

**As Reported by the Senate Finance and Financial Institutions
Committee**

**125th General Assembly
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Sub. H. B. No. 393

**Representatives Harwood, Perry, Williams, Hartnett, Carano, Schmidt, Seitz,
Seaver, Sferra, Book, Kearns, Otterman, DeGeeter, Ujvagi, Barrett, Core,
Hughes, Miller, Webster, Wilson, Allen, Aslanides, Beatty, Blasdel, Brown,
Cirelli, Clancy, DeBose, Distel, Domenick, C. Evans, Faber, Flowers,
Grendell, Key, Mason, S. Patton, Peterson, Price, Redfern, Schneider,
D. Stewart, Strahorn, Sykes, Walcher
Senator Harris**

A B I L L

To amend sections 3383.01 and 3383.07 of the Revised Code to provide that the Ohio Arts and Sports Facilities Commission may participate in the financing of motorsports complexes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 3383.01 and 3383.07 of the Revised Code be amended to read as follows:

Sec. 3383.01. As used in this chapter:

(A) "Arts" means any of the following:

(1) Visual, musical, dramatic, graphic, design, and other arts, including, but not limited to, architecture, dance, literature, motion pictures, music, painting, photography, sculpture, and theater, and the provision of training or education

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| in these arts; | 13 |
| (2) The presentation or making available, in museums or other indoor or outdoor facilities, of principles of science and their development, use, or application in business, industry, or commerce or of the history, heritage, development, presentation, and uses of the arts described in division (A)(1) of this section and of transportation; | 14 15 16 17 18 19 |
| (3) The preservation, presentation, or making available of features of archaeological, architectural, environmental, or historical interest or significance in a state historical facility or a local historical facility. | 20 21 22 23 |
| (B) "Arts organization" means either of the following: | 24 |
| (1) A governmental agency or Ohio nonprofit corporation that provides programs or activities in areas directly concerned with the arts; | 25 26 27 |
| (2) A regional arts and cultural district as defined in section 3381.01 of the Revised Code. | 28 29 |
| (C) "Arts project" means all or any portion of an Ohio arts facility for which the general assembly has specifically authorized the spending of money, or made an appropriation, pursuant to division (D)(3) or (E) of section 3383.07 of the Revised Code. | 30 31 32 33 34 |
| (D) "Cooperative contract" means a contract between the Ohio arts and sports facilities commission and an arts organization providing the terms and conditions of the cooperative use of an Ohio arts facility. | 35 36 37 38 |
| (E) "Costs of operation" means amounts required to manage an Ohio arts facility that are incurred following the completion of construction of its arts project, provided that both of the following apply: | 39 40 41 42 |

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| (1) Those amounts either: | 43 |
| (a) Have been committed to a fund dedicated to that purpose; | 44 |
| (b) Equal the principal of any endowment fund, the income from which is dedicated to that purpose. | 45 46 |
| (2) The commission and the arts organization have executed an agreement with respect to either of those funds. | 47 48 |
| (F) "General building services" means general building services for an Ohio arts facility or an Ohio sports facility, including, but not limited to, general custodial care, security, maintenance, repair, painting, decoration, cleaning, utilities, fire safety, grounds and site maintenance and upkeep, and plumbing. | 49 50 51 52 53 54 |
| (G) "Governmental agency" means a state agency, a state-supported or state-assisted institution of higher education, a municipal corporation, county, township, or school district, a port authority created under Chapter 4582. of the Revised Code, any other political subdivision or special district in this state established by or pursuant to law, or any combination of these entities; except where otherwise indicated, the United States or any department, division, or agency of the United States, or any agency, commission, or authority established pursuant to an interstate compact or agreement. | 55 56 57 58 59 60 61 62 63 64 |
| (H) "Local contributions" means the value of an asset provided by or on behalf of an arts organization from sources other than the state, the value and nature of which shall be approved by the Ohio arts and sports facilities commission, in its sole discretion. "Local contributions" may include the value of the site where an arts project is to be constructed. All "local contributions," except a contribution attributable to such a site, shall be for the costs of construction of an arts project or the costs of operation of an arts facility. | 65 66 67 68 69 70 71 72 73 |

