



COUNTY ADVISORY BULLETIN

CAB

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BULLETIN 2022-06

June 2022

134th General Assembly Capital Budget

APPLICABLE LEGISLATION: Sub. H. B. No. 687 (134th General Assembly)

REVISED CODE SECTIONS: Amends R.C. sections 122.17, 123.201, 123.211, 153.692, 153.71, 1501.011, 3318.08, 3318.36, 3735.67, 3735.671, 5739.01, 5739.02, 5751.01, 5751.052, 5751.091, and 6115.20 of the Revised Code and Amends Sections 219.10, 221.10, 221.13, 223.10, 223.15, 227.10, 229.10, 229.20, 237.10, and 237.13 of H.B. 597 of the 134th General Assembly to provide authorization and conditions for the operation of certain state programs, to make capital appropriations for the biennium ending June 30, 2024, and to make other appropriations.

LEAD SPONSOR: Rep. Oelslager

HOUSE COSPONSORS: Oelslager, West, Baldrige, Bird, Blackshear, Boggs, Brent, Brown, Callender, Carruthers, Click, Creech, Crossman, Cutrona, Davis, Denson, Fraizer, Galonski, Ghanbari, Hall, Hicks-Hudson, Hillyer, Holmes, Humphrey, Ingram, Jarrells, John, Jones, Lepore-Hagan, Lipps, Liston, Loychik, Miranda, Patton, Pavliga, Plummer, Richardson, Robinson, Roemer, Russo, Schmidt, Seitz, Sheehy, Sobecki, Stein, Stephens, Stewart, Sykes, Troy, Weinstein, White, Wilkin, Johnson

SENATE COSPONSORS: Antonio, Blessing III, Brenner, Cirino, Craig, Dolan, Fedor, Gavarone, Hackett, Hoagland, Hottinger, Kunze, Lang, Peterson, Reineke, Roegner, Rulli, Schaffer, Schuring, Thomas, Yuko

EFFECTIVE DATE: Temporary law: June 14, 2022, Permanent law: September 13, 2022

BACKGROUND

Substitute House Bill 687 (HB 687) makes capital appropriations totaling \$3.51 billion for the FY 2023-FY 2024 biennium, and authorizes about \$2.28 billion in new debt. The bill contains \$50 million dollars for the construction and renovation of county jails as well as two earmarks for the Butler County Correctional Complex and the Crestline Jail in Crawford County.

The funding in HB 687 builds upon the previous allocation of \$50 million for jail construction and renovation contained in Senate Bill 310 (SB 310) from the 133rd General Assembly. The funding is to be distributed the Ohio Department of Rehabilitation and Correction (ODRC).

HB 687 also makes several changes to the selection process that counties are required to utilize for design professional contracts. The bill also modifies the qualifications and administration of “megaproject” tax incentive projects. Last, HB 687 contains temporary law that authorizes the Office of Budget and Management (OBM) to use general revenue fund (GRF) dollars to pay for capital projects contained in the bill, in lieu of bond funding.

SYNOPSIS

Capital Appropriations for the Construction and Renovation of County Jails

HB 687 requires ODRC to create a process to accept applications for local jail projects and subsequently develop guidelines and criteria to evaluate the merits of each project. The guidelines shall require the county or counties to justify the need for the project and to comply with timelines for the submission of documentation pertaining to the project and project location. The language in HB 687 states that ODRC must prioritize projects that:

- Target county jails that the Department of Rehabilitation and Correction determines to have the greatest need for construction or renovation work;
- Improve substantially the condition, safety and operational ability of the jail; and
- Benefit jails that are, or will be, used by multiple counties.

In response to the language contained in SB 310 and HB 687, ODRC has developed a grant application to award jail construction and renovation funding to counties. The grant application will be released within several months of the effective date of the bill and will allow Counties 90 days to respond to the grant. ODRC may modify the grant application in future capital budget cycles, but it will likely focus on the following questions/topics:

