

DRAFTING THE STATE BUDGET

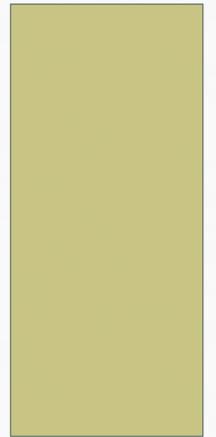
LEGISLATIVE SERVICE COMMISSION

June 2014

BILL BASICS

2

HOW TO READ A BILL



ELEMENTS OF A BILL

Budget bills contain the following parts:

- Header – bill version, number, and sponsors (if introduced)
- Title
- Enacting clause
- Body
- Repeal clause
- Uncodified sections – including appropriations and substantive legal provisions

WHAT IS THE BILL TITLE?

- Lists all ORC sections to be amended, enacted, or repealed by bill
- Lists all existing uncodified sections to be amended or repealed by the bill
- Briefly describes contents of bill

Header:
Version
Number
Sponsor(s)

As Introduced
130th General Assembly
Regular Session
2013-2014
H. B. No. 59
Representative Amstutz

A BILL

To amend sections 9.03, 9.231, 9.239, 9.24, 9.823, 1
9.833, 9.90, 9.901, 101.39, 101.391, 103.144, 2
105.41, 107.033, 107.12, 109.06, 109.36, 109.57,
109.572, 109.71, 109.746, 109.77, 109.85, 109.86,
109.90, 111.02, 111.15, 111.28, 113.02, 113.061,
117.03, 117.10, 117.20, 119.01, 120.06, 121.02,
121.03, 121.11, 121.22, 121.35, 121.37, 121.372,
122.075, 122.17, 122.175, 122.28, 122.30, 122.31,
122.32, 122.33, 122.34, 122.35, 122.36, 122.58,
122.66, 122.67, 122.68, 122.69, 122.70, 122.701,
122.76, 123.01, 123.10, 123.11, 123.201, 123.21,
123.27, 124.11, 124.14, 124.141, 124.15, 124.18,
124.30, 124.341, 124.381, 125.05, 125.21, 125.212,
125.28, 125.602, 125.603, 125.832, 125.836,
126.07, 126.14, 126.32, 126.35, 126.45, 126.46, 15
126.47, 126.48, 127.14, 127.16, 133.06, 140.01, 16
140.03, 140.05, 145.01, 145.012, 145.22, 149.43, 17
151.11, 152.09, 153.692, 154.01, 154.17, 154.20, 18
154.22, 154.23, 154.25, 156.02, 156.03, 156.04, 19
156.05, 166.03, 166.04, 169.01, 169.02, 169.03, 20
169.05, 169.06, 169.07, 169.08, 169.13, 169.14, 21
169.16, 173.03, 173.14, 173.20, 173.21, 173.26, 22
173.27, 173.39, 173.391, 173.392, 173.394, 173.40, 23
173.401, 173.402, 173.403, 173.404, 173.42, 24

Title:
List of ORC
sections
being
amended,
enacted, or
repealed

For budget bills, this list
typically runs several pages

5119.67, 5119.68, 5707.05, 5727.41, 5733.35,
5747.211, 5747.33, 6101.451, and 6111.029 of the
Revised Code; to amend Sections 201.80 and 509.40
of Sub. H.B. 482 of the 129th General Assembly; to
amend Section 4 of Sub. S.B. 171 of the 129th
General Assembly, as subsequently amended; to
amend Section 105.05 of Am. Sub. H.B. 2 of the

51
51
51
51
517
518
519

Title: Also lists existing uncodified sections of law being amended or repealed

Title: Provides a very brief description of the bill's actions

July 1, 2014; to make operating appropriations for 533
the biennium beginning July 1, 2013, and ending 534
June 30, 2015; to provide authorization and 535
conditions for the operation of state programs; to 536

WHERE IS THE ENACTING CLAUSE?

- Enacting clause is typically Section 101.01 of a budget bill
- Enacting clause lists all sections of Revised Code to be amended or enacted by bill

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 101.01. That sections 9.03, 9.231, 9.239, 9.24, 547
9.823, 9.833, 9.90, 9.901, 101.39, 101.391, 103.144, 105.41, 548
107.033, 107.12, 109.06, 109.36, 109.57, 109.572, 109.71, 109.746, 549

BODY OF A BILL

- Main text of bill
- Contains full text of ORC sections that the bill proposes to amend or enact
- Sections appear in numerical order
- Sections are not grouped by content

TECHNICAL RULES FOR READING BILLS

For ORC sections being amended or enacted:

- Existing language that is being retained appears with no editing marks
- Existing language that is being removed is ~~stricken~~
- New language that is being proposed is underlined

Language being added

~~plans.~~

1658

Sec. 9.901. (A) (1) All health care benefits provided to 1659
persons employed by ~~the political subdivisions and public school~~ 1660
~~districts of~~ employers as defined by this state section shall be 1661
provided by health care plans that contain best practices 1662
established ~~pursuant to this section~~ by the former school 1663
employees health care board or the department of administrative 1664
services. ~~Twelve months after the release of best practices by the~~ 1665
~~board all~~ All policies or contracts for health care benefits 1666
~~provided to public school district employees~~ that are issued or 1667
renewed after the expiration of any applicable collective 1668

Language being removed

REPEAL CLAUSES

For ORC sections being repealed:

- Listed in the Title and Repeal clauses only
- The text of a section being outright repealed is **not** printed in the bill, with each word stricken

Primary repeal clauses are typically found in Sections 101.02 and 105.01

REPEAL CLAUSES, CONTINUED

Bills contain two primary types of repeals:
repeals of **existing** ORC sections and **outright repeals** of ORC sections

If the bill amends ORC 123.45, the repeal clause states that “existing section 123.45 is repealed” – the section remains part of the ORC, but in its amended form

Occasionally, there may be reasons to use both types of repeal

Section 101.02. That existing sections 9.03, 9.231, 9.239, 114486
9.24, 9.823, 9.833, 9.90, 9.901, 101.39, 101.391, 103.144, 105.41, 114487
107.033, 107.12, 109.06, 109.36, 109.57, 109.572, 109.71, 109.746, 114488
109.77, 109.85, 109.86, 109.90, 111.02, 111.15, 111.28, 113.02, 114489
113.061, 117.03, 117.10, 117.20, 119.01, 120.06, 121.02, 121.03, 114490
121.11, 121.22, 121.35, 121.37, 121.372, 122.075, 122.17, 122.175, 114491