(I) "Local historical facility" means a site or facility, 74
other than a state historical facility, of archaeological, 75
architectural, environmental, or historical interest or 76
significance, or a facility, including a storage facility, 77
appurtenant to the operations of such a site or facility, that is 78
owned by an arts organization, provided the facility meets the 79
requirements of division (K)(2)(b) of this section, is managed by 80
or pursuant to a contract with the Ohio arts and sports facilities 81
commission, and is used for or in connection with the activities 82
of the commission, including the presentation or making available 83
of arts to the public. 84

(J) "Manage," "operate," or "management" means the provision 85
of, or the exercise of control over the provision of, activities: 86

(1) Relating to the arts for an Ohio arts facility, including 87
as applicable, but not limited to, providing for displays, 88
exhibitions, specimens, and models; booking of artists, 89
performances, or presentations; scheduling; and hiring or 90
contracting for directors, curators, technical and scientific 91
staff, ushers, stage managers, and others directly related to the 92
arts activities in the facility; but not including general 93
building services; 94

(2) Relating to sports and athletic events for an Ohio sports 95
facility, including as applicable, but not limited to, providing 96
for booking of athletes, teams, and events; scheduling; and hiring 97
or contracting for staff, ushers, managers, and others directly 98
related to the sports and athletic events in the facility; but not 99
including general building services. 100

(K) "Ohio arts facility" means any of the following: 101

(1) The three theaters located in the state office tower at 102
77 South High street in Columbus; 103

(2) Any capital facility in this state to which both of the 104

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| following apply: | 105 |
| (a) The construction of an arts project related to the facility was authorized or funded by the general assembly pursuant to division (D)(3) of section 3383.07 of the Revised Code and proceeds of state bonds are used for costs of the arts project. | 106 107 108 109 |
| (b) The facility is managed directly by, or is subject to a cooperative or management contract with, the Ohio arts and sports facilities commission, and is used for or in connection with the activities of the commission, including the presentation or making available of arts to the public and the provision of training or education in the arts. | 110 111 112 113 114 115 |
| (3) A state historical facility or a local historical facility. | 116 117 |
| (L) "State agency" means the state or any of its branches, officers, boards, commissions, authorities, departments, divisions, or other units or agencies. | 118 119 120 |
| (M) "Construction" includes acquisition, including acquisition by lease-purchase, demolition, reconstruction, alteration, renovation, remodeling, enlargement, improvement, site improvements, and related equipping and furnishing. | 121 122 123 124 |
| (N) "State historical facility" means a site or facility of archaeological, architectural, environmental, or historical interest or significance, or a facility, including a storage facility, appurtenant to the operations of such a site or facility, that is owned by or is located on real property owned by the state or by an arts organization, so long as the real property of the arts organization is contiguous to state-owned real property that is in the care, custody, and control of an arts organization, and that is managed directly by or is subject to a cooperative or management contract with the Ohio arts and sports facilities commission and is used for or in connection with the | 125 126 127 128 129 130 131 132 133 134 135 |

activities of the commission, including the presentation or making 136
available of arts to the public. 137

(O) "Ohio sports facility" means all or a portion of a 138
stadium, arena, motorsports complex, or other capital facility in 139
this state, a primary purpose of which is to provide a site or 140
venue for the presentation to the public of either motorsports 141
events or events of one or more major or minor league professional 142
athletic or sports teams that are associated with the state or 143
with a city or region of the state, which facility is, in the case 144
of a motorsports complex, owned by the state or governmental 145
agency, or in all other instances, is owned by or is located on 146
real property owned by the state or a governmental agency, and 147
including all parking facilities, walkways, and other auxiliary 148
facilities, equipment, furnishings, and real and personal property 149
and interests and rights therein, that may be appropriate for or 150
used for or in connection with the facility or its operation, for 151
capital costs of which state funds are spent pursuant to this 152
chapter. A facility constructed as an Ohio sports facility may be 153
both an Ohio arts facility and an Ohio sports facility. 154

