The act authorizes the credit to be claimed by a taxpayer whose FAGI exceeds this threshold. It also increases the annual maximum credit from $500 to $1,000 for taxpayers with a total income below $50,000 and from $1,000 to $1,500 for taxpayers with a total income at or above $50,000.

Pass-through entity taxes

(R.C. 5747.01(A)(36), (41), and (S), 5747.05, 5747.11, and 5747.13; Section 803.310)

Under federal law, an itemized income tax deduction is allowed for state and local taxes. That deduction was capped at $10,000 in 2017. As a result, many states, including Ohio, enacted laws allowing owners of pass-through entities (PTEs), i.e., entities that are disregarded for federal income tax purposes, such that their tax liability passes through to their owners, to pay a tax on the PTE's income at the entity level, with the cost of the tax passing through to its owners. According to IRS guidance issued after the $10,000 cap was enacted, these entity-level taxes are

subject to deduction as business expenses and are not subject to the $10,000 cap. As a result, owners could claim their full share of the entity-level taxes as a federal income tax deduction.[159]

Ohio's PTE tax allows PTEs to elect to pay an entity-level tax, the cost of which is then passed through to each PTE owner as part of their distributive share of gains and losses. Each PTE owner is allowed an Ohio income tax credit equal to the cost of their distributive share of the tax liability, but the amount of that tax liability is deductible against the federal income tax, reducing the taxpayer's federal adjusted gross income (FAGI) and the tax liability calculated against it. In other words, the state PTE tax is cost-neutral to the taxpayer, but it reduces federal income tax liability.

FAGI is the basis for the Ohio income tax, and Ohio adjusted gross income (OAGI) is FAGI adjusted with various deductions and additions. When the Ohio PTE tax was enacted, a related provision requiring the addition of a taxpayer's proportionate share of the elective PTE entity tax discussed above that was deducted from federal taxes was also enacted. This avoids a scenario in which a taxpayer pays the state PTE tax designed to reduce federal-income tax liability, but receives the same amount of money back in a credit and then also reduces OAGI based on the Ohio tax that is completely credited to the taxpayer.

The act makes several changes related to how Ohio's PTE tax and similar taxes levied in other states interact with other aspects of Ohio's income tax. First, the act requires the addition to FAGI, when calculating OAGI (and Ohio taxable income in the context of estates and trusts), of any income taxes deducted from FAGI on the basis of a PTE entity tax designed to reduce FAGI pursuant to the IRS guidance discussed above and levied by another state or the District of Columbia. As mentioned above, Ohio was among a group of states that enacted these types of PTE taxes, so FAGI could be reduced by any one of them.

Second, the act specifies that the addition, to the extent it is related to an individual's "business income," is to be treated as such. Business income is relevant in various contexts of the income tax law, one of which is for a deduction allowed for $125,000 of business income for each spouse filing a separate return or $250,000 for other filers and another of which is a special 3% rate that applies to business income above that threshold. Thus, this provision clarifies how amounts added back are to be classified.

Third, continuing law allows an income tax credit for taxes due for the taxes residents pay to other states and the District of Columbia. The credit is applied against the amount of a taxpayer's OAGI, before applying any tax credits. The act provides that, for purposes of the credit, a resident taxpayer's OAGI that is subject to an income tax levied in another state includes income that is subject in the other state, or the District of Columbia, to either (1) an entity-level tax imposed on a PTE and paid by the PTE through a composite return covering all PTE owners, with the cost of the tax passed on to the resident taxpayer as part of the taxpayer's distributive share of PTE gain and loss, or (2) a PTE tax, similar to Ohio's, adopted in response to the $10,000

[159] R.C. 5747.38, not in the act, and Internal Revenue Service Notice 2020-75.

cap on the federal deduction for state and local taxes. It also requires OAGI, for purposes of the credit, to be calculated by first deducting the business income deduction described above.

In other words, for purposes of the resident income tax credit for taxes paid to other states, the act includes taxes paid to those states on account of the resident taxpayer's ownership of a PTE that paid taxes to the other jurisdiction on behalf of the taxpayer, either as part of a composite return or as part of a tax designed to avoid the $10,000 state and local tax deduction cap. But, the tax liability against which that credit is applied is first reduced because it is calculated with an OAGI that has been reduced by the business income deduction.

The act applies these changes to taxable years ending on or after January 1, 2023. Taxpayers may, however, apply them to taxable years ending on or after January 1, 2022, by filing an amended or original return for that year.

Eliminate quarterly employer reconciliation return

(R.C. 5747.07 and 5747.072; Section 803.60)

The act removes the requirement that employers who withhold and remit employee income taxes on a partial weekly basis, i.e., two times in a single week, file quarterly withholding reconciliation returns. Instead, these employers will only be required to file the annual reconciliation returns required for other employers under continuing law starting on January 1, 2024. Reconciliation returns allow an employer to calculate and pay any required employee withholding that was not remitted in the preceding period.

Under continuing law, employers are required to remit employee withholding on a partial weekly basis if they withhold and accumulate a significant amount of it. Employers with smaller accumulated withholding may remit it monthly or quarterly.

Municipal income taxes

Exemption for minors' income

(R.C. 718.01(C)(15); Section 803.10)

The act requires municipal corporations to exempt the income of individuals under 18 years of age from municipal income taxation. The exemption applies to taxable years beginning on or after January 1, 2024. Under prior law, only municipal corporations that authorized such an exemption before 2016 were authorized to grant such an exemption.

Net operating loss deduction cross-reference

(R.C. 718.01; Section 803.10)

The act corrects an erroneous cross-reference in the municipal income tax law governing the deduction of net operating loss (NOL). From 2018-2022, a business was allowed to deduct 50% of its NOL from its taxable net profits. Beginning in 2023, the 50% limitation is discontinued and a business may deduct the full amount of its NOL. The act's correction clarifies that the 50% limitation ceases to apply in 2023. The act requires municipalities that levy an income tax to incorporate this cross-reference change into their municipal tax ordinances and apply it to taxable years beginning in 2023.

Net profits apportionment for remote employees

(R.C. 718.02, 718.021, 718.82, and 718.821; R.C. 718.021 (718.17); Section 803.240)

Under continuing law, municipal corporations may impose an income tax on the net profit of businesses operating within their jurisdictions. When determining the portion of a business' total net profit that is taxable by a particular municipality, the business uses a three-factor formula based on the business' payroll, sales, and property.

The act allows businesses with employees who work remotely to use a modified version of this apportionment formula. Instead of apportioning the payroll earned, sales made, or property used by a remote employee to that employee's remote work location, the employer may instead apportion those amounts to a designated "reporting location." This alternative is available both to businesses that file returns with municipal tax administrators and businesses that elect to file a single return covering all municipal corporations with the Tax Commissioner.

Under continuing law, an employee's payroll is generally only included in the existing apportionment formula if the employee performs services at a location "owned, controlled, or used by, rented to, or under the possession of" the employer, or a vendor or customer of the employer.

Designating a reporting location

To use the act's modified apportionment formula, the business must assign a remote employee to a designated reporting location, which is any location owned or controlled by the employer or, in some circumstances, by a customer of the employer.[160] An employee's designated reporting location will be (a) the location at which the employee works on a regular or periodic basis, (b) if no such location exists, the location at which the employee's supervisor works on a regular or periodic basis, or (c) if neither such locations exist, any reporting location designated by the employer, provided that the designation is made in good faith and is reflected in the employer's business records.

A business can change a remote employee's designated reporting location at any time. If the business is a pass-through entity, e.g., a partnership or LLC, it can also designate a reporting location for any of its equity owners who work remotely.

Election

A business that wishes to use the act's modified apportionment formula must make an election to do so with each municipality in which it is required to file a net profits tax return or, if the business has elected to file a single return with the Tax Commissioner, with the Commissioner. The election can be made on the business' net profit return, timely filed amended return, or a timely filed appeal of an assessment. Once the election is made, it applies to each municipality in which the business operates and to all future taxable years, until it is revoked.

---

[160] A customer location qualifies only if it is located in a municipality to which the employer is required to withhold income taxes on employee wages, due to one or more employees providing services at that location. R.C. 718.021(A)(3)(b).

Application of continuing formula and effective date

Aside from the apportionment of payroll, sales, and property attributable to remote employees, all other aspects of continuing law's apportionment formula will continue to apply to a business that makes the election allowed under the act. The business can still request to use an alternative apportionment method, as under the continuing apportionment formula, although the act specifies that the business cannot be compelled to use an alternative method that would require it to file a return with a municipality solely because an employee is working remotely in that municipality.

The act applies to taxable years ending on or after December 31, 2023.

Prohibited inquiries and notices

(R.C. 718.05 and 718.85; Section 803.100)

The act limits when a municipal tax administrator or the Tax Commissioner may make inquiries or send notices to taxpayers whose income tax filing deadline has been extended. Under continuing law, taxpayers generally report and remit municipal income tax to municipal tax administrators, but a business that owes taxes on its net profits may elect to report and remit municipal net profits taxes to TAX, which then disperses payments to each municipality to which such tax is owed.

Under continuing law, the due date of a taxpayer's municipal income tax return, whether filed with a municipality or the Tax Commissioner, may be extended under various circumstances, including any of the following:

- The taxpayer has requested an extension of the deadline to file the taxpayer's federal income tax return.
- The taxpayer has requested an extension of the deadline to file the taxpayer's municipal income tax return from the municipal tax administrator or Commissioner.
- The Commissioner extends the state income tax filing deadline for all taxpayers.

When a taxpayer receives an extension, the act prohibits a municipal tax administrator or the Commissioner from sending any inquiry or notice regarding the municipal return until after either the taxpayer files the return or the extended due date passes. If a tax administrator sends a prohibited inquiry or notice, the municipality must reimburse the taxpayer for any reasonable costs incurred in responding to it, up to $150.

The act's new limitations apply to taxable years ending on or after January 1, 2023. The limitations do not apply, and a municipal tax administrator or the Commissioner may send an otherwise prohibited inquiry or notice, if either has actual knowledge that the taxpayer did not actually file for a federal or municipal income tax extension.