Section 105.01. That sections 122.15, 122.151, 122.152, 114676
122.153, 122.154, 122.29, 123.23, 125.837, 125.838, 173.425, 114677
173.433, 183.28, 184.04, 340.022, 340.033, 340.06, 340.14, 114678
1509.50, 1513.371, 1531.34, 1547.721, 1547.722, 1547.723, 114679
1547.724, 1547.725, 1547.726, 3304.26, 3304.38, 3311.054, 114680
3311.056, 3311.057, 3313.481, 3313.482, 3313.4811, 3314.088, 114681
3314.13, 3317.012, 3317.014, 3317.018, 3317.02, 3317.022,

If the bill repeals ORC 123.45 outright, the repeal clause states that “section 123.45 is repealed” – the section is no longer part of the ORC

UNCODIFIED LAW

- Proposed new uncodified sections are NOT underlined
- If existing uncodified law is being amended, changes are indicated by striking-through existing law or underlining new law, as applicable
- Note: similar to amending ORC sections, when an uncodified section is amended, the EXISTING version must be repealed

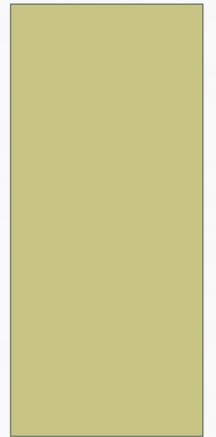
New uncodified section in H.B. 59

Section 301.33. BIG BROTHERS BIG SISTERS	155431
Of the foregoing appropriation item 600410, TANF	155432
State/Maintenance of Effort, \$1,000,000 in each fiscal year shall	155433
be provided, in accordance with sections 5101.80 and 5101.801 of	155434
the Revised Code, to Big Brothers Big Sisters of Central Ohio to	155435
provide mentoring services to children of incarcerated parents	155436
throughout the state.	155437

Same section, as amended in H.B. 483

Sec. 301.33. BIG BROTHERS BIG SISTERS	34246
Of the foregoing appropriation item 600410, TANF	34247
State/Maintenance of Effort, \$1,000,000 in each fiscal year shall	34248
be provided, in accordance with sections 5101.80 and 5101.801 of	34249
the Revised Code, to Big Brothers Big Sisters of Central Ohio to	34250
provide mentoring services to children of incarcerated parents	34251
throughout the state. <u>Upon the request of the Director of Job and</u>	34252
<u>Family Services, the Director of Budget and Management may</u>	34253
<u>transfer any amount of this earmark that remains unspent at the</u>	34254
<u>end of fiscal year 2014 to fiscal year 2015. Any amount</u>	34255
<u>transferred is hereby reappropriated to appropriation item 600410.</u>	34256
<u>TANF State/Maintenance of Effort, for the same purpose in fiscal</u>	34257
<u>year 2015.</u>	34258

CODIFIED VS.
UNCODIFIED LAW



WHAT IS CODIFIED LAW?

- Laws of a general and permanent nature
 - Informally referred to as “permanent” law
- Assigned an ORC section number

Drafting note: If the provision is intended to last for three years or more, it should go in codified law

WHAT IS UNCODIFIED LAW?

- Used for:
 - Laws of a temporary nature (less than three years), in particular, appropriations
 - Laws of a special/specific nature (do not have uniform application)
 - To show future amendments or repeals of ORC sections
 - For bill administrative or intent purposes, such as effective dates, interpretation notes, etc.
- Not assigned an ORC section number
- Appears at the end of the bill
- Informally referred to as “temporary” law

SECTION 361.10. PSY STATE BOARD OF PSYCHOLOGY

General Services Fund Group

4K90 882609	Operating Expenses	\$	525,394	\$	535,406
TOTAL GSF General Services					
	Group	\$	525,394	\$	535,406
TOTAL BUDGET FUND GROUPS		\$	525,394	\$	535,406

Appropriations
- effective for
2 years only

SECTION 363.10. PUB OHIO PUBLIC DEFENDER COMMISSION

General Revenue Fund

GRF 019401	State Legal Defense Services	\$	2,610,272	\$	3,020,855
GRF 019403	Multi-County: State Share	\$	338,931	\$	406,626
GRF 019404	Trumbull County - State Share	\$	99,321	\$	119,158
GRF 019405	Training Account	\$	50,000	\$	50,000
GRF 019501	County Reimbursement	\$	2,565,398	\$	3,077,786
TOTAL GRF General Revenue Fund		\$	5,663,922	\$	6,674,425

General Services Fund Group

4070 019604	County Representation	\$	231,076	\$	231,754
4080 019605	Client Payments	\$	1,052,919	\$	953,492
5CX0 019617	Civil Case Filing Fee	\$	708,654	\$	705,713
TOTAL GSF General Services Fund Group		\$	1,992,649	\$	1,890,959

Federal Special Revenue Fund Group

3S80 019608	Federal Representation	\$	341,733	\$	263,431
TOTAL FED Federal Special Revenue Fund Group		\$	341,733	\$	263,431

State Special Revenue Fund Group

4C70 019601	Multi-County: County Share	\$	3,324,009	\$	3,333,014
4N90 019613	Gifts and Grants	\$	35,000	\$	35,000
4X70 019610	Trumbull County - County Share	\$	974,069	\$	976,612
5740 019606	Civil Legal Aid	\$	24,000,000	\$	27,000,000
5DY0 019618	Indigent Defense Support - County Share	\$	42,195,000	\$	43,125,000
5DY0 019619	Indigent Defense Support	\$	6,521,723	\$	6,096,759

Law of a
temporary
nature

SECTION 737.40. (A) As used in this section:

(1) "Food service operation," "retail food establishment," and "vending machine location" have the same meanings as in section 3717.01 of the Revised Code.

(2) "Micro market" means an area or room that has displays of not more than two hundred fifty linear feet that offer either of the following:

(a) Prepackaged foods that are not time- or temperature-controlled for food safety purposes;

(b) Prepackaged foods that are refrigerated or frozen and time- or temperature-controlled for food safety purposes and that are stored in equipment that complies with Chapter 3717-1 of the Administrative Code.

(B) Until the Director of Agriculture adopts rules under section 3717.04 of the Revised Code governing the licensure of micro markets, the operation of a micro market is exempt from the licensure requirements for retail food establishments, food service operations, and vending machines established under Chapter 3717. of the Revised Code. This division applies to a micro market that was previously exempted under division (B) of section 3717.22 of the Revised Code by the Director from being classified as a retail food establishment.

