Ohio Legislative Service Commission

Bill Analysis

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Sub. S.B. 155*

128th General Assembly
(As Reported by H. Finance & Appropriations)

Sens. Carey and D. Miller, Buehrer, Cafaro, Fedor, Gibbs, Goodman, Harris, Hughes, Kearney, Morano, Niehaus, Schaffer, Schiavoni, Strahorn, Widener, Gillmor, Turner, Sawyer, Smith, R. Miller

BILL SUMMARY

- Requires that the costs of all audits of state agencies be charged to the state agency being audited.
- Permits an individual taxpayer to direct the state to deposit the taxpayer's income tax refund into a checking account or preexisting college savings plan or program account offered by the Ohio Tuition Trust Authority.
- Makes changes to the formula for funding career-technical education teachers and program operations for fiscal years 2010 and 2011.
- Clarifies the effect of changes made in Am. Sub. H.B. 1 to the Uniform Public Securities Law.
- Allows the use of the state on and off triggers for state extended unemployment benefits using the total unemployment rate and the payment of high-unemployment period benefits if the benefits are fully federally funded under any federal law.
- Establishes that the final maturity for a port authority revenue bond is to be not later than 45 years after the issuance of the bond, rather than not later than 40 years.
- Reallocates, beginning on July 1, 2010, the proceeds of the existing fee on the sale of new tires levied to fund scrap tire removal actions and to treat vectors at scrap tire facilities by providing that the fee proceeds be credited to the Soil and Water

* This analysis was prepared before the report of the House Finance and Appropriations Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

Conservation District Assistance Fund to be used to fund soil and water conservation districts.

- Increases, from $30,000 to $40,000, the maximum amount of the annual soil and water conservation district subsidy.
- Makes changes to appropriations for eTech Ohio, the Board of Regents, and the Department of Natural Resources.
- Declares an emergency.

CONTENT AND OPERATION

Audits of state agencies

(R.C. 117.13)

Existing law specifies the manner in which the costs of audits of state agencies are recovered by the Auditor of State. The costs of all annual and special audits are charged to the state agency being audited. The costs of all biennial audits must be paid from money appropriated to the Department of Administrative Services for that purpose.

Under the bill, the costs of all audits--annual, special, *and* biennial--are to be charged to the state agency being audited.

Direct deposit of tax refund to checking or college savings account

(R.C. 5747.08; Section 3)

The bill requires the Tax Commissioner to permit an individual taxpayer, when the taxpayer files an annual return, to instruct the Department of Taxation to cause any refund of overpaid income taxes owed to the taxpayer to be deposited directly into a checking account or preexisting college savings plan or program account offered by the Ohio Tuition Trust Authority, as designated by the taxpayer. Such instructions can be given to the Department only if the taxpayer transmits the return electronically. (R.C. 5747.08(L).) The bill authorizes the Commissioner to adopt rules to administer this provision.

The bill states that the direct deposit outlined above applies to taxable years beginning on or after January 1, 2010.

Career-technical education teachers and program operations funding

(R.C. 3306.052; Section 5)

Under current law, each city, local, and exempted village school district receives funding for career-technical education teachers and career-technical program operations for fiscal years 2010 and 2011 as follows:

(1) For fiscal year 2010, each district is to receive an amount equal to what the district received in fiscal year 2009 for vocational education (under the school funding formula as it existed in that year) multiplied by 1.0075.

(2) For fiscal year 2011, each district is to receive an amount equal to the amount received in item (1), above, multiplied by 1.0075.

The bill modifies the funding for fiscal year 2010. Each district is to receive an amount equal to the sum of the following multiplied by 1.0075:

(1) The amount the district received in fiscal year 2009 for vocational education;

(2) The amount the district received in fiscal year 2009 in grant funds to operate a "graduation, reality, and dual-role skills" (GRADS) program for pregnant and parenting students approved by the Department of Education.

The bill also requires the Department to recompute each city, exempted village, and local school district's annualized funding for fiscal year 2010 to reflect the bill's changes.

Application of recent changes to the Uniform Public Securities Law

(Section 4)

Am. Sub. H.B. 1 of the 128th General Assembly (main operating budget for the current fiscal biennium) made many changes to the Uniform Public Securities Law (UPSL; R.C. Chapter 133.). These changes included increasing the length of time within which certain school building bonds must be repaid, clarifying how to credit bond payments received under the federal Build America Bond program, modifying how local government bond estimated interest rates are calculated, and other changes.

