



COUNTY ADVISORY BULLETIN

CAB

Published by the County Commissioners Association of Ohio

209 East State Street • Columbus, Ohio 43215-4309
Phone: 614-221-5627 • Fax: 614-221-6986 • www.ccao.org

Bulletin 2023 - 2

August 2023

STATE ARPA APPROPRIATIONS; STEP UP TO QUALITY CHILD CARE REGULATION; FEDERALLY SUBSIDIZED HOUSING VALUATION

APPLICABLE LEGISLATION: Amended Substitute House Bill 45 (134th General Assembly)

REVISED CODE SECTIONS: Amends Sections 102.01, 121.22, 124.134, 149.311, 149.43, 173.501, 307.6910, 1710.02, 2101.16, 2915.092, 3310.70, 3317.0212, 3333.051, 3505.183, 3509.05, 3781.1010, 3929.43, 4503.591, 4509.70, 5104.30, 5104.31, 5104.32, 5104.38, 5165.36, 5301.36, 5713.03, 5721.03, 5747.01, and 5747.98. Enacts Sections 3333.128, 3955.061, 3956.061, 5101.19, 5101.191, 5101.192, 5101.193, 5101.194, and 5104.37. Repeals Section 5747.37.

UNCODIFIED SECTIONS: Amends Sections 265.220, 307.270, 343.30, and 701.70 of H.B. 110 of the 134th General Assembly; Sections 219.10 as subsequently amended, 221.10 as subsequently amended, 221.13 as subsequently amended, and 237.13 as subsequently amended of H.B. 597 of the 134th General Assembly; and Sections 207.15, 221.10, 221.13, 223.10, 223.15, 237.10, and 237.13 of H.B. 687 of the 134th General Assembly. Repeals Section 715.20 of H.B. 110 of the 134th General Assembly.

LEAD SPONSORS: Representative Thomas West and Representative Bill Roemer

HOUSE COSPONSORS: Blackshear, Boyd, Brent, Carruthers, Click, Crawley, Crossman, Galonski, Ghanbari, Gross, Hicks-Hudson, Ingram, Jarrells, Lampton, Lanese, Leland, Lepore-Hagan, Lightbody, Manning, Miller, A; Miller, J; Miranda, O'Brien, Oelslager, Patton, Pavliga, Riedel, Russo, Schmidt, Sheehy, Smith, Smith, Sobecki, Swearingen, Sweeney, Sykes, Upchurch, Weinstein, Young, Zeltwanger

SENATE COSPONSORS: Antonio, Brenner, Cirino, Craig, Gavarone, Hackett, Hoagland, Hottinger, Huffman, Johnson, Lang, Maharath, Manning, Reineke, Rulli, Thomas, Yuko

EFFECTIVE DATE: April 7, 2023; Appropriations effective January 6, 2023.

SUMMARY

HB 45 appropriates \$1.4 billion of American Rescue Plan Act (ARPA) – State Fiscal Recovery Fund resources and makes numerous permanent law changes to various state and local programs. The legislation was originally introduced as a temporary tax amnesty bill in February 2021, and passed

the House in this form in December 2021 by a vote of 93 – 0. After receiving amendments in the Senate Finance Committee, the bill was passed by the Senate in December 2022, by a vote of 30 – 0, to which the House concurred 71 – 10.

Permanent law changes discussed in this Bulletin include the following:

- Permits the Department of Taxation to establish a two-month tax amnesty in 2023 provided certain projected revenue targets are met.
- Authorizes the publication of a county delinquent property tax list online, provided the first publication is made in a newspaper of general circulation.
- Authorizes a county auditor to value federally-subsidized housing by using one of three standard appraisal methods and prohibits the use of the state historic rehabilitation credit for a federally-subsidized housing project.
- Creates the Ohio Adoption Grant Program, repeals the state income tax credit for the adoption of a child, reduces the probate court adoption petition fee, and removes the requirement to deposit a portion of the fee in the Putative Father Registry Fund.
- Exempts certain child-care providers from the Step Up to Quality rating program administered by the Ohio Department of Job and Family Services.
- Changes election law by modifying deadlines to give boards of elections more time to process ballots. Requires that a board of elections with a drop box at its office for absentee ballots must be open to receive ballots at all times during the absentee voting period.
- Limits the application of the Ethics Law, Open Meetings Law, and Public Records Law to a qualified nonprofit corporation that forms a special improvement district (SID).

