

STATE OF OHIO
Executive Department

OFFICE OF THE GOVERNOR

Columbus

**STATEMENT OF THE REASONS FOR THE VETO OF ITEMS IN
AMENDED SUBSTITUTE HOUSE BILL 110**

June 30, 2021

Pursuant to Article II, Section 16 of the Ohio Constitution, which states that the Governor may disapprove any items in a bill making an appropriation of money, I hereby disapprove the following items contained in Amended Substitute House Bill 110 and set forth below the reasons for so doing. The text I am disapproving is identified in this message by reference to the corresponding page and boxed text of the bill.

ITEM NUMBER 1

On page 1, delete the following boxed text, “127.13,”.

On page 8, delete the following boxed text, “127.13,”.

On page 243, delete the boxed text beginning with “Sec. 127.13. The director of budget ...” and ending with “shall meet at”.

On page 244, delete the following boxed text “least once a month.”.

On page 1965, delete the following boxed text, “127.13,”.

On page 2434, delete the boxed text beginning with “The amendment of section 127.13 of the...” and ending with January 1, 2022.”.

Extending Time Controlling Board Agenda

This item extends the time for which the Controlling Board agenda must be published from seven days to fourteen days prior to a meeting. Agencies work through extensive review processes to prepare requests for Controlling Board consideration. The process to prepare requests in compliance with public contracting requirements can take several weeks or even months. This extension in this item will slow public construction projects that require contracts to be awarded within specific statutory bid timelines and will lead to inefficiencies in agency procurement processes. This extension will also delay the release of capital funds and dollars for time-sensitive economic development projects by the Controlling Board. In addition to delaying the work performed at state agencies, this item will also delay work within the education and higher education communities. Therefore, the veto of this item is in public interest.

ITEM NUMBER 2

On page 2111, delete the boxed text beginning with “SECTION 261.170. PAYMENT RATE ...” and ending with “two per cent.”.

On page 2229, delete the boxed text beginning with “SECTION 333.165. ADULT DAY CARE ...” and ending with “attendant and homemaker;”.

On page 2230, delete the boxed text beginning with “(6) Assisted living; ...” and ending with “(9) Physical therapy.”.

On page 2236, delete the boxed text beginning with “based on both of the following: ...” and ending with “approved by the Department”.

On page 2236, delete the boxed text beginning with “Pharmacies that have ...” and ending with “reduction in other”.

On page 2237, delete the boxed text beginning with “payments made ...” and ending with “(D)”.

On page 2237, delete the boxed text beginning with “The Department of Medicaid ...” and ending with “any such transfers.”.

Medicaid Rates in Statutes

This item codifies certain Medicaid program rates in statute. The Ohio Department of Medicaid (ODM) and Ohio Department of Developmental Disabilities (DODD) are supportive of and will implement the increased rates for the PASSPORT, Ohio Home Care, Adult Day Care, MyCare Ohio, Assisted Living waiver programs for specified services, waiver programs administered by DODD. The ODM will also support the continuation of the tiered pharmacy supplemental dispensing fee. However, establishing rates in statute restricts the ability of the ODM and DODD to appropriately manage the policies and costs of the Medicaid program in a way that benefits Ohio consumers and complies with federal regulations. Therefore, the veto of this item is in the public interest.

ITEM NUMBER 3

On page 5, delete the following boxed text “3301.85,”.

On page 10, delete the following boxed text “3301.85,”.

On page 705, delete the boxed text beginning with “Sec. 3301.85. (A) Beginning on the effective date...” and ending with “comply with those changes”.

JCARR Review of EMIS Changes

This item will require that any changes to the Education Management Information System (EMIS) or the Ohio Department of Education’s business rules and policies impacting community schools be reviewed by the Joint Committee on Agency Rule Review (JCARR). This change will effectively treat any policies impacting community schools differently from policies impacting all other public schools, creating inconsistency and confusion around policies that should be administered in common. This language imposes additional bureaucratic requirements and slows the implementation of new laws and programs for community schools, leading to inefficiencies. Therefore, the veto of this item is in the public interest.

ITEM NUMBER 4

- On page 2, delete the following boxed text “3314.034,”.
- On page 9, delete the following boxed text “3314.034,”.
- On page 864, delete the boxed text.
- On page 865, delete the boxed text beginning with “June of the year...” and ending with “...Chapter 3323. of the Revised Code”.
- On page 1966, delete the following boxed text “3314.034,”.