(C) Not later than sixty days following the adoption of rules by the Director under section 3717.04 of the Revised Code governing the licensure of micro markets, the operator of a micro market shall apply for a license in accordance with those rules.

Once the Director
adopts these rules,
this section of law
will no longer be
effective

A special or specific law without uniform applicability, such as a land conveyance

SECTION 753.25. (A) The Governor is authorized to execute a deed in the name of the state conveying to the Board of County Hospital Trustees of The MetroHealth System ("MetroHealth"), in the name of the County of Cuyahoga, State of Ohio, its successors and assigns, all of the state's right, title, and interest in the following listed parcels of real estate located in the County of Cuyahoga, State of Ohio: 00821- 008, 00821-009, 00821-010, 00821-011, 00821-012, 00821-013, 00821-014, 00821-015, 00821-016, and 00821-017.

In preparing the deed, the Auditor of State, with the assistance of the Attorney General, shall develop a legal description of the real estate in conformity with the actual bounds of the real estate.

(B) Consideration for conveyance of the real estate shall be ten dollars.

(C) The state shall convey the real estate described in division (A) of this section together with the building situated upon it, along with the amount of \$3,400,000 to demolish the building. Notwithstanding any provision of law to the contrary, the Director of Mental Health shall disburse \$3,400,000 from appropriation item C58010, Campus Consolidation, as set forth in Sub. H.B. 462 of the 128th General Assembly, to the grantee within thirty days after the conveyance of the real estate. After the disbursement, the state shall, within four months, complete a physical inventory of assets, relocate assets that are to be removed from the building, and itemize assets that are to remain with the transferred real estate and building.

(D) The real estate described in division (A) of this section shall be sold as an entire tract and not in parcels.

(E) The grantee shall pay all costs associated with the purchase and conveyance of the real estate, including costs of any surveys and recordation

SECTION 110.30. That the version of section 5123.61 of the Revised Code that is scheduled to take effect on October 1, 2012, be amended to read as follows:

Sec. 5123.61. (A) As used in this section:

(1) "Law enforcement agency" means the state highway patrol, the police department of a municipal corporation, or a county sheriff.

(2) "Abuse" has the same meaning as in section 5123.50 of the Revised Code, except that it includes a misappropriation, as defined in that section.

(3) "Neglect" has the same meaning as in section 5123.50 of the Revised Code.

(B) The department of developmental disabilities shall establish a registry office for the purpose of maintaining reports of abuse, neglect, and other major unusual incidents made to the department under this section and reports received from county boards of developmental disabilities under section 5126.31 of the Revised Code. The department shall establish committees to review reports of abuse, neglect, and other major unusual incidents.

(C)(1) Any person listed in division (C)(2) of this section, having reason to believe that a person with mental retardation or a developmental disability has suffered or faces a substantial risk of suffering any wound, injury, disability, or condition of such a nature as to reasonably indicate abuse or

Amendment
to a future
version of an
ORC section

Bill
administration
– severability,
effective
dates, etc.

SECTION 803.60. Section 3903.301 of the Revised Code shall apply only to formal delinquency proceedings that commence under sections 3903.01 to 3903.59 of the Revised Code on or after the effective date of this act.

SECTION 803.70. The amendment by this act to section 119.032 of the Revised Code does not accelerate the taking effect of the amendment to that section by S.B. 2 of the 129th General Assembly, which takes effect January 1, 2012.

SECTION 806.10. The items of law contained in this act, and their applications, are severable. If any item of law contained in this act, or if any application of any item of law contained in this act, is held invalid, the invalidity does not affect other items of law contained in this act and their applications that can be given effect without the invalid item of law or application.

SECTION 809.10. An item of law, other than an amending, enacting, or repealing clause, that composes the whole or part of an uncodified section contained in this act has no effect after June 30, 2013, unless its context clearly indicates otherwise.

SECTION 812.10. Except as otherwise provided in this act, the amendment, enactment, or repeal by this act of a section is subject to the referendum under Ohio Constitution, Article II, section 1c and therefore takes effect on the ninety-first day after this act is filed with the Secretary of State or, if a later effective date is specified below, on that date.

The amendment or repeal of sections 9.231, 9.24, 127.16, 1751.01, 1751.04, 1751.11, 1751.111, 1751.12, 1751.13, 1751.15, 1751.17, 1751.20, 1751.31, 1751.34, 1751.60, 2744.05, 3111.04, 3113.06, 3119.54, 3901.3814,

HOW UNCODIFIED LAW IS ORGANIZED

- Titles 200, 300, and 400 – Specific agency appropriations
- Title 500 – General financial and programmatic matters
- Title 600 – Amendment and repeal of uncodified sections
- Title 700 – New uncodified sections
- Title 800 – bill management, including effective date provisions

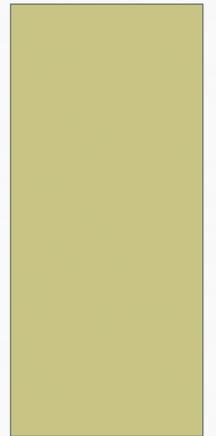
DRAFTING TIPS

- If you intend for a provision to be placed in codified law or uncodified law, please indicate that on the draft request
 - LSC staff will follow the rules for determining placement otherwise

MORE DRAFTING TIPS

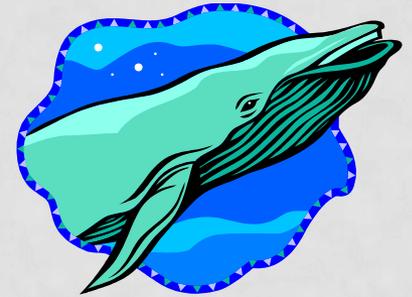
- When drafting uncodified law, remember the effects on codified law
 - Example: ORC 123.45 requires all moneys in the ABC Fund be used to pay employee salaries. Intent language in the budget bill provides that a portion of the Fund is to be used for new computers in FY 2016. This language should “notwithstanding” ORC 123.45.

