



## H.B. 49 FY18-19 biennium budget overview

July 10, 2017

### Overview

Over the past five months, the 132<sup>nd</sup> General Assembly has deliberated on Ohio's biennial budget bill (H.B. 49). On June 27, 2017, the Senate passed the Conference Report to H.B. 49 (24-8) and the House voted to approve the Conference Report to H.B. 49 (59-38). After 47 line-item vetoes, Governor Kasich signed the bill into law just before midnight on June 30, 2017, and released his veto message in the early hours of July 1, 2017. The complete list of the governor's line-item vetoes and veto message can be found [here](#).

During a special session on July 6, 2017, the House voted to override 11 of Governor Kasich's vetoes, most of which address various aspects of the Medicaid program in Ohio. These actions demonstrate the first time that the House has voted to override Governor Kasich's vetoes. The House also indicated that, at a later date, the chamber will potentially vote to override additional vetoes that it left pending. The Senate must also consider the House's veto overrides.

The bill, which contains appropriations for the state's next two fiscal years, also includes a number of policy items, ranging from regulations on autonomous delivery devices to high school graduation requirements. Even though state revenues continue to come in below estimates each month, the bill includes more than \$65

billion of spending from the General Revenue Fund, with over \$132 billion in all-funds spending over the next two years. The General Assembly had to find a path toward a constitutionally mandated balanced budget while addressing complicated issues, including Medicaid expansion and opioid abuse. The final version of the budget preserves over \$2 billion in the rainy-day fund.

Highlights of the budget bill are below. This list is representative of many larger policy and appropriation items found in the bill. For a full analysis of the bill, including a fiscal review, please visit the Ohio General Assembly's [website](#).

#### Appropriation and Policy Provisions in H.B. 49

##### Education

H.B. 49, like past budget bills, contains language regarding formula funding for Ohio's public K-12 schools, policy initiatives for both public and community schools, and other education-related items from testing requirements to tax policy.

The 2018-2019 biennium budget includes language providing for alternative graduation requirements for the class of 2018. Additionally, the bill contains language that eliminates statewide fourth and sixth grade social studies end-of-year assessments, but requires each school district to teach and assess social studies in at least the fourth and sixth grades.

The budget also increases state funding for schools. K-12 schools will see a \$76.8 million total increase in funding during 2017-2018. Total state funding for K-12 will increase by an additional \$86.9 million during 2018-2019; although, not all schools will receive increases proportionally, nor in conjunction with each district's relative wealth.

The Conference Committee Report contains language inserted by the Senate that extends reimbursements to schools for tangible personal property tax losses, which has been gradually phasing out for 10 years. The language proposes to further extend the period of time for the phase-out of those payments. The governor line-item vetoed this provision, explaining that schools had "more than sufficient time to prepare for the end of this funding."

##### Concealed handgun cause of action

The budget includes a civil cause of action for an "individual injured" by a business entity, property owner, or public or private employer who prohibits or effectively prohibits the individual's ability to have a concealed handgun or firearm in his or her motor vehicle where a motor vehicle is normally permitted to be. The "injured individual" may seek injunctive relief.

Originally, proposed language allowed an "injured individual" to receive compensatory damages and any equitable relief, including injunctive relief, that a court may find appropriate. Additionally, the previously proposed language

permitted a court to grant costs and reasonable attorney's fees to the successful plaintiff after a hearing is held to determine the amount of the fees. These items were opposed by almost every business entity in the state. The provision creates an unclear legal environment and opens businesses up to a new kind of liability.

Thus, the new language limits the scope of the potential remedy by a plaintiff, but it does not limit the scope of the parties that may be liable under this cause of action, including private property owners.

#### Taxes

The final version of H.B. 49 removes the cigarette, beer and wine tax increases that were in the governor's original version of the budget, including floor stock tax language impacting wholesalers of tobacco products. Governor Kasich has proposed these tax increases over several budget cycles, but the legislature has consistently rejected them.

The final budget also eliminates the governor's proposed severance tax on oil and gas production and sales tax on lobbying services—two more repeat items from Governor Kasich's last biennium budget.

#### Healthcare

The Conference Committee Report contains a potential freeze, beginning July 1, 2018, on new enrollment in the Medicaid expansion population. The Conference Committee Report exempts individuals with mental illness or drug addiction from the freeze. However, Governor Kasich line-item vetoed this provision. The legislature threatened to override this portion of the governor's veto message, but did not bring the item up for a vote. During a special session on July 6, 2017, the House left the veto of the freeze on Medicaid expansion pending, with the possibility of revisiting it at any time during the next two years of the biennium.

The budget also proposes a six-year fix for counties and transit authorities facing millions of dollars in losses due to eliminated sales tax on Medicaid managed care organizations. The language requires the General Assembly to consider and vote on legislation that would authorize the inclusion of nursing facility services and home and community-based waiver services in the Medicaid managed care system. This provision was vetoed by Governor Kasich because he believes it will result in unnecessary and unreasonable delay in providing services to Ohioans. The House voted to override this veto on July 6, 2017 (87-10).

The budget also allocates an additional \$180 million to fight the opioid crisis, targeting prevention, recovery and law enforcement.

Governor Kasich's proposed budget contains several licensing board consolidation provisions, in an effort to streamline Ohio's regulatory structure. In H.B. 49, the governor creates a State Vision and Hearing Professionals Board by consolidating the

State Board of Optometry, the Ohio Optical Dispensers Board, the Board of Speech-Language Pathology and Audiology, and the Hearing Aid Dealers and Fitters Licensing Board. However, the House's version of the budget altered the governor's proposal, creating two boards instead of one: the State Vision Professionals Board and the State Speech and Hearing Professionals Board. The Senate's version of the budget and the Conference Committee Report contain the House's board consolidation provision. The Conference Committee Report also places the regulation of dietitians and respiratory care professionals under the State Medical Board and abolishes the Ohio Board of Dietetics and the Ohio Respiratory Care Board.

#### Energy

H.B. 49 classifies the power from small hydroelectric facilities as a renewable energy resource and eligible for renewable energy credits.

As expected, the governor line-item vetoed a provision in the Conference Committee Report transferring appointment authority for members of the Ohio Oil and Gas Leasing Commission from the governor to the General Assembly. The House voted to override this veto on July 6, 2017 (67-29). If the Senate also overrides this veto, the budget will give the General Assembly appointment authority for members of the Ohio Oil and Gas Leasing Commission.

#### Other items

The budget contains an accelerated phase-out of the Ohio Constitutional Modernization Commission, which was charged with analyzing and making recommendations to the Ohio General Assembly amending the Ohio Constitution. The Ohio Constitutional Modernization Commission is required to cease operations on or before July 1, 2017.

The Ohio Enterprise Zone, which serves as an important economic development tool, was indefinitely extended in H.B. 49. The program allows municipalities and counties to approve property tax incentives for eligible new investment made in conjunction with a business project that includes job creation. The Ohio Enterprise Zone was set to expire on October 15, 2017.

#### Conclusion

Traditionally, after the budget is signed, Ohio representatives and senators begin their summer recess. However, with Governor Kasich's line-item veto of the legislature's Medicaid freeze proposal, the Ohio House returned the week of July 3, 2017, to override some of Governor Kasich's vetoes. The Senate is expected to return to address the governor's vetoes during the summer.

Now that the legislature has completed its work on the budget, House and Senate members will return to their districts. They are expected to return from recess the week of September 11, 2017, with session running through December 13, 2017.