Penalty limitations

(R.C. 718.27 and 718.89; Section 803.100)

The act limits the penalty a municipal corporation or the Tax Commissioner may impose for the failure to timely file a municipal income tax return. Previously, a municipal corporation

could impose a penalty of $25 for each month a taxpayer failed to file a required income tax or withholding return, up to $150 for each return. The Commissioner could impose the same monthly penalty on those unfiled returns as well as on unfiled estimated tax declarations. The act reduces these penalties to a one-time $25 penalty. The act also exempts a taxpayer's first failure to timely file from the penalty, requiring the municipal corporation or Commissioner to either refund or abate the penalty after the taxpayer files the late return. These changes also apply to taxable years ending on or after January 1, 2023.

Extension for businesses

(R.C. 718.05(G)(2) and 718.85(D)(1); Section 803.100)

The act provides an additional, automatic one-month filing extension for municipal income tax returns where a business entity has received a six-month federal extension, bringing the full duration of the extension to seven months beginning in taxable years ending on or after January 1, 2023. The previous extended deadline for individuals and business entities was the same as the extended federal deadline.

Net profits tax reports and notifications

(R.C. 718.80 and 718.84; Section 803.80)

Under continuing law, a business that operates in multiple municipalities, and is therefore subject to multiple municipal income taxes, may elect to have TAX serve as the sole administrator for those taxes. For electing taxpayers, a single municipal net profit tax return is filed through the Ohio Business Gateway for processing by TAX, which handles all administrative functions for those returns, including distributing payments to the municipalities, billing, assessment, collections, audits, and appeals. The act modifies, as described below, the reporting and notification requirements associated with this state-administered municipal net profits tax.

TAX's municipal income tax report

The act requires that twice a year, in May and December, TAX provide information to municipalities on any businesses that had net profits apportioned to the municipality, as reported to TAX, in the preceding five or seven months only, as applicable. (Net profits apportionable to the municipality, e.g., earned in the municipality, are generally subject to the municipality's income tax.) Under prior law, this twice-per-year notification, which had been done in May and November, was required to list information for businesses that had net profits apportioned to the municipality in any prior year. This change applies to reports required to be filed after October 3, 2023.

Rate decrease notification

Under continuing law, by January 31 of each year, a municipal corporation levying an income tax must certify the rate of the tax to TAX. If the municipality increases the rate after that date, the municipality must notify TAX of the increase at least 60 days before it goes into effect. The act requires a municipality to notify TAX, within the same 60-day notice period, when there is any change in its municipal income tax rate, including a decrease.

Sales and use tax

Sales tax holidays

(R.C. 131.44, 5739.01(TTT) to (WWW), 5739.02(B)(55), and 5739.41; Section 510.10)

The act authorizes a sales tax holiday for most items priced under $500 to be held in August of 2024. The act also requires the state to hold similar, possibly shorter, tax holidays in future years if the surplus revenue in the GRF reaches a certain threshold.

Continuing law authorizes a "back-to-school" sales tax holiday during the first Friday and following weekend in August of each year for school supplies that cost $20 or less and clothing that costs $75 or less. The act's expanded sales tax holidays would occur during this same period, but would apply to a broader array of items and involve a higher price threshold.

August 2024 sales tax holiday (PARTIALLY VETOED)

The act authorizes a sales tax holiday in August of 2024. The Governor vetoed a provision that would have required the holiday to last at least 14 days. Instead, TAX, in consultation with OBM and the County Commissioners' Association of Ohio (CCAO), will determine the length of the holiday by calculating the number of days for which the $750 million earmarked for the holiday is sufficient to reimburse the state and local governments for their lost revenue. In making this determination, the state must consider changes in consumer behavior as a result of the holiday.

During the sales tax holiday, most items priced under $500 will be exempt from state and local sales taxes. The holiday does not apply to motor vehicles, watercraft, alcohol, marijuana, and tobacco and nicotine vapor products.

Once the holiday is completed, TAX and OBM will estimate the amount of state and local revenue foregone as a result of the holiday and will reimburse the GRF, Local Government Fund, Public Library Fund, and counties and transit authorities that levy sales taxes for their proportionate revenue loss. For the August 2024 holiday, the reimbursements cannot exceed $750 million.

Future sales tax holidays

In each year thereafter, beginning in August of 2025, the state will hold a similar tax holiday if there is at least $60 million of surplus GRF revenue at the end of the preceding fiscal year. The holiday must be three days or more, depending on the surplus revenue available, as determined by TAX, in consultation with OBM and CCAO. Similar to the 2024 holiday, the parties must consider changes in consumer behavior around the time of the holiday when calculating the number of days the surplus revenue will support.

Under prior law, any surplus revenue remaining at the end of a fiscal year, after any required transfer to the Budget Stabilization Fund, was required to be used to temporarily reduce income tax rates through a mechanism called the Income Tax Reduction Fund, or ITRF. The act discontinues and liquidates the ITRF, and instead directs any surplus revenue to be used for future sales tax holidays. Any money remaining in the ITRF is transferred to fund these holidays, starting with the 2024 holiday described above.

Each future tax holiday will apply to the same items as the August 2024 holiday, and will include the same $500 per-item limit and the same reimbursement mechanism for the state and local governments. If there is insufficient surplus revenue to hold an expanded tax holiday in any year, continuing law's "back-to-school" sales tax holiday will still be held in that year. If an expanded holiday is held, TAX must notify vendors of the holiday's dates by the first day of June preceding the holiday.

Streamlined Sales and Use Tax Agreement

Ohio is currently a full member of the Streamlined Sales and Use Tax Agreement (SSUTA), which is a multistate agreement that imposes uniform sales tax collection and administration protocol on member states. Under the SSUTA, member states may only offer sales tax holidays for specific, defined items. For example, the SSUTA specifically allows sales tax holidays for school supplies, clothing, and Energy Star appliances.

The act's sales tax holidays would exempt items that are not defined in the SSUTA, in possible conflict with the SSUTA. The act requires TAX to coordinate with the SSUTA's governing board to pursue means by which the state can comply with the SSUTA.

Baby product exemption

(R.C. 5739.01(SSS) and 5739.02(B)(60) to (64); Section 803.50)

The act exempts, beginning October 1, 2023, children's diapers, creams, and wipes and car seats, cribs, and strollers from sales and use tax. Under continuing law, sales of both children and adult diapers are exempt during the first weekend of August each year as part of Ohio's "back-to-school" sales tax holiday for school supplies and clothing. In addition, adult diapers are exempt under continuing law if sold to a Medicaid recipient pursuant to a prescription.

Sales and rentals to government entities (PARTIALLY VETOED)

(R.C. 5739.02(B)(1) and (10); Section 803.140)

Continuing law exempts sales and rentals to federal, state, and local government entities from the sales and use tax. The act specifically adds construction material and services sold or rented to government entities for temporary traffic control or drainage purposes to those exemptions. The Governor vetoed a provision that would have specified that the addition was a remedial measure intended to clarify existing law and applied to all cases pending on a petition for reassessment or on further appeal, and to transactions subject to an audit by TAX.

Lodging taxes

Convention, entertainment, and sports facilities

(R.C. 5739.08 and 5739.09(X))

Under continuing law, counties, municipal corporations, and townships are authorized to levy an up to 3% excise tax on transactions by which hotels provide lodging to transient guests (referred to in this analysis as the "3% general lodging tax"). For counties, the use of such a tax's revenue is generally limited to making contributions to a convention and visitors' bureau under continuing law.

The act authorizes a county with a population between 800,000 and 1 million, i.e., Hamilton County, to repurpose a portion of the revenue from its existing lodging taxes (its 3% general lodging tax and a special 3.5% convention center tax that county is authorized to levy) and to levy an additional 1% lodging to fund the acquisition, construction, renovation, expansion, maintenance, operation, or promotion by a convention facilities authority, convention and visitors' bureau, or port authority of a convention or entertainment facility or a sports facility intended to house a Major League Soccer team.

The act also authorizes Cincinnati to repurpose a portion of the revenue from its existing 3% general lodging tax and its existing 1% special convention center lodging tax for those same purposes.

Public safety services in a resort area

(R.C. 5739.09(A))

The act authorizes a county to use a portion of the revenue from its 3% general lodging tax to fund public safety services in a municipality or township designated as a resort area, which is an area where at least 62% of the housing units are for seasonal, recreational, or occasional use, and where there are seasonal peaks of employment and demand for government services, among other similar requirements. Certain Lake Erie islands are the only currently designated resort areas in Ohio.

Headquarters hotel exemption and financing

(R.C. 5739.093)

The act authorizes a county with a population exceeding 800,000, i.e., Cuyahoga, Franklin, or Hamilton County, or a municipal corporation located in such a county ("eligible subdivision") to wholly or partially exempt a hotel associated with a convention center and located in that subdivision from lodging taxes levied by the designating county or municipality. Only one such hotel, referred to in the act as a "headquarters hotel," may be designated for any convention center.

Alongside the exemption, the eligible subdivision may impose payments in lieu of taxes (PILOTs) on the hotel operator, up to the amount of the exempted taxes, to be paid to the subdivision or directly to a convention facility authority, port authority, or an agent of either. The eligible subdivision or agency may then use these PILOTs, which are collected in the same manner as the exempted lodging taxes, to pay the costs of acquiring, constructing, renovating, or maintaining the headquarters hotel, the associated convention center, or any related infrastructure improvements. In essence, the act creates a mechanism by which lodging tax revenue may be redirected to those specific facility projects, similar to a tax increment financing (TIF) arrangement in the context of property taxes.

To initiate this process, the eligible subdivision must notify any other eligible subdivision, the county's convention and visitors' bureau (CVB), and any township that levies a lodging tax on the proposed headquarters hotel. Then the eligible subdivision may adopt a resolution designating the headquarters hotel and listing the percentage of county and municipal lodging

taxes that will be exempt and the duration of the exemption, which may not exceed 30 years. The resolution must list whether PILOTs will be imposed and to whom they are to be pledged.

The PILOTs must be pledged by the eligible subdivision to an "issuing authority," i.e., an eligible subdivision, convention facilities authority, or port authority, to pay the costs of the project for which the PILOTs are imposed, including the costs of any debt issued for that project. The issuing authority may also authorize the eligible subdivision to use PILOTs for the same purposes as any exempted lodging taxes could be used for, e.g., funding CVBs or general municipal purposes. Any PILOTs unspent at end of the project may be used by the eligible subdivision for the same purposes as its lodging taxes. The hotel operator may charge hotel guests for the cost of the PILOTs, in the same manner as lodging taxes are collected from guests.

An eligible subdivision may enter into an agreement with the headquarters hotel's operator by which the operator, and any succeeding operator, pledges to make binding payments to the subdivision or a port authority to ensure sufficient funds are available to finance the PILOT-funded facilities project.