The bill provides that the H.B. 1[1] changes to certain provisions of the UPSL apply to any proceedings commenced after H.B. 1's effective date. The bill also provides that

[1] Am. Sub. H.B. 1 amendments or enactments of R.C. 133.01, 133.02, 133.022, 133.18, 133.20, 133.21, and 133.34 are referred to collectively in this analysis as the "H.B. 1 changes."

the H.B. 1 changes, so far as the changes support the actions taken, apply to any proceedings pending, in progress, or, in the case of elections, completed, and to securities authorized or issued pursuant to those proceedings, notwithstanding any applicable laws previously in effect or any provision to the contrary in a prior resolution, ordinance, order, advertisement, notice, or other proceeding. Any proceedings pending or in progress or securities sold, issued, delivered, and validated on H.B. 1's effective date are deemed to have been done in conformity with the H.B. 1 changes. The provisions of the Revised Code amended, enacted, or repealed by H.B. 1 will remain applicable to securities issued in reliance on them before the effective date of those amendments, enactments, and repeals.

The bill states that the authority provided by the H.B. 1 changes is additional and supplemental to, and not in derogation of, nor does it negate, any similar authority provided by the Ohio Constitution or any other law.

Extended unemployment benefits triggered by the total unemployment rate

The bill changes the end of the time period to allow the total unemployment rate (TUR) trigger to be used and high-unemployment period benefits to be paid until the close of the last day of the week ending four weeks prior to the last week for which 100% federal sharing is authorized under *any* federal law that provides for 100% federal sharing (R.C. 4141.301(A), (G), and (J)).

Background

Under Ohio's Unemployment Compensation Law (R.C. Chapter 4141.), a claimant generally is eligible for unemployment compensation benefits for a period of 26 weeks. However, during times of economic difficulty, a claimant may be eligible for an additional 13 weeks of benefits, the cost of which is divided between the state and the federal government. Generally, the 50% paid by Ohio is charged to the account of a contributory employer (most private employers), although reimbursing employers (public employers and some nonprofit companies) are charged the full amount of extended benefits. Under certain circumstances, the federal government pays the costs of extended benefits, and contributory employers' accounts are not charged for that payment. (R.C. 4141.301.)

An extended benefit period, under continuing law, means a period that begins with the third week after a week for which there is a state "on" indicator and ends with either of the following weeks, whichever occurs later: (1) the third week after the first week for which there is a state "off" indicator, or (2) the 13th consecutive week of such period. However, no extended benefit period may begin by reason of a state "on" indicator before the 14th week following the end of a prior extended benefit period which was in effect with respect to Ohio. (R.C. 4141.301(A)(1).)

Extended benefit period triggers using the TUR

The Director of Job and Family Services determines the state "on" indicator and the state "off" indicator in accordance with formulas specified in continuing law that are based on Ohio's insured unemployment rate (IUR) or TUR. With respect to extended benefits triggered by the TUR, for weeks of unemployment beginning on or after February 22, 2009, there is a "state 'on' indicator" for Ohio for a week if the Director determines both of the following are satisfied:

(1) That the average TUR, seasonally adjusted, as determined by the U.S. Secretary of Labor, for the period consisting of the most recent three months for which data for all states are published before the close of that week equals or exceeds 6.5%;

(2) That the average TUR, seasonally adjusted, as determined by the Secretary, for the three-month period described in (1) immediately above, equals or exceeds 110% of the average for either or both of the corresponding three-month periods ending in the two preceding calendar years.

For weeks of unemployment beginning on or after February 22, 2009, there is a "state 'off' indicator" for a week if the Director determines, in accordance with the Secretary's regulations, that for the period consisting of that week and the immediately preceding 12 weeks, the TUR, seasonally adjusted, under the Unemployment Compensation Law, was less than 110% of such average for either or both of the corresponding three-month periods ending in the two preceding calendar years, and was less than 6.5%. (R.C. 4141.301(A)(3) and (5).)