Changing Community School Sponsors

This item includes a proposed exemption in Ohio Revised Code Section 3314.034 that removes an important quality assurance mechanism in law that allows sponsors to hold community schools accountable. This item would allow low-performing community schools in which a majority of the enrolled students are children with disabilities to avoid accountability to the schools’ sponsors by allowing them to simply shift to another sponsor, an action currently prohibited by law. Such schools are already exempt from automatic closure requirements and are not included in the academic performance ratings in sponsor evaluations. This change reflects a step back from the quality controls established over the last several years. Therefore, the veto of this item is in the public interest.

ITEM NUMBER 5

- On page 2, delete the following boxed text, “2323.52,”, “2743.03,”, “2746.04,”.
- On page 5, delete the following boxed text, “2743.76,”.
- On page 8, delete the following boxed text, “2323.52,”, “2743.03,”, “2746.04,”.
- On page 10, delete the following boxed text, “2743.76,”.
- On page 96, delete the following boxed text, “~~(I)(1)~~ Any(I)(1)(a) In order to enforce this section, any”.
- On page 97, delete the boxed text beginning with “~~bring an action to enforce this section...~~” and ending with “is located.”.
- On page 97, delete the following boxed text “(b) An”.
- On page 97, delete the following boxed text “~~(I)(1)~~-(I)(1)(a)(ii)”.
- On page 97, delete the following boxed text “under that division”.
- On page 97, delete the following boxed text “~~(I)(1)~~-(I)(1)(b)” as it appears three times.
- On page 552, delete the boxed text beginning with “Sec. 2323.52. (A) As used...” and ending with “of this state”.
- On page 553, delete the boxed text.
- On page 554, delete the boxed text.
- On page 555, delete the boxed text.
- On page 556, delete the boxed text beginning with “person found to be a vexatious...” and ending with “the vexatious litigator.”.
- On page 560, delete the boxed text beginning with “Sec. 2743.03. (A)(1) There...” and ending with “a political subdivision;”.
- On page 561, delete the boxed text.

On page 562, delete the boxed text.
On page 568, delete the boxed text.
On page 569, delete the boxed text.
On page 570, delete the boxed text.
On page 571, delete the boxed text.
On page 572, delete the boxed text.
On page 573, delete the boxed text.
On page 574, delete the boxed text “the Revised Code.”.
On page 1965, delete the following boxed text, “2323.52.”, “2743.03”, “2746.04”.

Court of Claims Procedure for Open Meetings Law Violations

This item creates a second jurisdictional venue to hear complaints alleging a violation of the Open Meetings Law within the Court of Claims. Violations of the Open Meeting Act have long been handled in the local jurisdiction by the local Court of Common Pleas; therefore, creating a second procedure within the Court of Claims is unnecessary. This item also requires any appeal from the Court of Claims to be heard by the local court of appeals, which underscores the fact that local courts are best suited to address alleged open meetings violations that impact the local community. Broadening or restricting the jurisdiction of the Court of Claims, or any court, should be carefully considered and involve great public consultation, including with the Ohio Supreme Court. Further, this item removes the ability of the court to void a decision that is not made in an open meeting, which does not contribute to the transparency of government operations. Therefore, the veto of this item is in the public interest.

ITEM NUMBER 6

On page 1, delete the following boxed text, “109.02,”, “109.111, 109.112,”.
On page 5, delete the following boxed text, “101.55,”.
On page 8, delete the following boxed text, “109.02,”, “109.111,109.112,”.
On page 10, delete the following boxed text, “101.55,”.
On page 19, delete the boxed text beginning with “Sec. 101.55. (A) When a party...” and ending with ... “the cost”.
On page 20, delete the boxed text.
On page 21, delete the boxed text beginning with “(C) No individual member” and ending with “general assembly.”.
On page 42, delete the boxed text beginning with “Sec. 109.02. The attorney general is...” and ending with “indicted for a crime.”.
On page 43, delete the boxed text beginning with “Sec. 109.111. There is hereby created...” and ending with “~~consistent with the terms of~~”.
On page 44, delete the boxed text beginning with “~~the order. Upon its...~~” and ending with “~~by the director~~”.
On page 1965, delete the following boxed text, “109.02,”, “109.111, 109.112,”.
On page 2217, the following boxed text “or for any action under section 101.55 of the Revised Code”.