The act also prohibits the designation of a headquarters hotel that has not furnished lodging to guests before its designation from being considered to result in a diminution of the rate or revenue of the lodging tax. Under continuing law, in some instances, laws are prohibited from making such a diminution if lodging tax-backed bonds and notes are outstanding.

Delaware county fairgrounds tax

(R.C. 5739.09(T) and 133.07)

The act authorizes counties in which an agricultural society owns a facility used to conduct an annual harness horse race with at least 40,000 in attendance, i.e., Delaware County, or port authorities in such counties, to issue bonds backed by proceeds from an existing or renewed special 3% lodging tax authorized for such a county to finance permanent improvements at fairground sites.

Commercial activity tax (CAT)

Increased exclusion (PARTIALLY VETOED)

(R.C. 5751.01(E)(1), (N), (O), and (R), 5751.02(A), 5751.03, 5751.04, 5751.05, 5751.051, 5751.06, 5751.08, and 5751.091; Section 803.340)

Continuing law imposes a commercial activity tax (CAT) on businesses' taxable gross receipts. Under prior law, a business with less than $150,000 in total gross receipts paid no CAT, while businesses with gross receipts of less than $1 million paid a minimum tax of $150. Businesses with more than $1 million of gross receipts paid a minimum tax on that first $1 million, the amount of which varied based upon the taxpayer's total gross receipts, plus 0.26% of the excess.

The act increases the threshold at which the CAT begins to apply. For 2024, all businesses may exclude their first $3 million of taxable gross receipts and, for 2025 and thereafter, their first $6 million of taxable gross receipts. Businesses with gross receipts below that threshold will pay

no tax, while businesses with higher gross receipts will pay 0.26% of their receipts in excess of that threshold. This effectively repeals the CAT minimum tax.

The Governor vetoed a provision that would have, after 2025, indexed the $6 million threshold for inflation so that it increased according to increases in the prices of all goods and services composing the national gross domestic product (GDP). The Tax Commissioner would have been required to compute the adjustments in August of each year to be applied the following calendar year. The Governor also vetoed language relating to the application of the thresholds to clarify that a taxpayer may exclude up to $3 million or $6 million each year, rather than in each quarterly reporting period.

The act also eliminates calendar year filing, which was principally available to taxpayers with less than $1 million in taxable gross receipts, requiring all taxpayers to file quarterly.

Broadband funding exclusion

(R.C. 5751.01(F)(2)(rr); Section 803.190)

The act excludes from gross receipts taxable under the CAT any federal, state, or local funding received or debt forgiven to provide or expand Internet broadband service in Ohio, including video service, voice over internet protocol service, and internet protocol-enabled services. The exclusion applies to CAT tax periods ending on or after October 3, 2023.

Revenue distribution

(R.C. 5751.02(C) and (D); Section 812.20)

The act repeals a provision that earmarked a set percentage of CAT receipts for the payment of tangible property tax replacement payments. Under prior law, the School District Tangible Property Tax Replacement Fund (Fund 7047) received 13% of CAT receipts, while the Local Government Tangible Property Tax Replacement Fund received 2%. The remaining 85% was credited to the GRF.

The act removes these percentage allocations to the two replacement funds and, instead, requires the Tax Commissioner to transfer CAT receipts to those funds as necessary. Under continuing law, money in those funds is used to reimburse local governments for their revenue loss from the state's repeal of the tax on business tangible personal property.

Financial institutions tax

Financial institution taxpayer group

(R.C. 5726.01; Section 803.70)

Continuing law imposes the financial institutions tax (FIT) on financial institutions, including all entities that are reported on the institution's federal regulatory FR Y-9 or call report. The act clarifies that a "financial institution" includes all of the entities consolidated, rather than "included," in the institution's report. The act further clarifies that, in the case of a small bank holding company that is not required to file a FR Y-9 under federal law, the financial institution includes all of the entities that would be included in statement FR Y-9 if the company were required to file one.

Repeal deduction for REIT investments

(R.C. 5726.04; repealed R.C. 5726.041)

The act repeals an expired FIT deduction that was allowed for an institution's investment in a qualifying real estate investment trust. The deduction was available between 2014, the first year the FIT was levied, and 2017. It essentially allowed an institution that owned shares of a publicly traded REIT to phase in the value of that investment into the institution's tax base over those four years.

Sports gaming tax

Rate increase

(R.C. 5753.021; Sections 803.40 and 812.20)

The act increases the rate of the state's sports gaming tax, from 10% to 20%. Under the continuing law, the tax is levied on the "sports gaming receipts" of online and in-person sports gaming businesses, other than those that offer gaming through lottery terminals. A business' sports gaming receipts include the total amount the business receives as wagers, less winnings paid, voided wagers, and, beginning in 2027, a portion of the promotional gaming credits wagered by patrons.

The rate increase applies to sports gaming receipts received on and after July 1, 2023.

Allocation of sports gaming revenue

(R.C. 5753.021 and R.C. 5753.031; Sections 803.40 and 812.20)

Prior law allocated nearly all (98%) of sports gaming tax revenue to K-12 education and athletics. Specifically, 50% of such revenue had to be used to generally support K-12 education and 50% had to be used for K-12 athletics and extracurricular activities. The act requires that all of this revenue be used for the general support of K-12 education, effectively eliminating the 50% reserved for K-12 athletics.

This reallocation begins to apply on and after July 1, 2023.

Cigarette and tobacco and vapor product taxes

Refund on bad debts (VETOED)

(R.C. 5743.06 and 5743.53; Section 803.150)

The state levies excise taxes on the sale of cigarettes, other tobacco products (OTP), and vapor products containing nicotine. Cigarette taxes are generally paid by wholesalers, whereas, OTP and vapor products taxes are paid by distributors. The Governor vetoed a provision that would have allowed a wholesaler or distributor to obtain a refund of excise taxes remitted on certain bad debts arising from the sale of those products, less any discounts allowed, under continuing law, for affixing the tax stamp or prompt payment (referred to in this analysis as "qualifying bad debts"). The deduction would have applied only to the specific tax levied on the product that was the basis of the qualifying bad debt, and applied to both the state and, if applicable, local excise taxes.

The act would have allowed a wholesaler or distributor to apply to the Tax Commissioner for a refund of the cigarette, OTP, or vapor products taxes paid on qualifying bad debts. The application would have had to include a copy of the original invoice and evidence of delivery of the product to the purchaser, that the purchaser did not pay, and that the wholesaler or distributor used reasonable collection practices to try to collect the debt. An application must also have included evidence of the wholesale price or vapor volume, as applicable, at the time the product was subject to taxation and any other information the Commissioner required.

Under the vetoed provision, a qualifying bad debt would have been any debt arising from the sale of cigarettes, OTP, or vapor products that satisfied each of the following criteria:

- The cigarette, OTP, or vapor products tax had been paid.
- The debt had become worthless or uncollectible.
- The debt had been uncollected for at least six months, but not more than three years from either the time the debt became uncollectible (in the case of cigarette taxes) or the time the tax was remitted (OTP and vapor products taxes).
- The wholesaler or distributor charged off the debt as uncollectable on its books on or after January 1, 2024.
- The wholesaler or distributor deducted, or would have been allowed to deduct, the bad debt in calculating federal income tax liability.

A qualifying bad debt did not include interest or financing charges, collections costs, accounts receivable that have been sold or assigned to a third party, or repossessed property. No person other than a wholesaler or distributor that remitted the applicable tax and generated the bad debt may have received a bad debt refund. If any portion of a bad debt for which a wholesaler or distributor receives a refund was later paid, the wholesaler or distributor would have been required to pay the applicable tax on the amount of the debt recovered.

The Commissioner would have been authorized to adopt any rules necessary to administer these refunds.

Continuing law authorizes a very similar deduction and refund for sales taxes paid on bad debt.[161] However, sales taxes are assessed against a consumer and remitted to the vendor, for payment to the state. In contrast, the wholesaler or distributor is generally liable for the cigarette, OTP, and vapor products tax even though each tax is generally passed down to retailers and consumers as a matter of practice.

Taxation of vapor product dealers (VETOED)

(R.C. 5743.01, 5743.51, 5743.63, and 5743.64)

The Governor vetoed a provision that would have authorized an exemption from the state's vapor products tax for certain distributors.

---

[161] R.C. 5739.121, not in the act.

In general, the vapor products tax applies at the first point in which a distributor receives untaxed products in the state. Under the vetoed provision, a distributor that received untaxed vapor products would not have been required to pay the tax if the distributor (1) was a manufacturer or importer of vapor products registered with the state and the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives and (2) only sold vapor products to other state-licensed distributors or to purchasers outside of the state. However, the provision would have allowed such a distributor to pay the tax voluntarily on products it sold to another distributor in the state, if that other distributor agreed to the arrangement in a signed statement filed with the Tax Commissioner.

The vapor products tax also applies to the "storage, use, or consumption" of vapor products, if the tax has not already been paid on the products by a distributor or an out-of-state seller. The vetoed provision would have exempted a manufacturer or importer described above from paying this tax on its storage, use, or consumption of vapor products sold outside of Ohio.

Additionally, under continuing law, any person that intends to transport vapor products with a volume greater than 500 milliliters (for liquid products) or 500 grams (nonliquids) must first obtain consent from the Tax Commissioner. The consent is not required if the tax has already been paid on the transported product. The vetoed provision would have added that consent is also not required if that volume of product is transported by a manufacturer or importer described above, even if the tax had not been paid.

Cigarette tax license renewal deadline

(R.C. 5743.15; Section 757.10)

The act extends the deadline for renewing annual cigarette tax licenses. Under continuing law, a retailer, wholesaler, importer, or manufacturer of cigarettes is required to hold a license issued by TAX before selling or otherwise trafficking in cigarettes in Ohio. Such cigarettes are subject to state and county cigarette excise taxes. Under prior law, each license expired on, and had to be renewed by, the fourth Monday in May. The act extends the renewal deadline to June 1.

The act applies the renewal extension to existing licenses, so those licenses will remain valid until June 1, 2024, rather than May 27, 2024.

