



Office of Budget and Management

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OFFICE OF BUDGET AND MANAGEMENT
MID BIENNIUM REVIEW
TESTIMONY OF TIMOTHY S. KEEN

BEFORE THE

SENATE WAYS AND MEANS COMMITTEE

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Chairman Peterson, Ranking Member Tavares and members of the Senate Ways and Means Committee, my name is Tim Keen and I am director of the Office of Budget and Management. I appreciate this opportunity to appear before you today to testify in support of the provisions of the OBM-MBR, which I understand will be under consideration today as you deliberate on the substitute bill for H.B. 390.

My intention today is to provide an overview of the Mid-Biennium Review process and to summarize, with notable examples, the initiatives contained in the OBM-MBR. The Administration has worked closely with House and Senate leadership to review and discuss the issues addressed in the OBM-MBR -- which was introduced as HB 547 -- and the amendments added yesterday in the House Finance Committee that also are under consideration here today.

The Mid-Biennium Review Process

As you will recall from the first two Mid-Biennium Reviews (MBRs) in 2012 and 2014, development of the MBR is a structured budget and policy process created by Governor Kasich to continue his agenda of reform without waiting another two years for the next biennial budget process. As with the previous two MBRs the Kasich Administration undertook a comprehensive review of the enacted budget, state policies, programs and agency operations. Cabinet directors again were asked to rigorously review the programs they administer and their internal operations and to make recommendations for improvement. Once again, the Administration reached out to external stakeholders to solicit their input.

This year, unlike previous MBR cycles, the resulting proposals are being introduced as a series of targeted bills as opposed to a single, comprehensive MBR proposal. So far, six bills have been introduced: H.B. 474, the Higher Education and the Workforce and Education MBR, is pending in the House Finance Higher Education Subcommittee; H.B. 483, the Developmental Disabilities MBR, passed out of the House and is scheduled for a vote this week in the Senate Finance Committee; S.B. 293, the Parks and Natural Resources MBR, passed out of the Senate and is scheduled for possible amendments this week in House Energy & Natural Resources Committee; H.B. 512, a Water Quality MBR protecting Ohioans from lead in drinking water, passed out of the House and is scheduled for a vote this week in Senate Energy & Natural Resources Committee; S.B. 319, the MBR to address issues related to opiate abuse, is scheduled for possible amendments and vote this week in Senate Health & Human Services Committee; and S.B. 333, a Water Quality MBR protecting Lake Erie and all drinking water sources, was introduced last Wednesday and is awaiting referral to a Senate committee.

Turning attention to the OBM-MBR, I'd like to first discuss the bill as it was introduced in the House before addressing the amendments being considered today by this Committee. The OBM-MBR makes a number of changes that can be classified into four broad categories: appropriation changes and adjustments, operating budget and prior MBR provision amendments; capital bill and re-appropriations bill clean up; and tax provisions.

Appropriation Changes and Adjustments

The OBM-MBR contains a number of appropriation changes, a few of which are increases reflective of changing circumstances since the passage of the operating bill. Others are modifications within the existing appropriation authority.

The largest appropriation change in the bill is \$18 million to the **Department of Rehabilitation and Correction** (DRC) to provide security and mental health programming improvements and for the Treatment Transfer program. This program, which was established in H.B. 64, allows DRC to transfer certain non-violent inmates out of DRC institutions and into specific community facilities if they successfully complete a substance abuse treatment program.

The \$18 million in this bill allows DRC to continue to implement a security plan developed by the department to address critical populations within DRC institutions. This security plan includes the conversion of an existing facility to house Close Security inmates, in order to decrease the density of that population throughout all DRC institutions and reduce incidents of violence. This security plan will allow DRC to implement long-planned reforms to restrictive housing to provide increased programming, mental health treatment, and "out-of-cell time" to meet new national standards.

DRC was appropriated \$6.34 million in H.B. 340 in order to begin implementation of these initiatives in the second half of FY 2016. The \$18 million in this bill represents the full annualized cost and continuation of those initiatives.

The OBM-MBR also includes an additional operating appropriation of approximately \$1.4 million for the **Ohio State School for the Blind (OSB)**. This appropriation increase will offset the loss of a grant that provides for special education outreach efforts.