Other permanent law changes not discussed in this Bulletin include the establishment of a college grant program for Ohio residents; certain Medicaid provider payments; expansion of the Medicaid PACE program; state employee vacation leave cash conversion; Board of Building Standards requirements for schools; school district raffles for fundraising; extension of Afterschool Child Enrichment (ACE) Educational Savings Accounts; prohibition on class action lawsuits resulting from failure to timely record mortgages; public records requests filed with Ohio public insurance entities; professional sports logo license plates; and, exemption of the Veterans Memorial and Museum from Open Meetings Law and Public Records Law. Readers interested in these details should consult the Ohio Legislative Service Commission's Final Analysis of HB 45.

AMERICAN RESCUE PLAN ACT APPROPRIATIONS

The State of Ohio received \$5.37 billion in ARPA State Fiscal Recovery Funds from the US Treasury. These funds have to be obligated by December 31, 2024, and expended by December 31, 2026. Previous legislation in the 134th General Assembly appropriated nearly \$3.5 billion of these funds.¹ In previous bills, the largest single appropriation item was \$1.47 billion for repayment of debt to the federal government for unemployment compensation funding.

¹ House Bill 168, House Bill 169, House Bill 377, House Bill 687, and various Controlling Board actions.

HB 45 appropriated an additional \$1.4 billion in ARPA State Fiscal Recovery Funds, leaving slightly over \$400 million remaining. Remaining funds were appropriated by the state operating budget bill for FY 2024-2025 (Am. Sub. House Bill 33, 135th G.A.). The largest State Fiscal Recovery Fund appropriation in HB 45 was \$350 million for Medicaid payments to nursing facilities. Other notable appropriations for counties and local governments included:

- \$250 million for the second round of funding for the water and sewer quality grant program started by House Bill 168.
- \$150 million for lead prevention and mitigation.
- \$90 million for expansion of mental health crisis centers.
- \$30 million to the Ohio Department of Job and Family Services to help counties with the restart of the Medicaid redetermination process due to the end of the COVID-19 public health emergency.
- \$50 million for state fairs.

State-Level ARPA Appropriations and County-Related Appropriations in House Bill 45 (in millions)		
Department	Purpose	Appropriation
State Fiscal Recovery Funds (ARPA)		
OBM	Nursing facility workforce support	\$350.0
	Statewide hospital support	\$100.0
	Assisted living workforce support	\$40.0
	Hospice care workforce support	\$30.0
	Ohio ambulance transportation	\$20.0
	Home and community based services workforce support	\$10.0
	Adult day care support	\$8.0
	ALS support grants	\$1.0
Department of Development	Water and sewer quality grant program	\$250.0
	Lead prevention and mitigation	\$150.0
	Water and sewer support for megaprojects	\$75.0
	Arts and cultural enterprises grant program	\$50.0
	Workforce housing development	\$25.0
Expositions Commission	State fair support	\$50.0
JFS	Medicaid redetermination support	\$30.0
	Community food assistance	\$25.0
	JFS operating funds	\$13.0
	Food assistance	\$5.0
	Legal services for Ukrainian refugees	\$5.0
OMHAS	Crisis infrastructure expansion	\$90.0
Facilities Construction Commission	School security grants	\$112.0
Attorney General	Ohio Crime Victim Justice Center	\$0.9
Total State Fiscal Recovery Funds (ARPA)		\$1,439.9

State-Level ARPA Appropriations and County-Related Appropriations in House Bill 45 (in millions)		
Department	Purpose	Appropriation
State General Revenue Fund, Selected Appropriations		
Agriculture	County agricultural societies support	\$4.5
Transportation	Support for the Regional Transportation Improvement Project in Carroll, Columbiana, and Stark counties	\$0.2
Attorney General	Pike County capital case support	\$0.5
	Law Enforcement Reimbursement Training Pilot Program	\$5.0
Selected State General Revenue Fund Total		\$10.2
Other Appropriations, Selected		
OBM	Ashtabula County grant for Geneva Lodge	\$14.0
Department of Development	Rent and Utility Assistance (ARPA - Emergency Rental Assistance)	\$161.0
Secretary of State	Replacement electronic pollbooks and associated technology (line item funded by GRF transfer)	\$7.5
Developmental Disabilities	County board waiver match	\$45.0
Selected Other Appropriations Total		\$227.5
Total State Fiscal Recovery Fund and Selected Other Appropriations		\$1,677.6