Cuyahoga County cigarette and vapor products taxes

(R.C. 5743.01, 5743.021, 5743.025, 5743.03, 5743.05, 5743.33, 5743.511, 5743.52, 5743.521, 5743.54, 5743.55, 5743.56, 5743.57, 5743.59, 5743.60, 5743.62, 5743.621, 5743.63, 5743.631, and 5743.64; Section 803.230)

The act modifies the authority of Cuyahoga County to levy cigarette and vapor products taxes. First, the act rescinds a recent act, S.B. 164 of the 134th General Assembly, which allows the county to modify its cigarette tax base and to levy a new tax on nicotine vapor products. Second, the act removes a 30¢ limit on the amount of cigarette taxes that can be levied.

Cigarette tax base

Under continuing law, Cuyahoga County can levy a tax on the sale, distribution, or use of cigarettes. Before S.B. 164, the tax could consist of two different levies: a tax of 30¢ per pack to support arts and cultural facilities and a tax of 4.5¢ per pack to fund the operation of a sports facility. Cuyahoga County is currently the only county authorized to levy a cigarette tax.

S.B. 164 allowed the county to convert its existing 30¢ per pack tax for arts and cultural facilities to a tax based on wholesale price. The new tax could have equaled up to 9% of the wholesale price of a pack of cigarettes.

The act rescinds this change. Instead, the county may continue to levy a cents-per-pack tax to support arts and cultural facilities. However, the act also removes the previous 30¢ limit on the tax, allowing the county to levy a rate greater than that amount, provided that county voters approve the increase.

Vapor products tax

The act also repeals a provision of S.B. 164 that allowed Cuyahoga County to levy a new wholesale tax on nicotine vapor products to funds its arts and cultural district. That tax would be collected in the same manner as the state's existing tax on vapor products, which is paid primarily by distributors. However, unlike the state tax, which is volume-based, the county tax would be based on the products' wholesale price, at a rate of up to 9%.

Application to pending proposals

If Cuyahoga County has already submitted a ballot question to modify its cigarette tax base or levy a vapor products tax before October 3, 2023, the act requires that the board of elections decline to place the question on the ballot.

Motor fuel taxes

Revenue for township garages

(R.C. 5735.27)

The act authorizes townships to use state motor fuel tax revenue distributed to the township to purchase buildings suitable for housing road machinery and equipment. Under continuing law, townships are only authorized to use such revenue for planning, constructing, and maintaining such buildings. Counties are permitted under continuing law to use their portion of motor fuel tax revenue to purchase such buildings.

Motor fuel use tax

Personal liability

(R.C. 5728.16)

The act imposes personal liability for the fuel use tax on individual owners, employees, officers, and trustees who are responsible for reporting and paying the tax on behalf of a business taxpayer. An individual's personal liability under the act is not discharged by the dissolution, termination, or bankruptcy of the business. If more than one individual has personal liability

under the act for the unpaid taxes, all of those individuals will be joint and severally liable. Several other state taxes have similar personal liability imposed.[162]

Fuel use tax background

In addition to a motor fuel tax imposed on motor fuel dealers, the state imposes a motor vehicle fuel use tax on heavy trucks on the amount of motor fuel consumed in Ohio, but purchased outside Ohio. The rate of this tax is the same as for the dealer-imposed motor fuel tax. A refund or credit is allowed for the fuel use tax on fuel purchased in Ohio for use in another state, provided that the other state imposes a tax on such fuel and allows a similar credit or refund.

Public utility taxation

Taxation of heating companies

(R.C. 5727.30 and 5751.01(E)(2); Sections 757.80 and 803.330)

The act exempts heating companies from the state's public utilities excise tax, and instead subjects such companies to the CAT. A heating company is a public utility that supplies water, steam, or air to consumers for heating purposes.

Under continuing law, the state levies a tax on the gross receipts of certain public utilities, including heating companies. Since public utilities pay this separate gross receipts tax, they are exempt from the CAT, which is a general tax on businesses' gross receipts. Under the act, heating companies would become exempt from the public utility excise tax beginning on May 1, 2023. Since this is in the middle of a CAT quarterly tax period, heating companies would not become subject to the CAT until the beginning of the next quarter, on July 1, 2023.

The act additionally requires that, if a heating company is currently recovering public utility excise tax amounts from customers in the company's rates, the company must pass on to customers its net reduction in taxes. The act requires a company, no later than six months after May 1, 2023, to use one of three options in ongoing public utility law to pass on the reduction. At the company's option, it must (1) file an application not for an increase in rates under the ratemaking law, (2) file a modified schedule, or enter into a modified reasonable arrangement, regarding rate adjustments allowed under the law, or (3) enter into a modified agreement with a customer who has entered into an agreement with a company under the law that allows agreements for free or reduced rates.[163]

---

[162] E.g., R.C. 5735.40 (motor fuel tax), 5743.57 (tobacco and vapor products taxes), and 5747.07 (employer income tax withholding), not in the act.

[163] R.C. 4905.31, 4905.34, and Chapter 4909, not in the act.

Tax incentives

Low-income housing tax credit

(R.C. 175.16, 5725.36, 5726.58, 5729.19, and 5747.83, with conforming changes in R.C. 175.12, 5725.98, 5726.98, 5729.98, and 5747.98)

The act authorizes a nonrefundable tax credit for the development of low-income rental housing that is awarded in conjunction with an existing federal low-income housing tax credit (LIHTC). The credit may be claimed against the insurance premiums tax, FIT, or income tax. The Executive Director of the Ohio Housing Finance Agency (OHFA) reserves credit amounts for federal projects up to the amount necessary to ensure the project's financial feasibility. The total amount of state credits reserved by OHFA is limited to $100 million per fiscal year, though unreserved or recaptured amounts in one fiscal year may be carried forward and reserved in the next. Eligibility begins for projects placed in service on or after July 1, 2023, and OHFA is prohibited from reserving credits after June 30, 2027.

Federal LIHTC

The federal LIHTC is a federal income tax credit that offsets a portion of a developer's construction costs in exchange for reserving a certain number of rent-restricted units for lower-income households in a new or rehabilitated facility. In Ohio, the federal LIHTC is administered by OHFA.

To receive a federal LIHTC, developers must apply to OHFA before undertaking a project. If the project preliminarily qualifies for credit, based on federal criteria and the state's allocation plan, OHFA may set aside (or "allocate") a credit. Receipt of the credit is contingent upon completion of the project and the project entering service, i.e., beginning to rent units, generally within two years of allocation.[164] In practice, developers typically sell the rights to claim federal LIHTCs upon receiving an allocation to secure up-front financing necessary to undertake the project.

Ohio LIHTC

Any project that is allocated a federal LIHTC may also qualify for the act's Ohio LIHTC, as long as the project is located in Ohio and placed into service at any time on or after July 1, 2023.

Reserved credit

A developer does not need to separately apply for the Ohio LIHTC. Instead, OHFA may reserve a state credit for any qualified project when allocating a federal LIHTC. When reserving a state credit, OHFA must send written notice of reservation to each of the qualified project's owners, which must include the aggregate amount of the credit reserved for all years of the qualified project's ten-year credit period and state that the receipt of the credit is contingent upon issuance of an eligibility certificate after the project is placed into service. After receipt of that notice, the projects owners must identify to OHFA the party that will issue annual credit

[164] 26 U.S.C. 42.

allocation reports to OHFA (see "***Claiming the credit and reporting requirements***," below). This "designated reporter" may be the owner or its member, shareholder, or partner.

The amount of credit reserved for any particular qualified project is determined by OHFA, but in no case may the reserved credit, combined with the allocated federal credit, exceed the amount necessary to ensure the financial feasibility of the project. The act additionally requires OHFA to reserve credits in a manner that ensures the qualified project is creating housing units that would not otherwise be created.

Awarded credit

After the project for which a credit is reserved is placed into service and OHFA approves the federal LIHTC, OHFA must issue an eligibility certificate to each project owner and send a copy to TAX and INS. The certificate must state the amount of the credit that may be claimed for each year of the ten year credit period, which is the lesser of:

- The amount of the federal LIHTC that would be awarded for the first year of the federal credit period absent a first-year reduction required by federal law;
- $^{1}/_{10}$ of the reserved credit amount stated in the notice reserving the state LIHTC.

This provision effectively caps the amount of a state LIHTC at the amount of the corresponding federal credit.

Claiming the credit and reporting requirements

The act allows the qualified project's owners, or the equity owners of a pass-through entity that is the project owner, to claim the state LIHTC. An owner is a person holding a fee simple or ground lease interest in the project. The credit may be applied against more than one tax over more than one year, and the credit may be allocated amongst various owners and their equity owners by agreement. The total credits claimed in connection with the applicable year of the project's credit period must not, however, exceed the amount stated on the eligibility certificate. Even though the credit is nonrefundable, any unclaimed amounts may be carried forward for up to five years.

Each year, a project's designated reporter must report to OHFA a list of each project or equity owner that has been allocated a portion of the credit awarded for that year, the amount that has been allocated to each, the tax each portion will be claimed against, and the aggregate credit amount allocated, which must not exceed the credit amount listed on the eligibility certificate. Any changes to this information must also be reported to OHFA within a time frame that OHFA must prescribe. A credit cannot be claimed without being listed on this annual report. Information in the report is not a public record, except for the aggregate amount of credits allocated.

Recapture

Federal law allows for the recapture of federal LIHTCs. Under the act, if any portion of the federal LIHTC allocated to a qualified project is recaptured, OHFA must recapture a proportionate amount of the state credit allocated to the same project. To effectuate this recapture, OHFA must request that TAX or INS, as applicable, issue an assessment to recover any previously claimed

credit. Statutes of limitations that normally apply to the issuance of tax assessments, i.e., three or four years after the tax is due, do not apply to these assessments.

Fees and rules

The act allows OHFA to assess application, processing, and reporting fees to cover the cost of administering the tax credit. It also allows OHFA, in consultation with TAX and INS, to adopt rules necessary to administer the credit.

Single-family housing development credit

(R.C. 175.17, 5725.37, 5726.60, 5729.20, and 5747.84, with conforming changes in R.C. 175.12, 5725.98, 5726.98, 5729.98, and 5747.98)

The act authorizes a nonrefundable tax credit against the insurance premiums tax, FIT, or income tax for investment in the development and construction of affordable single-family homes. To obtain a credit, a local government or quasi-public development entity, in partnership with a private "development team," must submit an application to the OHFA executive director. Upon approving an application, OHFA reserves a credit for the applicant to be awarded when the project is completed. The credit equals the amount by which the project's development costs exceed the fair market value of the project's completed homes. The applicant may allocate credits to taxpayers of the credit-eligible taxes who invest capital in the project. The total credit amount is claimed in equal increments over the ten years after the project's completion, and each project home is subject to an OHFA-prescribed affordability requirement for the ten years following its initial sale to a qualified buyer ("affordability period").