(P) "Motorsports" means sporting events in which motor 155
vehicles are driven on a clearly demarcated tracked surface. 156

Sec. 3383.07. (A) The department of administrative services 157
shall provide for the construction of an arts project in 158
conformity with Chapter 153. of the Revised Code, except as 159
follows: 160

(1) For an arts project that has an estimated construction 161
cost, excluding the cost of acquisition, of twenty-five million 162
dollars or more, and that is financed by the Ohio building 163
authority, construction services may be provided by the authority 164
if the authority determines it should provide those services. 165

(2) For an arts project other than a state historical 166

facility, construction services may be provided on behalf of the 167
state by the Ohio arts and sports facilities commission, or by a 168
governmental agency or an arts organization that occupies, will 169
occupy, or is responsible for the Ohio arts facility, as 170
determined by the commission. Construction services to be provided 171
by a governmental agency or an arts organization shall be 172
specified in an agreement between the commission and the 173
governmental agency or arts organization. The agreement, or any 174
actions taken under it, are not subject to Chapter 123. or 153. of 175
the Revised Code, except for sections 123.151 and 153.011 of the 176
Revised Code, and shall be subject to Chapter 4115. of the Revised 177
Code. 178

(3) For an arts project that is a state historical facility, 179
construction services may be provided by the Ohio arts and sports 180
facilities commission or by an arts organization that occupies, 181
will occupy, or is responsible for the facility, as determined by 182
the commission. The construction services to be provided by the 183
arts organization shall be specified in an agreement between the 184
commission and the arts organization. That agreement, and any 185
actions taken under it, are not subject to Chapter 123., 153., or 186
4115. of the Revised Code. 187

(B) For an Ohio sports facility that is financed in part by 188
the Ohio building authority, construction services shall be 189
provided on behalf of the state by or at the direction of the 190
governmental agency or nonprofit corporation that will own or be 191
responsible for the management of the facility, all as determined 192
by the Ohio arts and sports facilities commission. Any 193
construction services to be provided by a governmental agency or 194
nonprofit corporation shall be specified in an agreement between 195
the commission and the governmental agency or nonprofit 196
corporation. That agreement, and any actions taken under it, are 197
not subject to Chapter 123. or 153. of the Revised Code, except 198

for sections 123.151 and 153.011 of the Revised Code, and shall be 199
subject to Chapter 4115. of the Revised Code. 200

(C) General building services for an Ohio arts facility shall 201
be provided by the Ohio arts and sports facilities commission or 202
by an arts organization that occupies, will occupy, or is 203
responsible for the facility, as determined by the commission, 204
except that the Ohio building authority may elect to provide those 205
services for Ohio arts facilities financed with proceeds of state 206
bonds issued by the authority. The costs of management and general 207
building services shall be paid by the arts organization that 208
occupies, will occupy, or is responsible for the facility as 209
provided in an agreement between the commission and the arts 210
organization, except that the state may pay for general building 211
services for state-owned arts facilities constructed on 212
state-owned land. 213

General building services for an Ohio sports facility shall 214
be provided by or at the direction of the governmental agency or 215
nonprofit corporation that will be responsible for the management 216
of the facility, all as determined by the commission. Any general 217
building services to be provided by a governmental agency or 218
nonprofit corporation for an Ohio sports facility shall be 219
specified in an agreement between the commission and the 220
governmental agency or nonprofit corporation. That agreement, and 221
any actions taken under it, are not subject to Chapter 123. or 222
153. of the Revised Code, except for sections 123.151 and 153.011 223
of the Revised Code, and shall be subject to Chapter 4115. of the 224
Revised Code. 225

(D) This division does not apply to a state historical 226
facility. No state funds, including any state bond proceeds, shall 227
be spent on the construction of any arts project under this 228
chapter unless, with respect to the arts project and to the Ohio 229
arts facility related to the project, all of the following apply: 230