An example of an appropriation adjustment is the **Ohio Healthier Buckeye Grant Pilot Program** which was established in H.B. 64 of the 131st General Assembly to provide grants to local Healthier Buckeye councils and other individuals or organizations with the goal of promoting financial self-sufficiency and reduced reliance on public assistance. The program was funded by a year-end cash transfer of \$11.5 million from surplus General Revenue Funds, and was appropriated \$5 million in FY 2016 and \$6.5 million in FY 2017. Given the timing associated with establishing grant criteria and reviewing applications, no grant money has been awarded yet in FY 2016. The language included in this bill transfers the unexpended, unencumbered portion of the \$5 million appropriation from FY 2016 to FY 2017 to ensure that all original appropriations will be available over the biennium.

Operating Budget Bill and Prior MBR Provision Amendments

This bill will make minor adjustments and corrections to a number of provisions contained in the main operating budget bill (H.B. 64) and in prior MBR bills.

In H.B. 64, the **Department of Administrative Services** proposed adjusting the exempt pay tables by adding a new step 7 to exempt pay grades 12 through 16 to address longstanding wage compression issues between employees and their managers. This

amendment splits the step 7 wage increase in two — step 7 and step 8 — so that in the future each step contains a similar percentage increase as steps 1 through 6 that precede them.

Given the addition of this new step 8, this amendment also phases out the existing “step eight only” in order to move these exempt employees onto the revised grade and step schedule. The existing step 8, established in 2000 as a performance pay opportunity, was not widely used and now includes fewer than 200 employees.

Also, in the main budget bill, OBM adjusted the role the Director of OBM, Superintendent of Insurance, and the Tax Commissioner to provide a determination instead of a recommendation on each Job Retention Tax Credit application. Due to a drafting omission, one reference to “recommendations” was not changed to a “determination.” This item corrects the error and clarifies a reference to the Director of the **Development Services Agency**.

Capital Bill and Re-appropriation Bill Clean Up

The OBM-MBR also includes a number of amendments to the capital and capital reappropriations bills that provide necessary clarification on the use of capital funds or correct technical issues such as the identification of the fiscal agent and the proper name of the capital project.

Tax Provisions

The bill before you contains two proposals that will make amendments to tax law provisions in the Ohio Revised Code.

The first provision, that would remove the authority for counties to enact a utilities service tax, was included in the OBM-MBR at introduction, but also was added to H.B. 390 at a previous meeting of this committee. The second provision, which was not in the bill as introduced, consists of amendments to the statutes that govern the film tax credit that I will talk about in just a moment.

Controlling Board Emergency Purposes/Contingency Fund

Another provision I call to your attention proposes to direct \$25 million from the FY 2016 GRF ending balance to the Emergency Purposes/Contingency Fund. During FY16, the amount of emergency purposes requests -- notably wrongful imprisonment cases -- was greater than expected. These requests already have exceeded the \$10 million appropriated for emergency purposes in H.B. 64. While the fund still maintains a balance, given the expected availability of GRF funds at the end of the year, it is prudent to replenish the fund to provide for unbudgeted and unexpected circumstances.

Amendments

In addition to proposals contained in the OBM-MBR as introduced, there are a number of provisions that were added by the House yesterday and under consideration here today that are similar in nature and category to items in the bill as introduced that I have just outlined. Let me call you attention to four of those items.

Unemployment Compensation Debt

As you know, the unemployment compensation system is a joint federal-state program that provides cash benefits to eligible workers during short periods of unemployment with those benefits funded by payroll taxes on employers. During the Great Recession which began in 2008, the revenues from taxes on employers fell significantly short of the benefit payments due to workers and the State, as required under the federal program, began borrowing from the federal government in order to fund required benefits. This borrowing totaled \$3.4 billion from 2009 through 2014. To date, interest payments to the federal government made from State general revenues total \$245.8 million.

Repayment of the loan began in 2011 both from amounts collected from automatic increases in the federal unemployment compensation tax rate and from voluntary payments from available balances in the State trust fund. Under federal law, the federal tax rate increases by 0.3 percent of covered payroll, or approximately \$21 per employee, each year in which the federal loan remains outstanding. The cumulative effect of these annual federal tax increases means Ohio employers, regardless of their use of the unemployment compensation system, will pay a federal penalty rate of 1.8 percent or an average of \$126 per employee in 2017 if the federal loan is not fully repaid by November 10th of this year.