Application process

A county, township, municipal corporation, regional planning commission, community improvement corporation, economic development corporation, port authority, or county land reutilization corporation, i.e., a land bank, may apply for a credit. Each application must identify a project's development team, a person that will make annual credit allocation reports on behalf of the applicant ("designated reporter"), and an estimate of the project's total development costs. OHFA may charge application, processing, and reporting fees to cover the cost of administering the credit.

Credit reservation and limits

The act requires OHFA to develop a plan for competitively awarding tax credits by establishing criteria and metrics by which projects will be evaluated. OHFA is allowed to reserve a credit for any single-family housing development project that is located in Ohio and that meets the plan's qualifications. OHFA's plan may allocate credits in a pooled manner. The act sets forth several criteria, described below, that OHFA may consider when evaluating applications, but allows OHFA to adopt rules, in consultation with TAX and INS, specifying the exact criteria to be considered.

Suggested criteria to consider
Underwriting criteria to assess the risk associated with a project and criteria by which the sponsoring applicant shall be responsible for risk associated with the project, such as homeowner abandonment, default, or foreclosure.
Requirements that the applicant provide capital assets or other investments to the project.
Criteria regarding the purchase, ownership, and sale of completed project homes.
Measures to maintain affordability of project homes during the affordability period, which may include a deed restriction for some or all of the tax credit value or appreciated value of the home.

OHFA must notify each applicant, in writing, whether or not the applicant's project is approved for a credit reservation. If a project is approved, the notice will include the tax credit reservation amount with the stipulation that final receipt of the credit is contingent upon the project's completion and meeting certain reporting requirements. The amount of credit reserved for any single project is limited to the amount by which the project's estimated development costs exceed the fair market value of the project's homes, as appraised by OHFA. However, this amount can be increased or decreased depending on the actual development costs as they are certified at the time the credit is issued after completion of the project.

The act generally limits the amount of total credits that may be reserved in a fiscal year to $50 million, but allows unreserved credit allocations and recaptured or disallowed credits to be added to the credit cap for the next fiscal year. OHFA is prohibited from reserving any credits after June 30, 2027.

Project completion and claiming the credit

When a project is completed, the act requires the original applicant to notify OHFA and provide a final development cost certification. At that time, OHFA is required to appraise the project's finished homes and, after approving the applicant's final cost certification, compute the amount of the tax credit. OHFA then issues an eligibility certificate to the applicant that states the amount of the credit, i.e., $^{1}/_{10}$ of the amount issued in the initial certification, subject to any increase or decrease as a result of the final appraisal and cost certifications. That credit amount may then be claimed in each year of the ten year credit period listed on the certificate. OHFA is required to certify a copy of each eligibility certificate to TAX and INS.

The applicant may allocate all or a portion of the annual credit amount for any year of the credit period to one or more project investors or equity owners of a pass-through entity project investor. An investor or owner allocated a credit may claim it against the insurance premiums, financial institution, or income taxes after the eligibility certificate has been issued and the annual reporting requirements discussed below have been complied with. To do so, the investor or owner must submit a copy of the certificate with the tax return for the year in which they claim the credit. The act authorizes TAX and INS to request other documentation which an investor or owner must provide to claim the credit. If the credit exceeds the taxpayer's tax liability for that year, the credit may be carried forward for up to five years.

If a project ceases to qualify for a credit, OHFA may disallow and recapture any credit issued by requesting that TAX or INS, as applicable, issue an assessment to recover any previously claimed credit. Statutes of limitations that normally apply to the issuance of tax assessments, i.e., three or four years after the tax is due, do not apply to these assessments.

Continuing obligations and reporting requirements

Throughout the development of the project, the applicant must maintain ownership of the homes until they are sold to qualified buyers. The act authorizes OHFA to establish, by rule, criteria to evaluate the qualifications for buyers. A qualified buyer must occupy a home constructed as part of a covered project as the buyer's primary residence for all ten years of the affordability period. During this period, the affordability of the home, as determined by OHFA by rule, is to be maintained and services are to be provided by the applicant's development team.

Each year, a project's designated reporter must report to OHFA a list of each investor or equity owner that has been allocated a portion of the credit awarded for that year, the amount that has been allocated to each, the tax each portion will be claimed against, and the aggregate credit amount allocated, which must not exceed the credit amount listed on the eligibility certificate. Any changes to this information must also be reported to OHFA within a time frame that OHFA must prescribe. A credit cannot be claimed without being listed on this annual report. Information in the report is not a public record, except for the aggregate amount of credits allocated.

Film and theater tax credits

Film and theater production credit cap

(R.C. 122.85)

The act increases the total amount of film and theater tax credits that may be awarded each fiscal year. Under prior law, film and theater tax credits equaling $40 million, plus any amounts not awarded from the previous fiscal year's $40 million cap, could be awarded each fiscal year. The act increases the annual base amount to $50 million, carries forward amounts available but not awarded in the previous fiscal year, and allows DEV to allocate any amount available to award as film and theater capital improvement tax credits (see "**Film and theater capital improvement tax credit**," below) for that fiscal year instead as film and theater production credits. It also requires that $5 million of the cap be reserved for Broadway theatrical productions each fiscal year.

Continuing law allows a refundable tax credit for companies that produce all or part of a motion picture or Broadway theatrical production in Ohio and incur at least $300,000 in Ohio-sourced production expenditures. The credit equals 30% of the company's Ohio-sourced expenditures for goods, services, and payroll involved in the production. A company can claim the credit against the CAT, FIT, or income tax.

Also under continuing law, DEV awards credits in two rounds, with the first ending July 31 and the second ending January 31. Previously, DEV could only award up to $20 million in the first round, plus any unused credits from the previous year. The act increases that limit to $25 million, plus any unused credits from the previous year and any allocation from the capital improvement

tax credit, and requires unawarded credits from the $5 million reserved for Broadway productions to remain reserved for those productions when carried forward to the next year. For FY 2024, the first round limit remains $20 million because this provision will not have taken effect before the July 31 application deadline.

Film and theater capital improvement tax credit

(R.C. 122.852, 122.85(A)(4), 5726.59, 5726.98, 5747.67, 5747.98, 5751.55, and 5751.98)

The act authorizes a new tax credit for a motion picture or Broadway theatrical production company that completes a capital improvement project in Ohio. Eligible projects include the construction, acquisition, repair, or expansion of facilities or equipment that will be used in a motion picture or Broadway production or for postproduction.

Generally, the credit equals 25% of either the company's actual qualified expenditures, or the amount of such expenditures estimated on the company's application, whichever is less. Qualified expenditures are Ohio-sourced capital improvement expenditures and include the purchase of goods or services directly for use in a capital improvement project, as well as any accounting and auditing expenses incurred to comply with the act's reporting requirements. They do not include expenses on the basis of which an existing motion picture and theater credit has been awarded.

The credit is capped at $5 million per project, $5 million per county, and $25 million per fiscal year overall. If DEV does not issue the full $25 million allotment in a particular fiscal year, the excess allotment can be carried forward to the next fiscal year. Additionally, DEV may reduce the maximum amount for any fiscal year and increase the maximum amount for the film and theater production tax credit (see "**Film and theater production credit cap**," above) by a corresponding amount.

Key features of the new capital improvement tax credit include the following:

- The credit is refundable and may be claimed against the CAT, FIT, and income tax;
- A credit recipient can sell or transfer all or part of the credit to another person or persons with notice to DEV;
- A production company must show that it is making reviewable progress on its capital improvement project within 90 days after the Director approves the project. DEV can rescind approval of a project that does not begin between that 90-day deadline, unless there is good cause for the delay.
- The production company must engage an independent certified public accountant to certify the company's qualified capital improvement expenditures.
- DEV must adopt rules governing the credit program, including rules for evaluating applications.
- DEV will review and award applications for the credit in one round each fiscal year, beginning in FY 2025. A production company may apply for the credit either before or

after the capital improvement project is complete. DEV may charge an application fee equal to the lesser of $10,000 or 1% of the estimated value of the credit.

The application must include a description of the project, the project's schedule, the estimated project expenditures and credit amount, and the estimated economic impact of the project in the state as a whole and in the community in which the project is located. DEV will rank applications based on their likely economic impact, the potential number of new jobs created, and the potential new payroll for employees in this state. After ranking the applications, DEV will award credits to projects in the order of their ranking, starting with the projects that have the greatest economic and workforce development impact.

Once a project is approved and an accountant has certified the qualified expenditures, DEV will issue the production company a tax credit certificate.

Job creation and retention credit recapture adjustments

(R.C. 122.17 and 122.171)

Under continuing law, when DEV discovers that a taxpayer that has received a job creation or job retention tax credit (JCTC or JRTC) is not in compliance with the agreement for the credit, DEV may report that noncompliance to the Tax Credit Authority (TCA). After giving the taxpayer an opportunity to explain the noncompliance, TCA may require the taxpayer repay a portion of the credit by certifying the repayment to TAX or INS. The act authorizes TCA to adjust that repayment amount if circumstances change after this, but only once within 90 days after the certification. However, no adjustment is allowed if the taxpayer has already repaid the amount or if TAX's or INS's assessment has been certified to the Attorney General for collection.

Background

Under continuing law, the TCA is authorized to enter into JCTC and JRTC agreements with employers to foster job creation or retention and capital investment in the state. The amount of the credit equals an agreed-upon percentage of the amount by which the employer's "Ohio employee payroll" (i.e., the compensation paid by the employer and used in computing the employer's tax withholding obligations) exceeds the employer's "baseline payroll" (i.e., Ohio employee payroll for the 12 months preceding the tax credit agreement). The credits may be claimed against the CAT, FIT, petroleum activity tax, domestic or foreign insurance premiums taxes, or personal income tax. The JCTC is a refundable credit, while the JRTC is nonrefundable. To ensure compliance with the terms of the agreement, each employer must file an annual report with TCA in which it reports its number of employees and payroll, among other metrics.

Research and development tax credits

(R.C. 5726.56 and 5751.51)

Continuing law allows a nonrefundable tax credit against the FIT and CAT equal to 7% of the taxpayer's excess qualified research and development (R&D) expenses above the average of the taxpayer's R&D expenses in the three preceding years. Unclaimed credits may be carried forward for up to seven years. The act changes the way certain taxpayers calculate and claim that credit, imposes recordkeeping requirements, and allows TAX more flexible audit authority.