STATE TREASURY VS. CUSTODIAL FUND



THE STATE TREASURY

- “The Save the Whales Fund is hereby created in the state treasury.”
 - Example: ORC 122.658

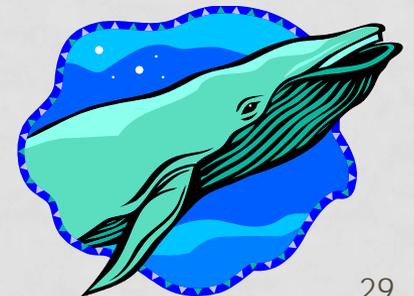


NOTE: An appropriation is needed to spend from a fund in the treasury

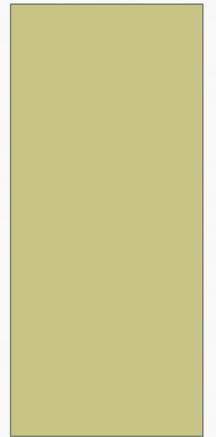
CUSTODIAL FUND

- “There is hereby created the Save the Whales Fund, which shall be in in the custody of the treasurer of state but shall not be part of the state treasury.”
 - Example: ORC 3770.06

NOTE: Custodial fund money does not need to be appropriated to be spent



REFERENDUM AND EFFECTIVE DATES



THE REFERENDUM

- Method for the people to approve or disapprove laws enacted by General Assembly
- People have 90 days in which to prepare, circulate, and file a referendum petition
 - [Ohio Constitution, Article II, Section 1c](#)

STANDARD EFFECTIVE DATE

- Most laws take effect on the **91st** day after filing with Secretary of State to allow for referendum
 - Ohio Constitution, Article II, Section 1c

EXCEPTIONS

The Ohio Constitution provides **three** circumstances under which a law may take immediate effect:

- It is a law providing for a tax levy
- It is an appropriation for current expenses of the state government
- It is an emergency law necessary for the immediate preservation of the public peace, health or safety (requires super majority vote)

(Ohio Constitution, Article II, Section 1d)

A BRIEF HISTORY...

- In 1994, the Ohio Supreme Court examined an act that contained operating appropriations for the BWC, but also included changes to codified law
 - The Secretary of State determined the entire act was not subject to the referendum because it contained appropriations for current expenses and, thus, was to take immediate effect
 - The Court disagreed and held that:
 - Changes to codified law **must** be subject to the referendum
 - If a bill contains changes to codified law and appropriations, **only** the appropriations can take immediate effect
- State ex rel. Ohio AFL-CIO v. Voinovich, 69 Ohio St. 3d 225 (1994)*

STATUTORY REQUIREMENTS

- In response to the *Voinovich* case, the General Assembly enacted a law ([ORC 1.471](#)) that broadens the scope of exceptions to the referendum requirement and states the **General Assembly** is to determine which sections of law go into immediate effect

MORE ON ORC 1.471

- This law provides that a **codified** or **uncodified** section of law contained in an act that contains an appropriation for current expenses is **not** subject to the referendum and goes into immediate effect if any of the following applies:
 - The section is an appropriation for current expenses
 - The section is an earmarking of the whole or part of an appropriation for current expenses
 - Implementation of the section depends upon an appropriation for current expenses contained in the act

LATEST DEVELOPMENT...



- In 2011, the Ohio Supreme Court examined an act establishing new congressional districts that also contained an appropriation.
- The Court held that:
 - Changes to codified law are **NOT** appropriations
 - If no other constitutional exception applies, codified law changes must be subject to the referendum and take effect at least 90 days after being filed with the Secretary of State

State ex. rel. Ohioans for Fair Districts v. Husted, 130 Ohio St. 3d 240 (2011)

WHAT IS THE RESULT?

- The Court did not directly address the constitutionality of ORC 1.471 in the *Ohioans for Fair Districts* case
- The holding in this case seems, however, to conflict with the intent of ORC 1.471

DRAFTING TIPS



- Think carefully before making a provision immediately effective – does it qualify for an exemption from the referendum under one of the three constitutional exceptions?
- Consider the matter of effective dates when a provision and its related appropriations may have different effective dates

DELAYED EFFECTIVE DATES

- Under certain circumstances, you may wish a provision to take effect LATER than the 91st day after the bill is filed with the Secretary of State
- A delayed effective date is the appropriate way to achieve this

Include the desired effective date in the drafting request to LSC

Section 812.10. Except as otherwise provided in this act, the amendment, enactment, or repeal by this act of a section is subject to the referendum under Ohio Constitution, Article II, Section 1c and therefore takes effect on the ninety-first day after this act is filed with the Secretary of State or, if a later effective date is specified below, on that date.	128496 128497 128498 128499 128500 128501
The amendment of section 5739.211 of the Revised Code takes effect December 1, 2013.	128502 128503
The enactment of section 5162.12 of the Revised Code takes effect January 1, 2014.	128504 128505
The amendment, enactment, or repeal of sections 3313.48, 3313.533, 3313.62, 3314.092, 3321.05, and 3326.11 of the Revised Code takes effect July 1, 2014.	128506 128507 128508

MIXED EFFECTIVE DATES

Parts of a single ORC section may be subject to more than one effective date

Section 812.30. The sections that are listed in the left-hand column of the following table combine amendments by this act that are not exempt from the referendum under Ohio Constitution, Article II, sections 1c and 1d and section 1.471 of the Revised Code.

The middle column identifies the amendments to the listed sections that are subject to the referendum under Ohio Constitution, Article II, Section 1c and therefore take effect on the ninety-first day after this act is filed with the Secretary of State or, if a later effective date is specified, on that date.

The right-hand column identifies the amendments to the listed sections that are exempt from the referendum under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code and therefore take effect immediately when this act becomes law or, if a later effective date is specified, on that date.

