

Impacts of the Biennial Budget Bill on School Funding and School Facilities

After prolonged negotiations in the legislative Conference Committee and a 17-day delay, the Ohio General Assembly approved the biennial Budget Bill (Am. Sub. H.B. 166) on July 17, 2019, and sent it to Governor DeWine for signature. The governor signed the bill on July 18, but not before exercising his line-item veto power on several provisions.

The Bill, as enacted, contains a multitude of provisions related to school funding and facilities that will have substantial effects on school districts and educational service centers. Within those provisions, the Bill:

School Funding	<ul style="list-style-type: none"> Suspends the use of the current foundation aid formula set for FY 2020 and FY 2021 and replaces it with the funding formula used in FY 2019 (understood to be based on the final reconciliation for that fiscal year). Requires other state payments to school districts that are based on a formula utilizing the “state share index” or “state share percentage” as a factor to be calculated using FY 2019 figures. For FY 2020 and FY 2021, provides additional payments to school districts with at least 50 enrolled students that experienced an increase in enrollment between FY 2016 and FY 2019 calculated as an amount equal to (i) the average annual percentage of enrollment change, (ii) multiplied by 100 times the number of students enrolled in the district for FY 2019, (iii) multiplied by \$20 for FY 2020 and \$30 for FY 2021. Creates new funding for student wellness and success initiatives on a per pupil basis (ranging from \$20 to \$360 per pupil) based on the percentage of children residing in each school district with family incomes below 185% of the Federal Poverty Guidelines. Each school district will receive a minimum aggregate payment of \$25,000 for FY 2020 and \$36,000 for FY 2019. Funds may be spent on certain wellness initiatives, such as mental health services, youth homelessness services, mentoring programs and professional development regarding cultural competence.
School District Income Tax	<ul style="list-style-type: none"> Eliminates the small business tax credit in the calculation of taxable income for purposes of a school district income tax.
Primary Election Date	<ul style="list-style-type: none"> Moves the date of presidential primary election from the second Tuesday after the first Monday in March to the third Tuesday after the first Monday in March. (The forthcoming presidential primary will now be held on March 17, 2020, which will also be St. Patrick’s Day.)
Teacher Salaries	<ul style="list-style-type: none"> Increases minimum salaries for teachers; the minimum salary for a teacher with a bachelor’s degree increases from \$20,000 to \$30,000.
Transfer of School District Territory	<ul style="list-style-type: none"> Creates a new process for transferring school district territory within a township split between two or more school districts, in addition to current processes prescribed by law.
Sale of Unused School Facilities	<ul style="list-style-type: none"> Requires a school district to offer to sell or lease a school facility to community schools, STEM schools and college-preparatory boarding schools if the facility has not been used for school operations for one year, rather than two years as required in prior law. (H.B. 43, introduced in February 2019, seeks to repeal the entire requirement.)
Competitive Bidding Exception Related to Educational Service Centers (ESC)	<ul style="list-style-type: none"> Permits, in certain circumstances, an ESC to purchase supplies, materials, equipment and services on behalf of school districts with which it has a service agreement, and for the school district to be exempt from competitive bidding requirements for those items.
Agreements With ESCs	<ul style="list-style-type: none"> Imposes a moratorium on a school district entering into a new service agreement with an ESC until end of FY 2021.
OFCC Project Maintenance Set-Aside	<ul style="list-style-type: none"> Allows the 0.5-mill maintenance fund set-aside, required for state-funded classroom facilities projects, to be used for “upgrades” (in addition to maintenance) subject to approval by the OFCC, and revises the statutory ballot language for maintenance levies. (Existing maintenance levies may require further voter approval for the proceeds to be used for upgrades.)
OFCC Storm Shelter Moratorium	<ul style="list-style-type: none"> Extends the moratorium on building code requirements for constructing storm shelters in new or renovated school buildings until September 15, 2020.

The appropriation provisions of the bill became effective immediately upon the governor's signature. The other provisions will generally become effective on the 91st day after the enacted bill is filed with the Secretary of State, unless another effective date is otherwise specified in the bill with regard to any such provision.

Several provisions of the bill were ultimately eliminated in Conference Committee, including a provision that would have eliminated Academic Distress Commissions; however, the enacted version of the bill institutes a moratorium on establishing new Academic Distress Commissions during the 2019-2020 school year. The Conference Committee further eliminated provisions that would have:

- Prohibited local tax issues from being placed on the ballot at an August election
- Required school districts and other political subdivisions to adopt an authorizing resolution prior to filing a complaint or counter-complaint challenging a property tax valuation

In addition, the governor exercised line-item vetoes on certain provisions of the bill passed by the General Assembly, including provisions that would have:

- Beginning in FY 2022, guaranteed school districts at least as much funding per pupil as the statewide per pupil amount paid to chartered non-public schools in Auxiliary Services funds and for administrative costs reimbursements (being \$1,305 per pupil in FY 2019)
- Provided up to a three- to five-year real estate tax abatement on agricultural property that is subdivided for new residential development during the period prior to the sale or construction of the residential dwellings
- Changed the ballot language for *ad valorem* property tax levies to include a statement of the levy's rate in dollars per \$100,000 of fair market value, instead of dollars for each \$100 of taxable value as required under current law

For more information about the biennial Budget Bill, please contact the firm lawyer with whom you typically work or one of the contacts listed below.

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