- Type of project:
 - New construction
 - Renovation/Modification of an existing facility
- Will the County be able to provide matching funds?
- Does your county currently have a full-service jail?
- Is your county named to receive a capital funding award in a previous capital budget?
- Is this project designed to address life-safety issues previously identified by the Bureau of Adult Detention or other enforcement/regulatory agencies?
- During a jail inspection in the last two years, was the jail found to be non-compliant with standards related to the physical plant?
- Is this project designed to address physical plant issues identified as being noncompliant during previous annual inspections?
- Will this project serve a currently under-served female population?
- Does this project add/increase substance abuse/mental health programming space?
- For the past 30 days, what is the percentage by which the jail's population exceeded the Bureau Recommended Capacity for the facility?
- For the past 30 days, what is the average daily number of sentenced offenders on the waiting list for jail bed space as compared to the Bureau Recommended Capacity?
- For the past 30 days what is the average daily number of inmates currently housed in other jails compared to the Bureau Recommended Capacity for the jail?
- Is this project designed to benefit multiple counties?
- What is the age of your facility?
- Is the jail under court order, consent decree, or presently negotiating a consent decree or operating under an emergency release mechanism?
- What is the projected cost per bed of your project?
- Does your county have the financial ability to support the operating and maintenance costs of the project following completion?
- What is your county's progress in the formal planning process?
 - Have not yet begun a formal planning process.
 - Formal Planning Started
 - Completed Phase I of the Planning Approval Process.

- Completed Phase III of the Planning Approval Process.
- Started Construction or alteration.
- How will the project be managed by the county?
- Briefly describe your county team’s past experience with the management of projects.

Modifications to Selection Process for Design Professionals

Continuing law requires counties and other public authorities to use a qualifications-based selection process when retaining an architect, landscape architect, surveyor, and/or professional engineer to produce plans and designs.

(R.C 153.65-153.72)

The law prohibits a county from requiring any form of fee estimate, fee proposal, or other estimate or measure of compensation prior to selecting and ranking professional design firms, unless a state agency has previously selected and ranked firms for a project.

(R.C 153.691)

Counties can also opt to use a “design-build” contract that combines design and construction services into one overall contract for the project. Prior law allowed an exception to the announcement and selection procedures for professional design services if a project has an estimated professional design fee of less than \$50,000 and both of the following conditions apply:

- The county selects a single design professional or firm from among those that have submitted a current statement of qualifications within the immediately preceding year; and
- The public authority and the selected design professional comply with the legally-required objectives for negotiating a professional design services contract.

(R.C 153.71)

House Bill 687 exempts projects from the qualifications-based process if the estimated project fee is less than \$25,000. This exemption will allow counties to select the design professional using its own criteria, including up-front price consideration, for projects under the \$25,000 threshold.

The law continues to allow for an exception for any project determined in writing to be an emergency requiring immediate action including, but not limited to, any projects requiring multiple contracts let as part of a program requiring a large number of professional design firms of the same type.

(R.C 153.71)

Use of GRF Dollars to Fund Capital Projects

House Bill 687 allows the Director of OBM to transfer up to \$1,500,000,000 from the GRF to the funds used to fund capital projects in the bill. If the OBM Director transfers an amount under this threshold, he or she must shall send written notification to the Speaker of the House of Representatives and the President of the Senate itemizing each fund that received such a transfer within seven calendar days of the transfer.

Alternatively, the bill allows the OBM Director to make a similar transfer of an amount greater than \$1.500,000,000. However, the Director shall report in writing to the Speaker of the House of Representatives and the President of the Senate indicating the opportunity to make such additional transfers. The Director's notification shall itemize the proposed amount of cash to be transferred from the General Revenue Fund to each fund that would receive such a transfer. If neither the Speaker of the House of Representatives nor the President of the Senate notify the Director in writing of an

objection to the proposed additional transfers within seven calendar days from delivery of such a notification, the Director may transfer the additional amounts in accordance with the proposal.

(529.10)

Megaproject Incentive and Administrative Changes

Last, HB 687 makes several changes to the Megaproject Tax Incentive Program, which was originally enacted in 2021 as part of H.B. 110, the state's biennial budget for the 134th General Assembly. Under HB 687, the program is modified to apply to a semiconductor wafer manufacturing facility in a variety of facets.

First, the bill allows for the Tax Credit Authority (TCA) to designate more than one business as an operator of a megaproject. It also exempts sales and use tax sales of tangible personal property used to perform research and development or certain other manufacturing processes at a semiconductor wafer manufacturing megaproject site and sales of building and construction materials incorporated into site facilities. Last, the bill modifies a commercial activity tax (CAT) exclusion under continuing law for tangible personal property sold by a megaproject supplier to a megaproject operator for use at a megaproject site and allows a CAT exclusion for gross receipts from the sale of new capital equipment used at the site of a semiconductor wafer manufacturing megaproject, provided the cost of the equipment exceeds \$100 million.

(R.C. 122.17, R.C. 5739.01-02, and R.C. 5751.052)