Section of law	Amendments subject to referendum	Amendments exempt from referendum	
3745.11	Amendments to division (M) (5)	All amendments except as described in the middle column	127959
3721.50 (5168.40)	All amendments except as described in the right-hand column	Amendments to division (F)	127960
5112.30 (5168.60)	All amendments except as described in the right-hand column	Amendments to division (A) take effect July 1, 2013	127961
5751.20	Amendments to division (J)	All amendments except as described in the middle	127962

If changes to an ORC section take effect at different times, this is indicated in uncodified law

WHERE TO FIND EFFECTIVE DATE INFORMATION

Information regarding effective dates is centralized in Title 800 of most budget bills

Check the last few pages of the bill to see if an ORC section is subject to a special effective date

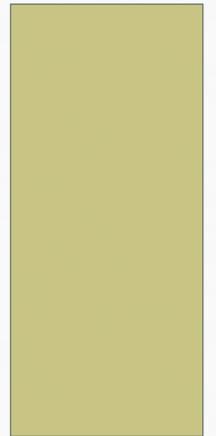
Section 812.20. The amendment, enactment, or repeal by this act of the sections listed below is exempt from the referendum under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code and therefore takes effect immediately when this act becomes law or, if a later effective date is specified below, on that date.	164316 164317 164318 164319 164320 164321
Sections 131.51, 731.091, 3314.05, 3734.57, 3734.901, 4301.43, 5727.84, 5747.501, and 5753.03 of the Revised Code.	164322 164323
Sections of this act prefixed with section numbers in the 200's, 300's, 400's, and 500's except for sections 282.90, 323.10.70, 323.70, 323.110, 323.120, 323.480, 363.230, 363.520, 363.540, and 363.550 of this act.	164324 164325 164326 164327
Sections 605.30 and 605.31 of this act.	164328
Section 803.210 of this act.	164329
Sections 812.10, 812.20, and 812.30 of this act.	164330

Section 812.10. Except as otherwise provided in this act, the amendment, enactment, or repeal by this act of a section is subject to the referendum under Ohio Constitution, Article II, Section 1c and therefore takes effect on the ninety-first day after this act is filed with the Secretary of State or, if a later effective date is specified below, on that date.	128496 128497 128498 128499 128500 128501
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Budget bills typically have a default effective date of 90 days

If your section does not appear in the Title 800 sections, it is likely a 90-day provision

LEGAL FOUNDATIONS OF THE BUDGET



THE AUTHORITY TO SPEND

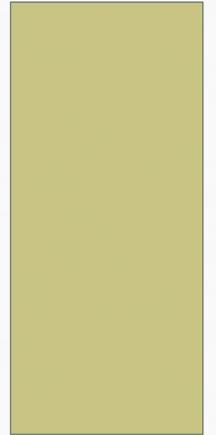
- “No money shall be drawn from the treasury, except in pursuance of a specific appropriation, **made by law**, and no appropriation shall be made for a longer period than two years.”
 - [Ohio Constitution, Article II, Section 22](#)

BALANCED BUDGET REQUIREMENT

- Constitutional obligation to maintain a **balanced budget**
 - Article VIII, Section 3: prohibits state debt except as otherwise expressly authorized in the Constitution
 - Article XII, Section 4: requires the General Assembly to provide for raising sufficient revenue to offset state expenses each year



BUDGET DRAFTING



BUDGET COMPONENTS

- As a courtesy extended by the legislature to the Governor, LSC drafts the Governor's budget proposals into bills
- Before a budget bill is introduced, provisions are drafted in smaller parts called components
 - For H.B. 59, LSC drafted almost 800 budget components

READING BUDGET COMPONENTS

- Components contain the following:
 - Header – LSC number, OBM number, and effective date information
 - Body - may contain ORC sections or uncodified sections or both
 - New uncodified sections may not be assigned a Section number at this stage
 - Synopsis – topic, citation, and summary
 - The synopsis does not become part of the bill

Body

Sec. 5101.99. (A) Whoever violates division (A) or (B) of section 5101.61 of the Revised Code shall be fined not more than five hundred dollars. 2 3 4

(B) Whoever violates division (A) of section 5101.27 ~~or~~ division (A) of section 5101.271 of the Revised Code is guilty of a misdemeanor of the first degree. 5 6 7

(C) Whoever violates section 5101.133 of the Revised Code is guilty of a misdemeanor of the fourth degree. 8 9

SYNOPSIS

Penalty for Violating Confidentiality Requirements for Medical Assistance Programs

R.C. 5101.99

Provides that it is a misdemeanor of the first degree to violate a prohibition against using or disclosing information regarding a Medicaid, Children's Health Insurance Program, or Refugee Medical Assistance recipient for any purpose not directly connected with the administration of those programs. 11 12 13 14 15 16 17

Synopsis

130.MB-0112-1

FCC001; Multiple dates

Section ____. On July 1, 2014, or as soon as possible 2
 thereafter, the Director of Budget and Management shall transfer 3
 the cash balance in the Education Endowment Fund (Fund P087) to 4
 the Education Facilities Trust Fund (Fund N087). Upon completion 5
 of the transfer, Fund P087 is abolished. 6

OUTRIGHT REPEAL: R.C. 183.35

TITLE:

To repeal section 183.35 of the Revised Code

EFFECTIVE DATE NOTE:

Repeal of R.C. 183.35 is 90-day; Section ____ is immediate. 11

SYNOPSIS

Tobacco Settlement Enforcement Fund elimination 12

R.C. 183.35 (repealed) 13

Eliminates the Tobacco Settlement Enforcement Fund, used by 14
 the Tax Commissioner to enforce provisions of Ohio Tax Law related 15
 to the sale of certain tobacco products. 16

**Facilities Construction Commission cash transfer and fund 17
 abolishment** 18

Section ____ 19

Authorizes the Director of Budget and Management to transfer 20
 the cash balance of the Education Facilities Endowment Fund (Fund 21
 P087) to the Education Facilities Trust Fund (Fund N087) and 22
 abolishes Fund P087. 23

R.C. sections
being
repealed
outright

New uncodified sections
will be assigned a number
once a bill is pulled
together

DRAFTING TIPS

- Each draft, whether it is a component or an amendment, must be able to stand on its own
 - Example: one component creates a program, another component creates a fund for that program
- These two concepts should be drafted as one component

MORE DRAFTING TIPS

- LSC submits a “base bill” to OBM for agencies to use when preparing the next budget bill
 - The base bill includes the **most up-to-date versions** of the uncodified sections of law in the budget bill under which the state is currently operating
- Marking up the base bill is the most efficient way to draft changes to your agency’s uncodified law

Drafting note: Many sections of H.B. 59 were amended by the mid biennial review bills – those sections, as amended, must be used for the next base bill.