Benefit amounts

Under continuing law, the Director is required to make the appropriate public announcement whenever an extended benefit period is to become effective in Ohio, as a result of a state "on" indicator, or an extended benefit period is to be terminated in Ohio as a result of a state "off" indicator. An individual qualifies for extended benefits if the individual has exhausted the individual's regular benefits and otherwise satisfies the requirements under the Unemployment Compensation Law to receive benefits. (R.C. 4141.301(B), (C), and (I)(1).) Under an extended benefit period triggered due to the IUR, the total extended benefit amount payable to any eligible individual with respect to the individual's applicable benefit year is the lesser of the following amounts:

(1) 50% of the total amount of regular benefits, including dependents' allowances, which were payable to the individual under the Unemployment Compensation Law, in the individual's applicable benefit year;

(2) 13 times the individual's weekly benefit amount, including dependents' allowances, which was payable to the individual under the Unemployment Compensation Law, for a week of total unemployment in the applicable benefit year; provided, that in making this computation, any amount that is not a multiple of one dollar is rounded to the next lower multiple of one dollar (R.C. 4141.301(E)).

The amount of total extended benefits paid during an extended benefit triggered by the TUR is the same as those paid during an extended benefit triggered by the IUR under continuing law, except during a "high-unemployment period." Continuing law defines "high-unemployment period" as a period during which an extended benefit period would be in effect if the TUR described in (1) under "**Extended benefit period triggers using the TUR**" above were applied by substituting "8%" for "6.5%."

Effective with respect to weeks beginning in a high-unemployment period, the total extended benefit amount payable to an eligible individual with respect to the applicable benefit year must be the lesser of the following amounts:

(1) 80% of the total amount of regular benefits that were payable to the individual pursuant to the act in the individual's applicable benefit year;

(2) 20 times the individual's average weekly benefit amount that was payable to the individual pursuant to the act for a week of total unemployment in the applicable benefit year. (R.C. 4141.301(F).)

Charging to employer accounts

The act specifies, unlike the charges made to employer accounts during an extended benefit period triggered under continuing law by the IUR, in the case of payments made during a period triggered by the TUR that are fully funded under the American Recovery and Reinvestment Act of 2009, none of the extended benefits are charged to the accounts of base period employers[2] or to the mutualized account. (R.C. 4141.301(J).)

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[2] "Base period" means the first four of the last five completed calendar quarters immediately preceding the first day of an individual's benefit year, except that if an individual does not have sufficient qualifying weeks and wages in the base period to qualify for benefit rights, the individual's base period is the four most recently completed calendar quarters preceding the first day of the individual's benefit year, which is referred to as the "alternate base period" (R.C. 4141.01(Q), not in the bill). Thus, a "base period employer" is an employer who employs an individual during the individual's base period.

Effective dates of the TUR trigger and high-unemployment benefits

Under current law, the TUR trigger described above and the payment of high-unemployment benefits are effective on and after February 22, 2009, and cease to be effective either on December 6, 2009, or until the close of the last day of the week ending three weeks prior to the last week for which federal sharing is authorized under the American Recovery and Reinvestment Act of 2009[3] whichever is later. Additionally, notwithstanding this time limit, the extended benefits authorized by using the TUR trigger continue to be paid to any individual who, as of December 26, 2009, has a balance of weeks remaining to be paid in the claim until such weeks are exhausted or the individual is reemployed, whichever occurs first, but in no event beyond May 29, 2010. (R.C. 4141.301(A)(3)(b) and (G).) Thus, the "state 'on' indicator" triggered by the TUR and the "high-unemployment period" benefit payments are in effect only during the time period that the federal government pays 100% of extended benefits.

The bill changes the end of the time period to allow the triggers to be used and high-unemployment period benefits to be paid until the close of the last day of the week ending four weeks, rather than three weeks as under current law, prior to the last week for which 100% federal sharing is authorized under *any* federal law that provides for 100% federal sharing. This provision includes the American Recovery and Reinvestment Act and applies notwithstanding the limited extension included in that Act. Additionally, the bill removes the reference to December 6, 2009, and the language concerning claimants with a balance of weeks remaining as of December 26, 2009. (R.C. 4141.301(A)(3)(b) and (G).) Additionally, as under continuing law, benefits paid under these provisions are not charged to a contributory employer's account or the mutualized account (R.C. 4141.301(J)).