Taxpayer groups

The act modifies how a taxpayer comprised of more than one person – e.g., a pass-through entity with several owners – may calculate and claim R&D credits. Both the FIT and CAT require or allow such a "taxpayer group" to file and pay the tax as a single taxpayer.

The act requires a taxpayer group to compute the R&D credit on a member-by-member basis, rather than across the entire taxpayer group. In other words, the group's total R&D credit equals the aggregate credit computed against each member's qualified R&D expenses. This computation and the R&D credit that may be claimed must be made on a form prescribed by TAX.

The act also limits the members whose R&D expenses may be included in a group's aggregate credit amount by only allowing such members to include their portion of the credit if they are members of the group on December 31 of the year during which the R&D expenses are incurred. A similar membership requirement applies to the computation of any R&D credit carryforwards.

Recordkeeping requirements

The act requires a taxpayer claiming an R&D credit to retain records substantiating the claim. The records must be kept for four years after the due date for the return on which the credit is claimed, or four years after it is actually filed, whichever is later. Records required to be retained include those relating to any R&D expenses used in calculating the credit and incurred in the year for which the credit was claimed and for the three preceding years.

Audits

In addition to TAX's general audit authority, the act authorizes TAX to audit a representative sample of a taxpayer's R&D expenses to verify that the taxpayer has correctly computed its R&D credit. In undertaking this audit, the act requires that TAX make a good faith effort to agree on a representative sample, but it does not preclude a representative sample audit absent such an agreement.

Exemption and exclusion for consumer-grade fireworks fees

(R.C. 5739.02(B)(65) and 5751.01(F)(2)(tt); Sections 803.50 and 803.190)

Continuing law imposes a 4% fee, collected by the State Fire Marshal, on the gross receipts from consumer-grade fireworks sales by licensed fireworks manufacturers, wholesalers, and retailers. The manufacturer, wholesaler, or retailer may separately or proportionately bill the fee to another person, including the consumer.[165]

The act exempts the consumer-grade fireworks fees from sales and use tax, beginning October 1, 2023, so long as they are separately stated on the invoice, bill of sale, or similar document the vendor gives the consumer in the retail sale. The act also authorizes a business to

[165] R.C. 3743.22, not in the act.

exclude from its taxable gross CAT receipts collections of any separately stated and billed fireworks fees, beginning for CAT tax periods ending after October 3, 2023.

Deduction and exclusion for East Palestine derailment payments

(R.C. 5747.01(A)(39) and 5751.01(F)(2)(ss); Section 803.160)

The act authorizes an income tax deduction and a more limited CAT exclusion for certain payments received by a taxpayer and related to the train derailment near East Palestine that occurred on February 3, 2023. The deduction and exclusion applies to taxable years or tax periods beginning on or after January 1, 2023.

Income tax deduction

Under federal income tax law, a taxpayer may deduct payments received to reimburse or compensate the taxpayer for costs incurred for certain declared disasters.[166] The act authorizes a state income tax deduction for any such payments resulting from that derailment that would be deductible under federal law if the derailment was a declared disaster that triggered the federal deduction. The payments must be made by a federal, state, or local government agency, a railroad company or any subsidiary, insurer, related person, or agent of a railroad company ("eligible payers"). The act additionally authorizes the taxpayer to deduct any payments received from an eligible payer to compensate for business losses.

CAT exclusion

The act authorizes a CAT exclusion for gross receipts received by a taxpayer from an eligible payer as compensation for business losses resulting from that derailment.

Property tax

Park district renewal levies

(R.C. 1545.21)

The act authorizes park districts to propose renewal levies, which extend the term of any existing levy at its current effective millage rate unless coupled with an increase or decrease. Under continuing law, a park district's voted property tax may be extended through a replacement procedure unique to park districts. Unlike these replacement levies, a renewal levy authorized by the act may only be proposed in the last year of the levy it is renewing or the following year. Most other types of voted property taxes may be renewed, increased, or decreased under continuing law in a similar manner.

Index homestead exemption to inflation

(R.C. 323.152 and 4503.065; Section 803.90)

The act indexes the amount of the property tax homestead exemption for a homeowner who is elderly or disabled, a disabled veteran, or the surviving spouse of a public service officer killed in the line of duty so that the exemption amounts – and therefore the tax savings – increase

---

[166] 26 U.S.C. 139.

according to increases in the prices of all goods and services composing the national gross domestic product (GDP).

Continuing law provides a property tax credit for the residence, or "homestead," of certain qualifying individuals. Under previous law, this "homestead exemption" equaled the taxes that would be charged on up to $25,000 of the true value of a home owned by a person who (a) is 65 years of age or older, permanently and totally disabled, or at least 59 years old and the surviving spouse of an individual who previously received the exemption, and (b) has an Ohio modified adjusted gross income of $36,100 or less, as computed for state income tax purposes (including all business income and excluding Social Security and disability benefits). Under continuing law, this income limit is increased each year to adjust for inflation. Homeowners who received this homestead exemption before 2014 are not subject to the income limit. The credit essentially exempted $25,000 of the value of a homestead from taxation.

Also under continuing law, special "enhanced" exemptions are available for homes of military veterans who are totally disabled and their surviving spouses and for surviving spouses of peace officers, firefighters, or other emergency responders who die in the line of duty or by an injury or illness sustained in the line of duty. No income limit applies to either enhanced exemption, which, under previous law, were equal to the taxes charged on up to $50,000 of the home's value.

The act requires the amount of each homestead exemption to be adjusted for inflation each year. The adjustments are made in the same manner as inflationary adjustments are made to the income limit for the $25,000 homestead exemption: by multiplying the current year's exemption amount by the percentage increase in the GDP deflator over the preceding year and adding that result to the current exemption amount. An adjustment would not be made for any year the GDP deflator does not increase.

The Tax Commissioner must compute the adjustments and certify the resulting amounts to each county auditor by December 1 to be applied the following tax year, or, in the case of the manufactured home tax, the second ensuing tax year. The difference in application is accounted for by the fact that the manufactured home tax is payable on a current-year basis, whereas property tax is payable in arrears. Because of this, the act's adjustment and certification requirements begin to apply in tax year 2023 or, for the manufactured home tax, 2024.

Valuation of subsidized residential rental housing

(R.C. 5713.03, 5713.031, and 5715.01)

The act requires the Tax Commissioner to adopt rules prescribing a uniform tax valuation method for federally subsidized residential rental property, which is any property subsidized by the following programs, listed according to their most commonly used name and the section of federal law they are authorized under:

- Section 42, federal low-income housing tax credit (LIHTC);
- Section 202, Supportive Housing for the Elderly;
- Section 811, Supportive Housing for Persons with Disabilities;

- Section 8, Housing Choice Voucher Program;
- Section 515, Rural Rental Housing Loans;
- Section 538, Guaranteed Rural Rental Housing Program; and
- Section 521, USDA Rural Rental Assistance Program.

Generally, under continuing law and practice, real property is appraised for tax purposes by a county auditor by using one of three methods – the income method (i.e., capitalizing the income generated by the property), cost method (i.e., the cost of constructing or improving the property), or comparable sales method (i.e., a comparison of the neighborhood sales prices of comparable properties).[167] All three methods are employed to value real property at its true, or fair market value, which is the uniform standard that all real property, except certain agricultural property, must be valued at, as required by the Ohio Constitution.[168] In the context of federally subsidized rental housing, courts have generally held that using the income approach is superior to the other two approaches when determining the property's fair market value. These cases generally result in subject property's fair market value being determined on the basis of its market rent, rather than any subsidized contract rent.[169] Courts and continuing law additionally require any valuation to take into account the effect of limitations on the property's value due to involuntary, governmental actions, such as the rent restrictions federal subsidies may impose.[170]

Under previous law, county auditors were explicitly authorized to use any of the three methods in valuing LIHTC property. The act repeals this authorization and instead requires the Tax Commissioner to adopt rules prescribing a formula for the uniform valuation of all federally subsidized residential rental property, including LIHTC property. The formula must take into account the operating income and expenses of the property, as reported by the owner, and a uniform capitalization rate.

The formula must consider up to three years of operating income, which includes gross potential rent, forgiveness of or allowance received for vacancy or unpaid rent losses, and any income derived from other sources. Certain income and expense amounts are presumed as a percentage of gross potential rent including the allowance for vacancy losses (4%) and unpaid rent losses (3%) for income and repair or replacement reserve fund or account contributions (5%) for expenses. Expenses as a whole are presumed to be 48% of total operating income, plus utility expenses as reported by the owner. These presumptions may be exceeded based on any evidence of the actual income or expenses reported by the property owner. Operating expenses do not include property taxes, depreciation, and amortization expenses. Finally, the capitalization

---

[167] O.A.C. 5703-25-05 and 5703-25-07.

[168] Ohio Const., art. XII, sec. 2.

[169] See, e.g., *Alliance Towers v. Stark Cty. Bd. of Revision*, 37 Ohio St.3d 16, 23 (1988).

[170] R.C. 5713.03; *Woda Ivy Glen L.P. v. Fayette Cty. Bd. of Revision*, 121 Ohio St.3d 175, 2009-Ohio-762, ¶¶ 17, 23-24.

rate must be uniform and market-appropriate and include a tax additur accounting for the property tax rate applicable to a particular property's location. For LIHTC property, the capitalization rate must be 1% lower than the uniform rate applied to all other subsidized properties. Though the act prescribes the factors that must be included in the formula, the act delegates the task of prescribing the formula to the Tax Commissioner.

The rules must also set a minimum total value for subsidized residential rental property of 150% of the value of the unimproved land upon which it is situated or $5,000 per dwelling unit, whichever is greater.

The formula is only utilized so long as the property remains subject to the conditions and restrictions imposed by the federal program that subsidizes it and the owner makes the required reports (see "**Information sharing**," below). If it is no longer subject to federal restrictions, then the property is valued as other real property, presumably employing the income, cost, or comparable sales method.