BUDGET AMENDMENTS

- After a bill is introduced, changes must be done via amendment
- For H.B. 59, LSC drafted:
 - Over 1600 amendments in the House
 - Over 2000 amendments in the Senate
 - Over 600 amendments for Conference Committee



READING BUDGET AMENDMENTS

- Amendments contain the following:
 - Header – bill number, bill version, LSC number, and OBM number (if applicable)
 - Note: LSC number indicates the bill's stage, e.g. House Committee (HC) or Senate Floor (SF)
 - Body – in the form of line commands
 - Synopsis – topic, citation, and summary

1 129HB153-HC1492.docx/ar

2 Header

3 As Pending in H. Finance and Appropriations Sub. H.B. 153
4 LSC 129 1066-2
5 HC-1492

6 _____ moved to amend as follows:

7 In line 79025, delete "Emergency respite" and insert
8 "Respite"; delete "provided under section"

9 In line 79026, delete "5126.11 of the Revised Code"

10 The motion was _____ agreed to.

11 SYNOPSIS

12 **Use of Funds by Department of Developmental Disabilities**

13 **R.C. 5123.0418**

14 Modifies the bill's provision granting the Director of
15 Developmental Disabilities authority to use appropriated funds
16 for additional purposes by specifying, with regard to respite
17 care services, that the funds may be used for any respite care
18 services, rather than only emergency respite care services
19 provided under a county developmental disabilities board's
20 family support services program.

Body

Synopsis

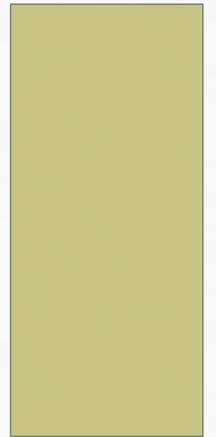
REQUESTING CHANGES TO COMPONENTS OR AMENDMENTS

If you would like changes to a previously-drafted component or amendment:

- Make hand edits to the LSC draft, scan, and send back to LSC – most efficient
- If you wish to re-write your original version of the draft, make sure to CLEARLY INDICATE what changes are being made. This is the less preferred method.

****DO NOT** send over a request for changes that does not clearly indicate the changes**

APPROPRIATIONS



HOW TO DRAFT AN APPROPRIATION

58

LINE ITEM APPROPRIATIONS

- Most common and preferred format for an appropriation is the line item appropriation
- In an operating appropriations bill, line item appropriations are generally ordered by:
 - Agency
 - Fund group
 - Fund number
 - Line item number

LINE ITEM APPROPRIATIONS

- Each line item consists of:
 - Fund number
 - Line item number
 - Line item name
 - Appropriations for the first and second year of the biennium

Example

GRF	200410	Educator Training	\$12,000,000	\$12,000,000
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LANGUAGE APPROPRIATIONS

- Less common and less preferred format for an appropriation
- This format is most often used if the amount of the appropriation is uncertain

Example

“There is hereby appropriated from the General Revenue Fund **amounts sufficient** to make any payment required by division (B)(2) of section 5747.03 of the Revised Code.”

APPROPRIATIONS - DO'S AND DON'TS

- No money can be spent from the state treasury without an appropriation
- Only the General Assembly has the authority to make an appropriation

APPROPRIATIONS - DO'S AND DON'TS

- Do not write "The Director of Budget and Management shall appropriate..." or "The Controlling Board shall appropriate..."
- However, you can allow the Director of Budget and Management to "authorize expenditures in excess of the amounts appropriated" and then appropriate those additional amounts.

APPROPRIATIONS

Example

The foregoing appropriation item 600673, Ohio's Best Rx Administration, shall be used to cover costs of the Ohio's Best Rx Program created in section 5110.33 of the Revised Code. If receipts credited to the Ohio's Best Rx Program Fund exceed the amounts appropriated from the fund, the Director of Job and Family Services may **request the Director of Budget and Management to authorize expenditures from the fund in excess of the amounts appropriated.** Upon the approval of the Director of Budget and Management, the additional amounts are hereby appropriated.

HOW TO DRAFT AN APPROPRIATION TRANSFER

65

APPROPRIATION TRANSFERS

- The Director of Budget and Management may be authorized to transfer appropriation from one line item to another within the same fund (GRF, for example) used by the same agency
- When can this be done? When the amount and the necessity of the transfer are unknown

APPROPRIATION TRANSFERS

Example

At the request of the Attorney General, the Director of Budget and Management may transfer appropriation from GRF appropriation item 055321, Operating Expenses, to GRF appropriation item 055411, County Sheriffs' Pay Supplement. Any appropriation so transferred shall be used to help supplement the annual compensation of county sheriffs as required by section 325.06 of the Revised Code.

APPROPRIATION TRANSFERS

- When transferring the unexpended and unencumbered appropriation from one fiscal year to the next, reappropriate the remaining appropriation

APPROPRIATION TRANSFERS

Example

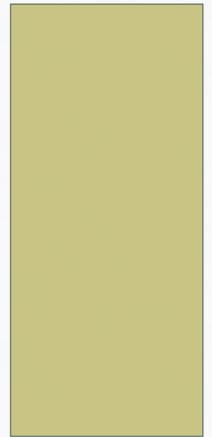
OPERATING EXPENSES

An amount equal to the unexpended, unencumbered portion of the foregoing GRF appropriation item 029321, Operating Expenses, at the end of fiscal year 2012 **is hereby reappropriated** to the Joint Committee on Agency Rule Review for the same purpose for fiscal year 2013.

DRAFTING TIP

- Never use the phrase "appropriation authority" when drafting
 - Appropriation is defined as the authority to spend – no need to duplicate words!

HOW TO DRAFT APPROPRIATION
INTENT/LIMITING LANGUAGE



APPROPRIATION INTENT/LIMITING LANGUAGE

- For most line items, the line item name alone indicates intent
- Language can be used to elaborate on intent or limit the use of an appropriation

APPROPRIATION INTENT/LIMITING LANGUAGE

NATIONAL GUARD BENEFITS

Example

The foregoing appropriation item 745407, National Guard Benefits, shall be used for the purposes of sections 5919.31 and 5919.33 of the Revised Code, and for the administrative costs of the associated programs.

For active duty members of the Ohio National Guard who died after October 7, 2001, while performing active duty, the death benefit under section 5919.33 of the Revised Code, shall be paid to the beneficiary or beneficiaries designated on the member's Service members' Group Life Insurance Policy.

HOW TO DRAFT APPROPRIATION EARMARKS

74

APPROPRIATION EARMARKS

- An earmark sets aside part of an appropriation for a specific purpose
 - May be mandatory or permissive
 - May be an exact amount, a maximum amount (“up to”), or a minimum amount (“not less than”)



APPROPRIATION EARMARKS

Example

SPECIAL EDUCATION ENHANCEMENTS

Of the foregoing appropriation item 200540, Special Education Enhancements, **up to \$2,900,000** in each fiscal year may be used for home instruction for children with disabilities; **\$1,400,000 in each fiscal year** shall be allocated to parent mentoring programs; and **not less than \$2,700,000** in each fiscal year shall be used for school psychology interns.