In order to prevent this increase in employer taxes and eliminate the federal unemployment compensation tax rate penalty, this bill enables repayment of the remaining federal loan balance (estimated to be \$225 - \$250 million) through a state loan of available moneys of unclaimed funds held by the **Department of Commerce**. This state loan would be repaid through a one-time calendar year 2017 employer surcharge estimated to be 0.5 percent of covered payroll or approximately \$50 per employee, which lowers employer taxes

by an average of \$76 per employee relative to the federal tax rate under a do-nothing scenario.

This bill also aligns Ohio with other states by authorizing surcharges on employers to cover interest payments on future federal borrowing. Furthermore, it accelerates the repayment of principal on any future federal loans on an experience-rated basis in the period before the federal tax rate increases would begin.

While this bill advances repayment of the current federal loan in a way that reduces the tax burden on Ohio businesses in 2017, it does not tackle the most important long-term challenge -- the ongoing structural imbalance between revenues and benefits in Ohio's unemployment compensation system. As long as the status quo remains, the system is vulnerable to imbalances which lead to greater costs to employers. Make no mistake, significant work remains to be done to restore long-term solvency to the unemployment compensation system. The Governor is committed to productive, meaningful engagement with the General Assembly and system stakeholders over the remainder of this year to enact structural reform that will put in place a sustainable, predictable and affordable unemployment compensation system.

Film Tax Credit

Another amendment to this bill would make four major changes to the existing motion picture tax credit.

First, the cap on the credit is doubled from \$40 million allowed per biennium to \$40 million allowed per fiscal year, beginning with fiscal year 2017.

Second, the credit is made transferable. A motion picture company that receives a tax credit certificate may transfer all or a portion of the credit to one or more other persons. The motion picture company is limited to one transfer of the tax credit per certificate. This will be the first transferable tax credit allowed under Ohio law.

Third, the individual credit cap of \$5 million per eligible production is removed.

Fourth, the credit is made equal to 30 percent of the lesser of actual or budgeted eligible production expenditures, as long as they exceed \$300,000. This uniform 30 percent replaces the two-tiered structure where the credit is equal to 25 percent of expenditures other than resident cast and crew wages, and 35 percent of resident cast and crew wages.

In addition to the tax credit change, the bill would require the director of **Development Services** to create a training program for Ohio residents in the film or multimedia industry. Motion picture companies who employ trainees in tax-credit eligible productions will be reimbursed for 50 percent of the salaries paid to the film and multimedia trainees employed in the production.

Reimbursements to Educational Service Centers

The bill increases the earmark in the Foundation Funding appropriation line item for per-pupil payments to Educational Service Centers in fiscal year 2016 and 2017 in order to accommodate the post-operating budget decision made by two large urban school districts to affiliate with an ESC. This earmark increase ensures that the per-pupil funding remains at approximately the same level as paid in fiscal year 2015 for fiscal years 2016 and 2017.

Improve Population Health Planning

In September 2015, the Governor's **Office of Health Transformation** (OHT) convened representatives of local health districts, hospitals and state agencies to make recommendations to align population health planning. Today there is a lack of coordination across 110 local health district plans and 170 hospital community health improvement plans.

This amendment requires tax-exempt hospitals and local health departments to align community health assessments and plans every three years, beginning in 2020, and submit their existing assessments and plans to a state repository effective July 1, 2017. The language also requires tax-exempt hospitals to submit their Internal Revenue Service Schedule H (Form 990) -- which is a public document showing how much the hospital spends on community benefits -- to a state repository to better account for community benefits, effective July 1, 2017 and each year thereafter.

The same three-year planning timeline and greater transparency of those plans will make it easier for local communities to set priorities that improve the health of their citizens. Also, the opportunity to conduct one shared assessment for every health district and hospital in a county instead of paying for multiple separate assessments has the potential for significant savings over time.

Closing Remarks

I appreciate the opportunity to provide testimony today and thank you for your time and consideration. Mr. Chairman, members of the Committee, at this time, I would be happy to address any questions you may have.

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