AOS BULLETIN 98-004
August 26, 1998

TO: THE LEGISLATIVE AUTHORITY OF ALL SUBDIVISIONS
THE FISCAL OFFICER OF ALL SUBDIVISIONS
ALL INDEPENDENT PUBLIC ACCOUNTANTS

SUBJECT: S.B. 77 AND H.B. 426

The purpose of this bulletin is to highlight the statutory changes made by Substitute Senate Bill No.77 and Amended Substitute House Bill No. 426. The information presented in the bulletin is a summary of these changes; actions related to these changes should not be taken without first reading the actual language of the new legislation.

SUMMARY OF SUBSTITUTE SENATE BILL NO. 77

The following sections reflect changes made by Substitute Senate Bill No. 77. The effective date of these new provisions is August 12, 1998.

Creation or Dissolution of a Public Office

Ohio Rev. Code Section 117.10 was amended to require notification to the Auditor of State of the creation or dissolution of a public office. Notification must be given within thirty days of the action. Public office is broadly defined in Ohio Revised Code Section 117.01 to include any political subdivision or other organized body established by state statute for the exercise of any function of government. It is the responsibility of the Auditor of State to conduct regular audits of public offices in Ohio. This new notification process will help insure that this responsibility is fulfilled. Notification should be sent to:

Auditor of State’s Office
Attn: Clerk of the Bureau
88 East Broad Street
P. O. Box 1140
Columbus, Ohio 43216-1140

Filing of Annual Financial Reports

Ohio Revised Code Section 117.38 states that every public office must file an annual report with the Auditor of State's office. The deadline for filing cash basis reports had been ninety days after year-end. This legislation reduced the deadline to sixty days. **Cash basis reports for 1998 will be due by March 1, 1999.**

This statute also authorizes the Auditor of State to prescribe the form of the report to be used for filing purposes. Previously, the filing requirement was only applied to entities for which the Auditor of State had prescribed an annual report format. The section was amended to read that if a form has not been prescribed by the Auditor of State's office, the public office must file its report in the format used by the public office.

This modification of the statute will extend the filing requirement to many entities not previously subject to the statute. Entities not previously covered that will now be required to file include, but are not limited to, regional councils of government, regional water and sewer districts, recreational districts, metropolitan park districts, special education regional resource centers, school data collection centers, and self insurance pools. If you serve as the fiscal officer for more than one public office (for example a school district and a data collection center), you will be responsible for filing separate reports for each office. **The first report for public offices not previously required to file will be for the fiscal year beginning after August 12, 1998**.

The section also states that at the time the report is filed with the Auditor of State, the fiscal officer must publish in the newspaper notice of the completion of the report and the fact that the report is available at the office of the fiscal officer. Publication of the balance sheet for reports prepared using generally accepted accounting principles or a summary sheet for cash basis reports will no longer be required. These new guidelines are effective for reports filed with the Auditor of State's office after August 12, 1998.

SUMMARY OF AMENDED SUBSTITUTE HOUSE BILL NO. 426

The following are highlights of revisions made by Amended Substitute House Bill No. 426. These changes are effective July 22, 1998. Ohio Revised Code Sections 5705.13 and 5705.131 are new code sections enacted by this legislation to provide a taxing authority with additional tools to help plan and manage financial activity. These code sections replace existing authority for counties and townships. The old sections were eliminated to create consistent guidelines for all taxing authorities to follow. The reserve balance accounts established by this legislation are in addition to those mandated for schools in Substitute H. B. 412.

Reserve Balance Accounts and New Funds

Part (A) of Ohio Revised Code Section 5705.13 allows a taxing authority of a subdivision to establish a reserve balance account for each of the following three purposes: 1. for budget stabilization, 2. for the payment of claims under a self-insurance program or 3. for the payment of claims under a retrospective ratings plan for workers' compensation. The reserve must be established by a resolution or ordinance that states the purpose and size of the reserve and the fund in which the reserve is to be created. Expenditures of the reserve have to be for the purpose for which the reserve was established and no more than three reserve balance accounts can be established at one time, one for each purpose.

A reserve balance account established for budget stabilization must be created in the general fund. The amount reserved may not exceed 5% of the general fund's revenue for the preceding fiscal year and the reserve balance is not to be considered part of the unencumbered balance when certifying available balances at year-end. The reserve for budget stabilization may be reduced or eliminated at any time by the taxing authority.

A reserve balance account created for a self-insurance program or for a retrospective ratings program for workers' compensation may be created in the general fund or in the internal service fund established to account for the operation of the program. The amount to be reserved for either of these purposes must be based on sound actuarial principles and the taxing authority may rescind the reserve balance account for self-insurance or workers' compensation at any time. If rescinded, the accumulated resources are returned to the fund from which they came. A participant in a risk sharing pool may not establish a reserve for participation in the pool.