HOW TO DRAFT CASH TRANSFERS

77

CASH TRANSFERS

- The Director of Budget and Management makes all transfers of cash between funds in the state treasury (state funds) unless such transfers are authorized to be done through an intrastate transfer voucher (ISTV)
- The Treasurer of State makes all transfers of cash between custodial funds and between custodial and state funds

CASH TRANSFERS

- Indicate when the transfer will occur
 - Can provide flexibility by using the phrase “or as soon as possible thereafter”
- Indicate who is to perform the transfer
 - Director of Budget and Management
 - Treasurer of State

CASH TRANSFERS

- Refer to what is being transferred as “cash”
- Indicate the amount of cash to be transferred
- Indicate the name and number of the sending and receiving funds
 - Note: the GRF does not have a number
- Place the cash transfer language in the agency that uses the fund that will receive the cash

CASH TRANSFERS

- Transferring cash does not appropriate the cash; this must be done separately
- If the transfer is mandatory and for a definite amount of cash, a line item appropriation may be the best way of appropriating the transferred cash

CASH TRANSFERS

Example

5CB0 440640 Poison Control Centers	\$200,000	\$200,000
------------------------------------	-----------	-----------

POISON CONTROL FUND

On July 1 of each fiscal year, or as soon as possible thereafter, the Director of Budget and Management shall transfer \$200,000 **cash** from the State Fire Marshal Fund (Fund 5460) used by the Department of Commerce to the Poison Control Fund (Fund 5CB0) used by the Department of Health.

NOTE: This language will be placed in Department of Health section, not the Department of Commerce

CASH TRANSFERS

- The language appropriation method is used if the amount of the transfer is unknown

Use "The transferred cash is hereby appropriated."

- "The transferred cash shall be used..." does not appropriate the transferred cash

CASH TRANSFERS

Example

On July 1, 2012, or as soon as possible thereafter, the Director of Health **shall certify** to the Director of Budget and Management the amount of cash to be transferred from the Federal Public Health Programs Fund (Fund 3920) to the Agency Health Services Fund (Fund 1420) to meet the operating needs of the Vital Statistics Program. The Director of Budget and Management **shall transfer** the amount certified. **The transferred cash is hereby appropriated.**

CASH TRANSFERS

Example

On July 1, 2012, or as soon as possible thereafter, the Director of Budget and Management **shall transfer** cash from the Federal Public Health Programs Fund (Fund 3920) to the Agency Health Services Fund (Fund 1420) to meet the operating needs of the Vital Statistics Program. **The transferred cash is hereby appropriated.**

TRANSFERS VIA ISTV

- A transfer by ISTV is done by agencies without involvement from OBM or the State Treasurer
- An ISTV may be used to transfer cash between funds when an agency purchases goods from, or performs services for, another agency

TRANSFERS VIA ISTV

Example

MENTAL HEALTH SERVICES FOR SEVERELY MENTALLY DISABLED PERSONS

Of the foregoing appropriation item 335508, Services for Severely Mentally Disabled, \$2,700,000 in each fiscal year shall be used by the Director of Mental Health to transfer cash from the General Revenue Fund to the Family Stability Incentive Fund (Fund 4N80). **The transfer shall be made using an intrastate transfer voucher.**

HOW TO CREATE A FUND

88

CREATION OF A FUND

- Created in codified law unless it is not to last beyond the biennium
- Given a name that is descriptive of its purpose
- Typically created "in the state treasury"
- Include the source of the money credited to the fund, the agency or officer authorized to spend the money in the fund, and its permitted uses

CREATION OF A FUND

Example

ENERGY STAR REBATE PROGRAM FUND

The **Energy Star Rebate Program Fund** (Fund 3DA0) is hereby created **in the state treasury**. The **federal payments made to the state for the Energy Star Rebate Program under the American Recovery and Reinvestment Act of 2009** shall be credited to the fund and shall be used by the **Director of Public Safety to provide rebates under the Energy Star Rebate Program**.

CREATION OF A FUND

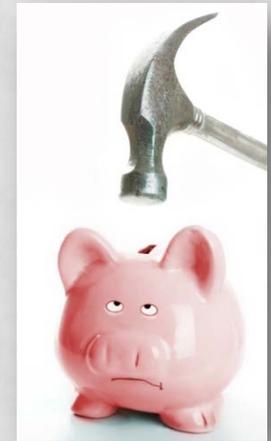
- Investment earnings of all state funds are credited to the GRF (R.C. 113.09) unless the statute provides otherwise
- If the earnings are to be retained by a fund, the language creating the fund should specify this intent by including a sentence on the order of the following: "All investment earnings of the fund shall be credited to the fund."

HOW TO ABOLISH A FUND

92

ABOLISHMENT OF A FUND

- You need to:
 - Repeal the section that created the fund in the Revised Code OR abolish the fund in uncodified law if it was created by the Controlling Board
 - Determine when the fund is to be abolished



ABOLISHMENT OF A FUND

- You may also need to:
 - Transfer the cash balance out of the fund that is to be abolished
 - Cancel any existing encumbrances against the appropriation for the fund being abolished
 - Reestablish the encumbrances against the line item associated with the fund receiving the cash balance
 - “The reestablished encumbrance amounts are hereby appropriated.”

ABOLISHMENT OF A FUND

Example

On July 1, 2012, or as soon as possible thereafter, the Director of Budget and Management **shall transfer the cash balance** in the Employment Services Fund (Fund 1070) to the General Reimbursement Fund (Fund 1060). Upon completion of the transfer, **Fund 1070 is abolished**. The Director **shall cancel any existing encumbrances** against appropriation item 055624, Employment Services, and **reestablish them** against appropriation item 055612, General Reimbursement. **The reestablished encumbrance amounts are hereby appropriated.**

DRAFTING TIPS

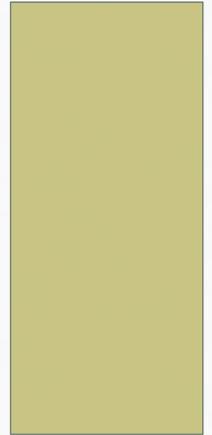
- While funds may have similar names, each fund number is unique
- Include both the fund name and the fund number when you mention the fund for the first time – the General Reimbursement Fund (Fund 1060)
- After that, it is sufficient to refer to the fund by its fund number only – Fund 1060

MORE DRAFTING TIPS

- State funds are located in the state treasury, not in state agencies
- Use “used by” to describe the relationship between a fund and an agency
 - “The General Reimbursement Fund (Fund 1060) *used by* the Office of Attorney General”



WHAT DID LSC DO TO MY
DRAFT?