(1) The Ohio arts and sports facilities commission has 231
determined that there is a need for the arts project and the Ohio 232
arts facility related to the project in the region of the state in 233
which the Ohio arts facility is located or for which the facility 234
is proposed. 235

(2) The commission has determined that, as an indication of 236
substantial regional support for the arts project, the arts 237
organization has made provision satisfactory to the commission, in 238
its sole discretion, for local contributions amounting to not less 239
than fifty per cent of the total state funding for the arts 240
project. 241

(3) The general assembly has specifically authorized the 242
spending of money on, or made an appropriation for, the 243
construction of the arts project, or for rental payments relating 244
to the financing of the construction of the arts project. 245
Authorization to spend money, or an appropriation, for planning 246
the arts project does not constitute authorization to spend money 247
on, or an appropriation for, construction of the arts project. 248

(E) No state funds, including any state bond proceeds, shall 249
be spent on the construction of any state historical facility 250
under this chapter unless the general assembly has specifically 251
authorized the spending of money on, or made an appropriation for, 252
the construction of the arts project related to the facility, or 253
for rental payments relating to the financing of the construction 254
of the arts project. Authorization to spend money, or an 255
appropriation, for planning the arts project does not constitute 256
authorization to spend money on, or an appropriation for, the 257
construction of the arts project. 258

(F) State funds shall not be used to pay or reimburse more 259
than fifteen per cent of the initial estimated construction cost 260
of an Ohio sports facility, excluding any site acquisition cost, 261

and no state funds, including any state bond proceeds, shall be 262
spent on any Ohio sports facility under this chapter unless, with 263
respect to that facility, all of the following apply: 264

(1) The Ohio arts and sports facilities commission has 265
determined that there is a need for the facility in the region of 266
the state for which the facility is proposed to provide the 267
function of an Ohio sports facility as provided for in this 268
chapter. 269

(2) As an indication of substantial local support for the 270
facility, the commission has received a financial and development 271
plan satisfactory to it, and provision has been made, by agreement 272
or otherwise, satisfactory to the commission, for a contribution 273
amounting to not less than eighty-five per cent of the total 274
estimated construction cost of the facility, excluding any site 275
acquisition cost, from sources other than the state. 276

(3) The general assembly has specifically authorized the 277
spending of money on, or made an appropriation for, the 278
construction of the facility, or for rental payments relating to 279
state financing of all or a portion of the costs of constructing 280
the facility. Authorization to spend money, or an appropriation, 281
for planning or determining the feasibility of or need for the 282
facility does not constitute authorization to spend money on, or 283
an appropriation for, costs of constructing the facility. 284

(4) If state bond proceeds are being used for the Ohio sports 285
facility, the state or a governmental agency owns or has 286
sufficient property interests in the facility or in the site of 287
the facility or in the portion or portions of the facility 288
financed from proceeds of state bonds, which may include, but is 289
not limited to, the right to use or to require the use of the 290
facility for the presentation of sport and athletic events to the 291
public at the facility. 292

(G) In addition to the requirements of division (F) of this section, no state funds, including any state bond proceeds, shall be spent on any Ohio sports facility that is a motorsports complex, unless, with respect to that facility, both of the following apply:

(1) Motorsports events shall be presented at the facility pursuant to a lease entered into with the owner of the facility. The term of the lease shall be for a period of not less than the greater of the useful life of the portion of the facility financed from proceeds of state bonds as determined using the guidelines for maximum maturities as provided under divisions (B) and (C) of section 133.20 of the Revised Code, or the period of time remaining to the date of payment or provision for payment of outstanding state bonds allocable to costs of the facility, all as determined by the director of budget and management and certified by the director to the Ohio arts and sports facilities commission and to the Ohio building authority.

(2) Any motorsports organization that commits to using the facility for an established period of time shall give the political subdivision in which the facility is located not less than six months' advance notice if the organization intends to cease utilizing the facility prior to the expiration of that established period. Such a motorsports organization shall be liable to the state for any state funds used on the construction costs of the facility.

Section 2. That existing sections 3383.01 and 3383.07 of the Revised Code are hereby repealed.