Information sharing

The act requires the owner of subsidized residential rental property to report to the county auditor of the county in which the property is located the property's operating income and expenses a prospective buyer might consider in purchasing the property. The report must include all of the information necessary to value the property via the formula described above, such as gross potential rent, allowances for losses due to vacancy or unpaid rent, any other income, expenses such as those related to staffing, utilities, repairs, supplies, audits, legal and contract services, and any contributions to a replacement reserve fund. This information must be audited by an independent public accountant or auditor or another certified public accountant before it is submitted to the auditor. If such an audit was not completed by the filing deadline, the owner must file updated records within 30 days after an audit is done.

A property owner must file this information before the subject property is placed in service, after commencing operations, and each following reappraisal or update year, i.e., every three years, on or before March 1. If an owner fails to timely file the information, the county auditor is not required to utilize the formula described above to value the property. The information submitted must cover up to three previous years. Any submitted information is not a public record. As with the formula, this submission is no longer required after the property is no longer subject to any federally imposed conditions and restrictions.

Subsidized rental property annual list

(R.C. 175.20)

The act requires OHFA to prepare and annually update a list of all federally subsidized residential rental property subject to the act's special valuation formula (see "**Valuation of subsidized residential rental housing**," above). The list must be organized by county and include information about each property including the owner, address, parcel numbers, program it is subsidized by, and, for LIHTC property, the name and business address of any person allocated the credit. Metropolitan housing authorities are required to supply information for the list at OHFA's request. The act also makes the list a public record.

The first list must include all covered properties as of January 1, 2024, and must be prepared and certified to the Auditor of State, Board of Tax Appeals, and TAX by January 31, 2024. OHFA is required to update and recertify the list to those agencies in January of each following year. TAX, in turn, certifies the list to all county auditors.

Residential development land exemption

(R.C. 5709.56)

The act authorizes a partial property tax exemption for unimproved land that has been subdivided for residential development. The value exempted is the value in excess of the property's most recent arms-length sale price, apportioned according to the relative value of each subdivided parcel (see "**Exempted portion**," below). Specifically, the exemption applies to any unimproved parcel subdivided pursuant to a plat and on which construction of residential buildings, e.g., single- or multi-family dwellings, is planned but has not started. The exemption does not apply to land included in a tax increment financing (TIF) arrangement.

The exemption applies beginning with the tax year in which the subdivided parcel first appears on the tax list, but no sooner than tax year 2023. The exemption may be claimed for up to eight years, or until either the land is sold to another person or construction begins on a residential building. The exemption ceases to apply to the tax year following the year in which either event occurs. Construction of streets, sidewalks, curbs, or driveways or the installation of water, sewer, or other utility lines does not trigger the end of the exemption. Transferring the parcel to another person without consideration does not terminate the exemption.

The exemption is only available to the owner or owners of the land at the time it was subdivided, unless the land is transferred to another without consideration as mentioned above. As with other property tax exemptions, a parcel's owner is required to apply annually to the Tax Commissioner for the exemption. As part of an exemption application, the owner must expressly certify that the parcel qualifies as preresidential development property.

Exempted portion

To calculate the exempt portion of a parcel, the act first assigns a base value to the original property equal to the price at which the property was most recently sold in an arm's length transaction. This base value is apportioned to each subdivided parcel according to the parcel's appraised value once the subdivision occurs in proportion to the total of the appraised values of all parcels resulting from the subdivision. Any increase above that apportioned value is exempt.

The act accounts also for how the exemption applies if a residential development parcel that resulted from a prior subdivision is itself further subdivided. In such a case, the exemption continues to apply to the new parcels resulting from the later subdivision, with each of the new parcels having an unexempted value that is a proportion of the unexempted value of the larger parcel from which it was most recently subdivided; the proportion is based on each new parcel's appraised value relative to the total appraised value of all the new parcels.

The act specifies that the partial exemption does not create a new method for valuing property for tax purposes. The act also specifies that subdivided farmland may continue to be valued at its current agricultural use value (CAUV) as long as it is still used for farming, and

requires the county auditor to routinely inspect such land to ensure that such land continues to qualify for CAUV valuation.

Brownfield property tax abatement

(Section 757.40)

The act authorizes the owner of property currently subject to a ten-year property tax exemption for remediated brownfield development land to apply for an abatement or refund of taxes assessed on the property in tax years 2020 and 2021 that would not have been assessed had the property been subject to that exemption for those years. The property only qualifies if the owner was issued a covenant not to sue by the Ohio EPA in 2020 based on the owner's remediation activities and if the owner applies for the abatement within one year after October 3, 2023.

Under continuing law, the brownfield remediation exemption starts to apply not in the tax year that the covenant not to sue is issued, but the year in which the Ohio EPA certifies the covenant to TAX.[171] Thus, the act applies to a situation where the covenant not to sue was issued two years before it was certified to TAX.

If the abatement is obtained, the act shortens the exemption's duration by two years to account for the two years of abatement.

Tax increment financing

TIF background

Continuing law allows municipalities, townships, and counties to create a tax increment financing (TIF) arrangement to finance public infrastructure improvements. Through a TIF, the subdivision grants a property tax exemption for the increase in the assessed value of designated parcels that are part of a development project. The exemption may apply to specific parcels or to entire areas, known as "incentive districts." The owners of the parcels make payments in lieu of taxes to the subdivision equal to the amount of taxes that would otherwise have been paid with respect to the exempted improvements ("service payments"). TIFs thereby create a flow of revenue back to the subdivision, which generally uses those service payments to pay the public infrastructure costs necessitated by the development project.

Removal of nonperforming parcels

(R.C. 5709.40 and 5709.73)

The act authorizes a township or municipality to remove a parcel from an existing municipal or township TIF, either individually or as part of an incentive district, and add the parcel to a new incentive district TIF, if the parcel's owner is required to make service payments under the existing TIF, but has not yet done so. Once added to the new TIF, the parcel is excluded from its former TIF and the owner is no longer required to make service payments under that former TIF. When the township or municipality subsequently applies to TAX for the TIF-authorized

[171] R.C. 5709.87(B) and (C), not in the act.

property tax exemptions, necessary to allow for service payments under the new TIF, it must identify the affected parcels, the original TIF ordinance or resolution, and the value history of each affected parcel since the original TIF ordinance or resolution was passed.

Impacted city TIF service payment reallocation

(Section 757.70)

The act authorizes the legislative authority of an impacted city, i.e., a city that meets certain urbanization or disaster criteria, to, under certain circumstances, reallocate parcel TIF service payments. Under prior law, these payments had to generally be used to fund public improvements that benefit the parcel being assessed. The act allows these payments to be reallocated for other projects that relate to urban development generally, but do not benefit the assessed parcel, if the reallocation is made before July 1, 2024, and the parcel benefitting public improvements have been sufficiently funded.

30-year parcel TIF extension

(R.C. 5709.51)

In general, TIFs may be designated for a term of up to ten years or, with the approval of the appropriate school district, 30 years. Continuing law authorizes a county, municipality, or township to extend the term of a parcel TIF by an additional 30 years. The act modifies the circumstances under which such an extension may be authorized.

First, as an alternative to the existing requirement that the aggregate TIF service payments exceed $1.5 million in the year before an extension can be adopted, the act allows a subdivision to determine that payments will meet the $1.5 million threshold in any future year of the TIF and adopt the extension on the basis of that determination. Second, the act also applies a bar that prohibits such an extension if the service payments exceeded $1.5 million in any year preceding the year before the extension is adopted to extensions adopted after 2023. Prior law only applied this bar to extensions adopted after 2020.

Third, rather than waiting for or satisfying one of the above requirements in order to amend an existing TIF resolution to authorize an up to 30-year extension, as required under prior law, the act allows a subdivision to extend the term of a TIF in the original resolution authorizing the TIF, presumably based on the subdivision's determination that the service payments will meet the $1.5 million threshold in the future.

The act applies these changes to any pending and completed TIF proceedings.

Extension of certain municipal TIFs

(R.C. 5709.40(L))

The act also allows a municipality that created an incentive district TIF before 2006 to extend that TIF for up to 15 years, provided that certain conditions are met. In general, under continuing law, a subdivision can authorize a TIF for up to 30 years with school board approval or up to ten years without school board approval.

To be eligible for the extension, the municipality must (a) obtain the approval of the school board of each district in which the TIF is located and (b) notify each county in which the

TIF is located. Unlike continuing law generally, if a school board fails to either approve or deny the TIF within the time allocated, the municipality cannot create the TIF. However, similar to continuing law, if the resolution creating the TIF provides for compensation to be paid to a school district, or if a school district has adopted a resolution waiving its right to approve TIFs, the school board's approval is not required.

If the TIF is extended, the percentage of improvements exempted cannot exceed the percentage originally authorized. For example, if 80% of the value of improvements were exempted under the original TIF, the extended TIF cannot allow an exemption of more than 80%.

Property tax foreclosure notice publication

(R.C. 323.25, 323.69, 5721.14, and 5721.18)

The act modifies publication procedures for notices of impending tax foreclosure actions. Specifically, the act allows a tax foreclosure notice to be published online if the notice is first published in a newspaper of general circulation in the county where the property is located. If online notice is used, the notice must begin to appear one week after the initial newspaper publication and continue to appear until one year after the foreclosure proceeding results in a judgment and finding against the property. The county clerk of courts decides which website of the county or court the online notice will appear. Online publication is considered "served" and a foreclosure proceeding action may thus continue two weeks after the clerk first posts the notice.

Under prior law, publication of the notice had to be made three times in a newspaper. Publishing the notice of a foreclosure action, along with other steps taken during the tax foreclosure process, such as title searching and notification by mail or in person, is meant to fulfill the state's obligation under the Due Process Clause to provide notice to property owners and lienholders of an impending action that may result in the property being taken and sold.

The act also specifies that if a property tax foreclosure notice is not published online, then all publications of the notice beyond the first may be made in an abbreviated form in a newspaper pursuant to continuing law's abbreviated newspaper publication procedures for government notices.

Qualified energy project tax exemptions (PARTIALLY VETOED)

(R.C. 5727.75)

The act makes several changes to a real and tangible personal property tax exemption authorized for certain renewable energy projects. In particular, the act extends the sunset date of those exemptions and adjusts the requirements an exempt project must meet to qualify and maintain an exemption. In general, a project seeking exemption must (1) apply to DEV to be certified as a qualifying project, (2) in some cases obtain the approval of a county in which the project will be located, (3) comply with certain deadlines and construction, safety, education, and labor requirements, and (4) make payments in lieu of taxes (PILOTs) to be distributed in the same manner as property taxes.