HIERARCHY OF LAWS

- Ohio sources of law
 - Ohio Constitution
 - Ohio Revised Code
 - Ohio Administrative Code
- Federal sources of law
 - U.S. Constitution
 - U.S. Code
 - U.S. Code of Federal Regulations

OHIO LAW: ORC VS. OAC

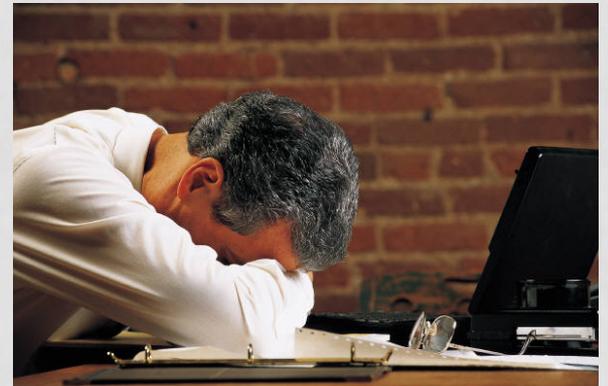
- Statutes govern the rules that are to be adopted
- Rules amplify the statutes
 - EXAMPLE: ORC 5111.891 states “To be eligible for the assisted living program, a person shall require an intermediate level of care as determined under OAC 5101:3-3-06.”
 - ISSUE: The rule was subsequently renumbered, but the statute wasn’t updated to reflect that change

ORC V. OAC

- DRAFTING TIP:
 - Because rules can change outside the legislative process, better to say “To be eligible for the assisted living program, a person shall require an intermediate level of care as determined by the director of job and family services by rule adopted pursuant to ORC Chapter 119.”

WHY DOES THE LSC DRAFT LOOK DIFFERENT FROM WHAT I SUBMITTED!

- Interaction with other Ohio laws
- Interaction with federal law
- LSC drafting rules and requirements



INTERACTION WITH OHIO LAWS

- Other ORC sections may require amendment to make those sections work with the proposed language = called “conforming changes”
 - Example: if you remove division (C) of ORC 123.45, and division (C) is cross referenced in 80 other ORC sections, all of those sections would need amendment

INTERACTION WITH OHIO LAWS

- Take care with “notwithstanding” other laws
 - Try to be specific about the law you are “notwithstanding” versus a blanket “Notwithstanding any law to the contrary”
 - Use this device sparingly to prevent any confusion
 - Consider adding exceptions to current codified law rather than “notwithstanding” the law

INTERACTION WITH FEDERAL LAW

- Terminology or definitions may need to be changed to comply or be consistent with federal law
 - If you know the language you submitted is required or affected by federal law, please let LSC know!
 - Citations, program names, similar laws of other states, or any other background information about the federal law is extremely helpful!

DEFINITIONS

- Drafting rule: Definitions should not supplant the operative law
 - Example: Rather than defining “owner of a residential care facility” as the person who submits the application
 - Add an operative ORC section that says “The application shall be submitted by the owner of a residential care facility.”

DEFINITIONS, CONTINUED

- Over-defining terms
 - Words are required to be interpreted using their ordinary and common meaning
 - No need to define words unless a specialized meaning is intended

TECHNICAL REQUIREMENTS

LSC must adhere to certain technical drafting requirements:

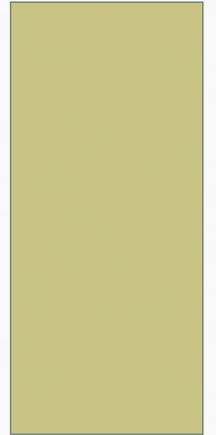
- Capitalization – very few words are capitalized
- Spelling – must adhere to odd spellings in some situations
- Gender neutral
- Goal: Make language easy to read and comprehend for the average reader, **not a technical expert** – you must assume the reader is not an expert

WAYS TO IMPROVE DRAFTING ACCURACY AND EFFICIENCY

- Take extra care when writing the summary statement on the OBM cover sheet
 - Detailed information about what you are trying to accomplish is extremely helpful!
 - Keep in mind the LSC drafter is seeing this proposal for the first time.
 - Don't forget to include any relevant federal or state law citations.
- Respond to LSC staff phone calls or emails – we rely on the experts to help us draft!
- Send any relevant memoranda or background information with the draft request



LSC BUDGET PRODUCTS



LSC BUDGET PRODUCTS

- Budget Bill
- Forecasts of GRF Revenues and Medicaid Expenditures
- Redbooks
- Bill Analysis
- Catalog of Budget Line Items (COBLI)
- Budget in Detail (Spreadsheet)
- Comparison Document (Compare Doc)
- Budget In Brief
- Amendments
- Greenbooks
- Budget Footnotes
- Fee List

WHERE DO I FIND BUDGET PRODUCTS?

The screenshot shows the Ohio Legislative Service Commission website. At the top is a banner with the text "Ohio Legislative Service Commission" and a search bar labeled "Search LSC". Below the banner is a horizontal navigation menu with the following items: Home, Bills/Resolutions & Related Documents, Budget Bills & Related Documents, Publications, Letter & Resolution Requests, Links, and About Us. An arrow points to the "About Us" link. Below the menu is a welcome message: "Welcome to LSC: a nonpartisan agency providing the Ohio General Assembly with drafting, research, budget and fiscal analysis, training, and other services". The main content area features a large image of the Ohio Statehouse on the left. To its right are four blue buttons with icons: "Bills/Resolutions & Related Documents", "Budget Bills & Related Documents", "Publications", and "Letter & Resolution Requests *Legislators and Legislative Staff Only". Below these buttons is a dark grey button with the website URL "www.lsc.state.oh.us". On the right side of the main content area is a "What's New" section with links for "Mid-Biennium Review", "Budget Footnotes", and "Status Report of Legislation". Below this section is another image of the Ohio Statehouse. At the bottom left of the main content area are links for "Links" and "About Us". At the very bottom of the page is a footer with links for "Disclaimer", "Employment", "Legislative Fellows", and "Email Webmaster".

Click "About Us" for links to contact names and phone numbers