Court Orders Awarding Money to State/General Assembly Intervention in Lawsuits

These items create a right of intervention in Executive Branch litigation by General Assembly leadership and create additional bureaucracy in reporting and finalizing court settlements. It is virtually unheard of for state or federal courts to permit members of the General Assembly to intervene in lawsuits. This item conflicts with prior court decisions and impinges on the separation of powers. The Governor and the Attorney General are empowered by the Ohio Constitution to defend and enforce the laws of Ohio. These amendments impermissibly infringe on those responsibilities. As a result, the Attorney General wrote a letter requesting a veto of these items. Therefore, the veto of these items is in the public interest.

ITEM NUMBER 7

On page 2393, delete the boxed text beginning with “SECTION 701.60. (A) As used in this section: ...” and ending with “by a state agency or a”

On page 2394, delete the boxed text.

On page 2395, delete the boxed text beginning with “of the business. ...” and ending with “in this section.”.

On page 2408, delete the boxed text beginning with “SECTION 743.20. (A) As used in this section: ...” and ending with of the Revised Code.”.

Vacating COVID-19 Violations and Refunding Fines to Businesses

This item will vacate orders addressing the compliance of liquor-permitted businesses with COVID-19 health orders, cease disciplinary actions that are in progress, and refund payment of any fines. During the pandemic, business owners across Ohio made sacrifices to protect both their employees and customers from the spread of COVID-19. This item sends a message that those responsible business owners are not valued as much as the few businesses who failed, sometimes repeatedly, to take steps to protect their employees and customers from the spread of this deadly disease. Ohio law should not reward businesses and individuals that violated orders and rules adopted to protect Ohioans from the spread of COVID-19 by excusing their actions. Therefore, the veto of this item is in the public interest.

ITEM NUMBER 8

On page 3, delete the following boxed text, “3365.02,”.

On page 9, delete the following boxed text, “3365.02,”.

On page 1093, delete the boxed text beginning with “Sec. 3365.02. (A) There is hereby established ...” and ending with “is approved by the”.

On page 1094, delete the boxed text beginning with “superintendent of public instruction ...” and ending with “governing the program.”.

On page 1966, delete the following boxed text, “3365.02,”.

College Credit Plus Program – Private Secondary School Participation

This item will exempt some nonpublic secondary schools from all College Credit Plus laws and regulations. This would discourage participation in College Credit Plus and put some students who choose to pursue college credit before high school graduation at a disadvantage. This does not benefit students seeking higher education nor does it help advance state educational attainment goals. Therefore, the veto of this item is in the public interest.

ITEM NUMBER 9

On page 376, delete the boxed text beginning with “Notwithstanding the membership ...” and ending with “Revised Code.”.

On page 376, delete the boxed text beginning with “a board of alcohol...” and ending with “this section.”.

On page 377, delete the boxed text beginning with “; (c) To establish the board...” and ending with “more than nine”.

On page 377, delete the boxed text beginning with “(2) In the case of a board ...” and ending with “otherwise occur.”.

On page 377, delete the boxed text beginning with “The director of mental health...” and ending with “the county”.

On page 378, delete the boxed text beginning with “constituting the service district...” and ending with “such a person.”.

Changing ADAMHS Board Composition and Appointment

The DeWine-Husted Administration supports empowering county commissioners to which this provision applies to establish new boards of alcohol, drug, and mental health of varying sizes. However, this language, as written, limits the Director of Mental Health and Addiction Services’ ability to appoint Ohioans with lived experience with behavioral health issues, family members, and clinical experts to boards of alcohol, drug, and mental health. The perspectives of these individuals are essential to create continuums of care that meet the needs of Ohioans struggling with mental illness and substance use disorders.

The Administration would be supportive of legislation to allow certain counties to reduce the size of their boards of alcohol, drug, and mental health. However, any change in the law that allows a reduction in the number of individuals on a board must maintain the current proportional number of members appointed by the Director of the Ohio Department of Mental Health and Addiction Services and by the county commissioners. Therefore, the veto of this item is in the public interest.

ITEM NUMBER 10

On page 2245, delete the following boxed text “These funds shall only be allocated to existing programs.”.