Extend sunset date

Under prior law, these exemptions for qualifying projects that were in their construction or installation phases were generally scheduled to sunset after 2025. The act extends the sunset date to the later of after 2029 or the year the U.S. Treasury Secretary determines there has been, from 2022, a 75% or greater reduction in annual greenhouse gas emissions from electricity production in the United States. In line with that extension, the act extends other deadlines projects must satisfy to obtain the exemption.

Under continuing law, if a renewable energy project is placed in service by a specific date, the property tax exemption may continue in perpetuity, as long as the project continues to comply with certain certification requirements. The act extends the placed-in-service deadline from December 31, 2025, to the last day of the new sunset year.

Certification of qualified energy projects

The act changes requirements that a solar energy project must comply with to obtain and retain a tax exemption. Under prior law, to be certified as a qualified energy project, a project needed to maintain a ratio of Ohio-domiciled full-time equivalent (FTE) employees employed in the project's construction or installation to the total number of FTE employees employed in the construction or installation of at least 80% for a solar project and 50% for other projects.

The act reduces the ratio to 70% for solar projects but retains the 50% minimum for other renewable energy projects. It also requires all renewable energy projects exceeding 20 megawatts of generating capacity applying for certification after October 3, 2023, to compensate project employees at local prevailing wage rates and ensure that 15% of total project labor is performed by apprentices. (Similar requirements apply to renewable energy projects seeking to qualify for the federal renewable electricity production income tax credit.[172]) If a solar project for which certification was sought before October 3, 2023, agrees to be bound by the same prevailing wage and apprenticeship requirements as new projects, it may take advantage of the reduced Ohio-domiciled employee ratio.

The Governor vetoed a provision that would have expanded, for all renewable energy projects, who may qualify as an Ohio-domiciled employee for the purpose of meeting this threshold. Under continuing law, an employee must actually be domiciled in Ohio, i.e., live in their primary residence in Ohio, in order for their work project hours to count. The vetoed provision would have allowed hours worked by a project employee who lives within 50 miles of Ohio and who is a member of a trade union that has members in Ohio to qualify as Ohio-domiciled employee hours.

The act also limits, for all renewable energy projects, how the number of FTE employees on a project is calculated. The number of project FTE employees was previously calculated by dividing the total number of compensated work hours at the project during the year, by 2,080. The act specifies that only hours worked by employees devoted to site preparation and protection, construction and installation, and material unloading and distribution count as

[172] 26 U.S.C. 45.

project work hours. Hours worked by management and purely logistical positions are not counted.

Joint Committee on Property Tax Review and Reform

(Section 757.60)

The act creates the Joint Committee on Property Tax Review and Reform, comprised of five Senators (three of the majority party appointed by the Senate President; two of the minority party appointed by the Senate Minority Leader) and five Representatives (three of the majority party appointed by the Speaker; two of the minority party appointed by the House Minority Leader). The Committee, co-chaired by a House and Senate majority party member, is required to review the history and purpose of Ohio's property tax law, including levies, exemptions, and local subdivision budgeting. The Committee may also hold hearings on pending legislation related to property taxation. The act requires the Committee to submit a report to the General Assembly making recommendations on reforms to property tax law by December 31, 2024, and afterwards terminates the Committee.

Special improvement districts

Park district property

(R.C. 1710.01, 1710.02, 1710.03, and 1710.13)

The act prohibits park district property from being included in a special improvement district (SID) unless the park district consents to its inclusion. Under continuing law, SIDs may be created within the boundaries of one or more municipalities or townships to finance public improvements or services via special assessments on most property within a district. The act's exclusion for park district property puts such property in line with the similar continuing exclusion for county, township, municipal, state, and federal property.

Tax administration

Delivery of tax notices

(R.C. 5703.056 and 5703.37; conforming changes in numerous other R.C. sections)

The act expands the means by which TAX may send tax notices. For any tax notice previously required to be sent by certified mail, the act allows TAX to alternatively send the notice by ordinary mail or electronically, including by email or text message. Under continuing law, electronic delivery is only allowed if the taxpayer gives consent.

In addition, the act specifies that electronic notices can be sent to a taxpayer's authorized representative, and requires TAX to establish a system to issue notifications of tax assessments to taxpayers through secure electronic means. Under continuing law, if an electronic notice is not accessed after two attempts, TAX must send it by ordinary mail.

The act also eliminates certain recordkeeping requirements that a delivery service must meet before it can be used by TAX to deliver tax notices. Specifically, it eliminates the requirement that the delivery service record the date on which the document was sent and delivered.

Electronic conveyance forms

(R.C. 319.202)

Under continuing law, whenever real property or a manufactured or mobile home is transferred, the grantee is required to file a statement with the county auditor attesting to the property's value and acknowledging that certain information related to the property's eligibility for the homestead exemption or current agricultural use valuation (CAUV) status has been considered as part of the transfer. The statement must be accompanied by any required property transfer tax.

Prior law required the grantee to file three copies of this statement, but the act alternatively allows a grantee to submit a single copy of the statement electronically.

Corporation franchise tax amended filings

(R.C. 5733.031; Section 757.30)

The act eliminates a requirement that taxpayers file amended corporation franchise tax (CFT) reports. The CFT was fully repealed in 2013, but if an adjustment to a corporation's federal tax return alters the corporation's previous CFT tax liability, the corporation must still file an amended CFT report. Under the act, corporations are no longer required to file amended reports after December 31, 2023. Similarly, no corporation may request a refund after that date.

Disclosure of confidential tax information

(R.C. 5703.21 with conforming changes in R.C. 1346.03, 1509.11, 4301.441, and 5749.17)

The act streamlines the authority of TAX to share confidential tax information with state agencies. Under continuing law, unless an exception applies, tax return information is confidential and cannot be disclosed by an employee of TAX or any other individual. Previously, the law listed several exceptions authorizing the disclosure of information to specific state agencies. The act replaces much of this list, which involves specific state agencies, with a general authorization for TAX to share information with any state or federal agency when disclosure is necessary to ensure compliance with state or federal law. The receiving agency is prohibited from disclosing any of this shared information, except as otherwise authorized by state or federal law.

Refunds of tax penalties

(R.C. 5703.052 and 5703.77)

The act makes conforming changes to a law, recently enacted in H.B. 66 of the 134th General Assembly, that allows taxpayers to obtain a refund of tax-related penalties and fees.

Under continuing law, TAX may impose penalties if a taxpayer fails to comply with tax filing and reporting requirements – for example, if a taxpayer fails to file a tax return, pay the full amount due, pay a tax electronically when required to do so, or obtain a required license or registration. H.B. 66 allowed taxpayers who overpaid any such penalty to obtain a refund of that amount, with interest.

The act updates two provisions to reflect this change. Both provisions, which were inadvertently excluded from H.B. 66, previously only referred to refunds of overpaid taxes, rather than both overpaid taxes and penalties.

Local Government and Public Library Funds

Permanent increase

(R.C. 131.51; Section 387.20)

The act permanently increases, beginning in FY 2024, the percentage of state tax revenue that the Local Government Fund (LGF) and Public Library Fund (PLF) each receive per month, to 1.7%.

Under prior law, the LGF and PLF were each allocated 1.66% of the total tax revenue credited to the GRF each month. This percentage has been set in permanent law since FY 2014, following a series of decreases in allocations to both funds. Over the past decade, however, the actual percentage of tax revenue allocated to the LGF and PLF has fluctuated slightly. The General Assembly has repeatedly authorized "temporary" increases to the PLF allocation, ranging from 1.68% to 1.70%. The PLF allocation for FYs 2022 and 2023 is 1.70%. The LGF allocation was temporarily increased once, to 1.68% for FYs 2020 and 2021, but the FYs 2022 and 2023 allocation stands at 1.66%.[173]

Under continuing law, most of the money in the LGF and PLF is distributed monthly to each county's undivided local government or public library fund, largely based upon that county's historical share. Each county distributes its share among local governments or libraries, respectively, according to a locally approved formula or, in a few counties, a statutory need-based formula. A smaller portion of the LGF is paid directly to townships, smaller villages, and municipalities.

Minimum county distributions

(R.C. 5747.501; Sections 803.170 and 812.20)

The act also increases the minimum amount distributed from the LGF to counties, beginning in FY 2024.

Under continuing law, LGF funds are distributed to each county in the state. In FY 2013, LGF distributions were reduced by 50% compared to previous levels. At the time, the proportionate share of the reduced LGF received by each county was held at FY 2013 levels, which included a minimum distribution for certain counties: if a county's LGF was less than $750,000, that county's distribution was not reduced; if the 50% reduction reduced a county's LGF below $750,000, the county received $750,000.

---

173 Section 387.20 of H.B. 110 of the 134th General Assembly, Section 387.20 of H.B. 166 of the 133rd General Assembly, Section 387.20 of H.B. 49 of the 132nd General Assembly, and Section 375.10 of H.B. 64 of the 131st General Assembly.

The act increases the minimum LGF threshold for all counties to $850,000. Based on calendar year 2022 LGF data, the change appears to affect six counties who in that year received less than $850,000: Harrison, Monroe, Morgan, Noble, Paulding, and Vinton counties. Under continuing law, as necessary, the proportionate shares of other counties may be adjusted to produce the funds needed to meet the minimum distribution requirement.

Alternative method to apportion county undivided funds

(R.C. 5747.53)

Under continuing law, a portion of the funds in the state's LGF are deposited in each county's undivided local government fund (CULGF) each year. Those funds are then distributed to the county and townships, municipalities, and park districts in the county according to a statutory formula or by an alternative method of apportionment provided for by the county budget commission.[174]

A budget commission may adopt alternative methods of apportioning CULGF funds through one of two methods. The first, sometimes referred to as the "standard procedure," requires approval of the county commissioners, the city with the largest population residing in the county, and a majority of the county's other municipal corporations and townships. Under continuing law, an alternative method of apportionment adopted under this method continues until it is revised, amended, or repealed. The act requires the county budget commission to review such an alternative method at a public hearing held at least once in 2024 and once in every fifth year thereafter. The budget commission is required to give notice of this hearing to political subdivisions eligible to receive CULGF funding and allow their representatives to testify on the alternative apportionment method. The act does not, however, require any changes based on the review.

A second method for the approval of an alternative method of apportionment, unchanged by the act, allows approval of an alternative apportionment method without consent from a county's largest city if that city and the other political subdivisions meet certain requirements. Such a method is only effective for one year.

[174] R.C. 5747.51 and 5747.52, not in the act.