Please note that the table above does not include all appropriations in the bill. For example, school districts, community schools, and STEM schools received \$1.75 billion in ARPA Elementary and Secondary School Emergency Relief (ESSER) Funds in proportion to their share of Title I, Part A funds. The bill also appropriates nearly \$500 million in Federal Child Care Development Fund resources and requires ODJFS to make direct payment to providers serving children eligible for publicly-funded child care. For a complete list of appropriations, please see the Legislative Budget Office Final Fiscal Note for HB 45 As Enacted.

VALUATION OF FEDERALLY-SUBSIDIZED RENTAL HOUSING

ORC Sections 148.311 and 5713.03

HB 45 permits a county auditor to determine the valuation of a qualified low-income housing tax credit (LIHTC) project through use of one or more of the comparable sales approach, the income approach, or the cost approach, starting in tax year 2023. This language is meant to address the 2009 Ohio Supreme Court ruling in *Woda Ivy Glen v. Fayette County Board of Revision* and its successors that mandate the use of an income approach that takes into account the restricted rents that LIHTC properties must charge. The *Woda* case prohibits the use of the cost valuation or market-based approach for LIHTC properties.

Achieving a reconsideration of the *Woda* case has been a long-standing goal for CCAO and is reflected in the Taxation and Finance Committee's legislative platform. The bill also prohibits a LIHTC property from participating in the Department of Development's historic rehabilitation tax credit program. **Note: this provision has been superseded by an amendment to ORC Section 5713.03 in House Bill 33, 135th General Assembly, that establishes a standardized income valuation approach for federally subsidized housing programs. Please see the County Advisory Bulletin for that legislation.**

PUBLICATION OF DELINQUENT PROPERTY TAX LIST

ORC Section 5721.03

Current law requires a county auditor to publish a delinquent tax list in a newspaper of general circulation. The list must be published twice within 60 days after the auditor certifies the list to the county treasurer. HB 45 creates permissive authority for the county auditor to make the second publication of the delinquent tax list on a website maintained or approved by the county after the first publication in a newspaper. This language was taken from [House Bill 255](#) (Rep. Scott Lipps), which passed the House earlier in 2022 and was pending in the Senate Ways and Means Committee. This change is supported by CCAO.

CHANGES TO STEP UP TO QUALITY

ORC Sections 5104.30, 5104.31, 5104.32, 5104.37, 5104.38

HB 45 expands the exemptions for licensed child care programs that must be rated in the Step Up to Quality (SUTQ) Program to be eligible to provide publicly funded child care to include:

- A program that is a type A family day-care home or licensed type B family day-care home;
- A program that provides publicly funded child care to less than 25% of the program's license capacity.

HB 45 also eliminates the requirements that the director of JFS establish enhanced reimbursement rates for providers maintaining quality ratings under SUTQ and that the director weigh any reductions in reimbursement more heavily against providers that do not participate in SUTQ or maintain quality ratings.

The bill also requires JFS to encourage the establishment and licensure of family day-care homes and to connect families with such homes not meeting their license capacity. The director of JFS is required to send a report to the General Assembly by May 30, 2023 and periodically after that documents barriers to the establishment and licensure of family day-care homes.

OHIO ADOPTION GRANT PROGRAM

ORC Sections 5101.19, 5101.191, 5101.192 (A), 5101.193, 5747.01(A)(38), Uncodified Section 265.10

HB 45 establishes the Ohio Adoption Grant Program under JFS. The program will give adoptive parents one-time payments of:

- \$10,000;
- \$15,000 if the parent was a foster caregiver for the child prior to adoption;
- \$20,000 if the child was diagnosed with special needs before the adoption.

HB appropriated \$15 million in GRF in state fiscal year 2023 for the grants. HB 45 also provides for a state income tax deduction for adoption grant payments. JFS is not permitted to charge an application fee for the program.