Port authority bonds

(R.C. 4582.06 and 4582.48; Section 10)

Existing law authorizes port authorities, under certain circumstances, to issue revenue bonds for the acquisition, construction, furnishing, or equipping of any real or personal property related to an authorized purpose or for the purpose of paying the cost of port authority facilities. Any original issue of the revenue bonds must mature not later than 40 years from their date of issue. The final maturity of any revenue bonds that refund outstanding revenue bonds cannot be later than the later of (1) 40 years from the date of issue of the original issue of bonds or (2) the date by which it is expected, at the time of issuance of the refunding bonds, that the useful life of all of the

[3] Section 2005(a) of Pub. L. No. 111-5, 123 Stat. 115.

property, other than interest in land, refinanced with the proceeds of the bonds will have expired.

Under the bill, the final maturity of any original issue *or* any refunding bonds is to be not later than 45 years after the date of the original issue of the bonds. These changes apply to any proceedings commenced after the bill's effective date as well as to any proceedings that, on that date, are pending, in progress, or completed, and to the securities authorized or issued pursuant to those proceedings, notwithstanding any applicable laws previously in effect or any provision to the contrary in a prior resolution, ordinance, order, advertisement, notice, or other proceeding. Any proceedings pending or in progress or securities sold, issued, delivered, and validated on the bill's effective date are deemed to have been done in conformity with the changes made by the bill. Additionally, these changes are deemed to apply to securities issued pursuant to or in reliance on the provisions prior to the effective date of the bill.

The bill states that the authority provided by these changes is additional and supplemental to, and not in derogation of, nor does it negate, any similar authority provided by the Ohio Constitution or any other law.

Reallocation of the proceeds of the fees on the sale of new tires

(R.C. 1515.14 and 3734.901; Sections 6 and 9)

Current law levies two separate 50¢ per-tire fees on the sale of new tires for a total fee of $1 per new tire. The fees are required to be levied through June 30, 2011. The proceeds of the first 50¢ per-tire fee are required to be credited to the Scrap Tire Management Fund and generally used to administer and enforce the Environmental Protection Agency's scrap tire management program. The proceeds of the second 50¢ per-tire fee also are required to be credited to the Scrap Tire Management Fund, but are required to be used specifically to conduct scrap tire removal actions and to make grants to boards of health for the treatment of vectors at scrap tire facilities.

The bill reallocates the proceeds of the second 50¢ fee on the sale of new tires. Under the bill, beginning July 1, 2010, all proceeds from the fee must be credited to the Soil and Water Conservation District Assistance Fund, which is used to provide funding to soil and water conservation districts.

The bill also permits, if determined to be necessary, the Director of Natural Resources to request the Controlling Board to increase appropriations to the Soil and Water Conservation District Assistance Fund in order to account for the increased revenue generated by the bill. The Controlling Board is required to approve such a request.

Soil and water conservation district annual subsidies

(Sections 6 and 7)

Existing law provides for the payment of an annual subsidy to an individual soil and water conservation district that is over and above the authorized state payments to that district. Upon receipt of a request and justification from a district and approval by the Ohio Soil and Water Conservation Commission, the Department of Natural Resources may pay the district an annual amount of not more than $30,000.

The bill increases the maximum amount of the subsidy to $40,000.

Various appropriation changes

(Sections 6, 7, 8, 11, 12, and 13)

The bill makes changes to certain appropriations for eTech Ohio, the Board of Regents, and the Department of Natural Resources.

The bill modifies the technology operations appropriation to eTech Ohio for use in establishing and maintaining a clearinghouse for interactive distance learning courses.

The bill modifies an appropriation for the Board of Regents' Hazardous Materials Program to permit the funds to be used to support the Center for the Interdisciplinary Study of Education and Leadership in Public Service at Cleveland State University.

The bill redirects a capital appropriation for Rio Grande Community College for the Louvee Theater Projects to Ohio University.

The bill redirects a capital appropriation for $500,000 from the Green Township Legacy Place to the Green Township Bicentennial Park and the Unnewehr Home Grounds Restoration.

The bill redirects a capital appropriation for $100,000 from the Youngstown City Park to the Wick Park Playground.

The bill redirects a capital appropriation for $500,000 from the Columbus Crew Facility – Hilliard to the Hilliard First Responders Park.

Effective date

(Section 14)

The bill declares an emergency and therefore takes effect immediately when it becomes law.

HISTORY

ACTION	DATE
Introduced	07-13-09
Reported, S. Finance & Financial Institutions	01-13-10
Passed Senate (31-0)	01-27-10
Reported, H. Finance & Appropriations	---

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