Excluding Counties from Drug Reimbursement Program

This item will only allow funding from the Psychotropic Drug Reimbursement Program to be awarded to county jails already participating in the program. By limiting earmarked funds, this

item excludes jails in eight Ohio counties that primarily serve Appalachian Ohio that could benefit from the program. This item limits the flexibility of the Ohio Department of Mental Health and Addiction Services to respond to unmet local needs. Therefore, the veto of this item is in the public interest.

ITEM NUMBER 11

On page 4, delete the following boxed text “5751.02,”.
On page 10, delete the following boxed text “5751.02,”.
On page 1934, delete the boxed text beginning with “Sec. 5751.02. (A) For the purpose of...” and ending with “or results in,”.
On page 1935, delete the boxed text.
On page 1936, delete the boxed text.
On page 1937, delete the boxed text beginning with “budget and management...” and ending with “...the thirtieth day of June of the current fiscal year”.
On page 1967, delete the following boxed text “5751.02,”.
On page 2434, delete the following boxed text “5751.02,”.

Reducing CAT Administration Fee Earmark

This item reduces the percentage of commercial activity tax (CAT) revenue credited to the Revenue Enhancement Fund (Fund 2280) from 0.65% to 0.5% beginning July 1, 2021. This fund is used to defray the costs incurred by the Ohio Department of Taxation in administering the CAT, and the estimated reduction is \$3.3 million per fiscal year. The Department of Taxation has worked hard over the last two years to right-size the agency by leveraging technology and innovative management techniques, and agency staffing is at a historic low. The Department of Taxation must maintain its current budget to continue providing fundamental services to Ohioans and to preserve the integrity of the tax system. This item will hinder the Department of Taxation’s ability to carry out its collection and enforcement functions, which could potentially impact state revenue. Therefore, the veto of this item is in the public interest.

ITEM NUMBER 12

On page 1679, delete the boxed text beginning with “(8) "Table A" means the table ...” and ending with “special focus facility program.”.

Nursing Facility Quality Incentive Payments

This item excludes a nursing facility from a quality incentive payment for state fiscal year 2022 or state fiscal year 2023 if the nursing facility is listed in Table A, B, or C of the Centers for Medicare and Medicaid Service’s (CMS) Special Focus Facility Program list. Tables A, B, and C are defined in the statute. The definition of Table C is inconsistent with the table designation by CMS. This veto is a technical correction to align the table definitions with CMS’ designations. Therefore, the veto of this item is in the public interest.

ITEM NUMBER 13

On page 738, delete the following boxed text beginning with “The department of education...” and ending with “division (A)(3)(a) of this section.”.

EdChoice Scholarship Administrative Procedures

This partial veto clarifies that all families applying for EdChoice scholarships deserve an expedited approval process. This item creates a conditional approval process for both types of EdChoice Scholarships. However, part of the item would only offer this conditional approval for one type of EdChoice Scholarship. By removing this language, the Department of Education will be obligated to expedite conditional approval for all applicants. All applicants’ families deserve a more expedited process. Therefore, this is in the public interest.

ITEM NUMBER 14

On page 4, delete the following boxed text, “5167.10,”.

On page 10, delete the following boxed text, “5167.10,”.

On page 1688, delete the boxed text beginning with “Sec. 5167.10. (A) The department of medicaid ...” and ending with “date of the decision.”.

On page 1967, delete the following boxed text, “5167.10,”.

Medicaid Managed Care Procurement

This item would limit the Department of Medicaid’s ability to fulfill our commitment to all Ohioans - to children and their parents, physicians, counselors, nurses and all of our healthcare professionals to provide a system of accessible, quality health care. The language would require Medicaid to award contracts to certain companies without requiring that they demonstrate the ability to meet the medical needs of Ohioans.

The reforms started under the DeWine-Husted administration are poised to save the State of Ohio hundreds of millions of taxpayer dollars, increase transparency and accountability, better connect Ohioans with needed care, and provide additional support for children with complex behavioral health needs and adults with chronic conditions. This item puts at risk the overhaul carefully designed to improve the lives of the most vulnerable Ohioans. Therefore, this veto is in the best interest of the public.

IN WITNESS WHEREOF, I have
hereunto subscribed my name and

caused the Great Seal of the State of Ohio to be affixed at Columbus this 30th day of June, Two Thousand Twenty One.



Mike DeWine, Governor

This will acknowledge the receipt of a copy of this veto message of Amended Substitute House Bill 110 that was disapproved in part by Governor Mike DeWine on June 30, 2021.

Name and Title of Officer

Date and Time of Receipt