The adopted person must be younger than 18 when the adoption is finalized. "Adoption" as defined includes in-state, interstate, and international or foreign adoption.

To be eligible for payment, all of the following must apply:

- The adoption is finalized on or after January 1, 2023;
- The adoptive parent has not previously received a grant payment from the program for the adopted child they are seeking payment for;
- The adoptive parent does not currently claim an adoption tax credit under former law for the adopted child for whom the parent is seeking payment;
- The adoptive parent applies for the grant within one year after the adoption is finalized;
- The adoption was not by a parent whose spouse is a parent of the child prior to the adoption.

If an adoptive parent is seeking a grant for a child diagnosed with special needs before the adoption, the diagnosis must be from a qualified professional (including a physician, psychiatrist, or psychologist) who does not provide casework services to the child. Special needs are defined as any of the following:

- A developmental disability;
- A physical or mental impairment that substantially limits one or more major life activities;
- Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems;
- Any mental or psychological disorder;
- A medical condition causing distress, pain, dysfunction, or social problems as diagnosed by a qualified professional that results in ongoing medical treatment.

ADOPTION TAX CREDIT REPEAL

Repealed ORC 5727.37
ORC Section 5747.98 and Uncodified Section 107.10

HB 45 repeals the state nonrefundable adoption income tax credit. The credit previously reduced the income tax liability for a taxpayer who legally adopted a child by the greater of \$1,500 or the taxpayer's actual expenses to complete the adoption, up to \$10,000. The credit remained available for a taxpayer who adopted a minor child by December 31, 2022.

ADOPTION PETITION FEE AND PUTATIVE FATHER REGISTRY FUND

ORC Sections 2101.16(A)(3) and 2101.16(F), Uncodified Section 265.10

HB 45 decreases the probate court fee for an adoption petition from \$50 to \$20. This fee is charged and collected by the probate judge for all services rendered in the proceedings.

HB 45 eliminated the requirement that a portion of the adoption petition fee be deposited in the Putative Father Registry Fund. Previously \$30 of the \$50 fee was deposited into the fund. HB 45 appropriated \$500,000 GRF to the fund in state fiscal year 2023. These funds are used by JFS to operate the registry which allows putative fathers to receive notice of an adoption petition being filed for a minor child claimed by the putative father.

LIMITED TAX AMNESTY FOR 2023

Uncodified Section 757.01

The bill authorizes the Director of Budget and Management to establish a two-month tax amnesty period in calendar year 2023 if the Director finds that the General Revenue Fund will require additional proceeds from the amnesty program in order to meet obligations required to be paid from that fund in calendar year 2023. The determination must be made prior to November 1, 2023. The amnesty includes state and local sales and use taxes and most other state taxes and fees administered by the Ohio Department of Taxation. A taxpayer may apply for the amnesty for taxes that were underreported or unreported, but not for which a notice of assessment or audit has been issued, for which a bill has been issued, or for which an audit has been conducted or is pending.

ELECTIONS LAW CHANGES

Revised Code Sections 3505.183 and 3509.05

House Bill 45 contained several changes that modified provisions in House Bill 458, which was enacted earlier in the same day (December 14, 2022). House Bill 45 extends the number of days that a board of elections is permitted to examine provisional ballots to seven days after Election Day. HB 45 also prohibits the board from examining a ballot that must be cured until the eighth day after Election Day or until the voter provides the missing information.

If a board of elections has a ballot box at its offices, HB 45 requires the drop box to be open at all times to receive ballots during the absentee voting period.

SPECIAL IMPROVEMENT DISTRICTS

Revised Code Section 1710.02

Special improvement districts are formed in a local area and are permitted to collect special assessments for public improvements from property owners that are members of the district. HB 45 provides a partial exemption from state ethics law, open meetings law, and public records law for an existing qualified nonprofit corporation that forms a SID and meets certain conditions, including, but not limited to, having members within or adjacent to the district and having established a police department. In this special situation, the nonprofit corporation is subject to ethics law, open meetings law, and public records law only when it acts with respect to a purpose for which the SID is created, and not when it is acting for an unrelated purpose.