Amounts set-aside in reserve balance accounts are excluded from consideration when calculating local government money allocations. Ohio Revised Code Section 5705.29 has been amended, however, to permit the budget commission to require documentation of the reasonableness of the balances. Any amount determined to be unreasonable will be considered revenue for purposes of local government money allocations and for determining whether to reduce tax rates.

In part (B) of the section, a taxing authority is given the authority to establish a special revenue fund in which cash may be accumulated for paying termination benefits or for paying salaries when the number of pay periods exceeds the usual and customary number for a year. Termination benefits are defined in this section as payments for accumulated sick leave and vacation leave, or for payments in lieu of taking compensatory time off, upon the termination of employment or retirement. Money may be transferred to this fund from any fund from which the termination or salary payments could lawfully be made. The reserve must be established by resolution or ordinance and the taxing authority may rescind the fund at any time with the accumulated resources being returned to the fund from which they came. Amounts accumulated in this fund should be reasonable based on the taxing authority's estimated liability for benefits.

Cities and counties wishing to accumulate money for termination benefits should establish a special revenue fund within their chart of accounts. Schools creating a fund should use fund code 035. Villages and townships using the numeric chart of accounts should establish a fund in the 2901 - 2999 range. Villages on the alphanumeric chart of accounts should use fund B8. Townships on the alphanumeric chart of accounts should use fund 14. Libraries using the UAN system should establish a fund in the 2001 - 2999 range. Libraries not using UAN should use fund 200. Auditor of State approval is not required to create this fund.

Part (C) states that a taxing authority may create one or more capital projects funds to accumulate resources for the acquisition, construction, or improvement of fixed assets, including motor vehicles. Each fund must be created by ordinance or resolution. The resolution or ordinance must identify the asset(s) to be acquired, the amount needed to be accumulated, the period over which the amount will be accumulated (with a limit of five years from the date of the resolution or ordinance), and the source of the resources. Money may be transferred to the capital projects fund from any other fund that could acquire the fixed assets. If a contract for the fixed asset(s) has not been entered into before the five year period expires, the money is returned to the fund from which it was transferred or that was originally intended to receive it. The taxing authority may rescind a capital projects fund at any time with the accumulated resources being returned to the fund from which they came.

This legislation repeals Ohio Revised Code Sections 305.23, 505.83, and 505.831. These code sections authorized townships and counties to set-aside money for the purchase of certain specific fixed assets. Any money currently accumulated under these code sections should be moved by resolution to a new capital projects fund authorized by Ohio Revised Code Section 5705.13(C). The new capital projects fund will now be subject to the restrictions and requirements of 5705.13; however, the money must still be spent for the purpose for which it was being set aside and it must still be obligated within five years from the date the first set-aside occurred.

Cities and counties wishing to accumulate money for one or more capital projects should establish the needed capital projects fund(s) within their charts of accounts. Schools creating a fund should use fund code 070. Additional projects should be accounted for in funds 071 - 075. Villages and townships using the numeric chart of accounts should establish the needed fund(s) in the 4901 - 4999 range. Villages on the alphanumeric chart of accounts should use fund D3. Townships on the alphanumeric chart of accounts should use fund 21. Libraries using the UAN system should establish the necessary fund(s) in the 4001 - 4999 range. Libraries not on UAN should use fund 400. More than one fund may be established at one time. Auditor of State approval is not required to create these funds.

Nonexpendable Trust Funds

Ohio Revised Code Section 5705.131 is a new statute that permits the establishment of nonexpendable trust funds. A nonexpendable trust fund is used to receive donations or contributions that the donor or contributor requires to be maintained intact; only the interest earned on the contribution may be spent. The statute states that interest earned on the contribution is to be credited directly to the nonexpendable trust fund. This new language replaces the statutory interpretation expressed in Opinion of the Attorney General No.85-085 that interest earned on a nonexpendable trust fund is to be credited to the general fund.

Language in the legislation also indicates that only interest earnings are considered available for expenditure when certifying year-end balances of a nonexpendable trust fund to the county auditor under Ohio Revised Code Section 5705.36. This means that at year-end you should only report accumulated unspent interest on the certificate of year-end balances. Since the contribution may not be spent, it should not be included as part of the year-end balance.

Certificates of Estimated Resources

Revisions to this section begin by stating that the certificate of year-end balances filed with the budget commission shall not include as an unencumbered balance the principal of a nonexpendable trust fund created under Ohio Revised Code Section 5705.131 or any amount reserved under Ohio Revised Code Section 5705.13 for budget stabilization, a retrospective ratings plan for workers' compensation or for self-insurance. The second revision to this section relates to requests for amended official certificates of estimated resources. The old section had separate guidelines for schools, counties and cities. There are now three guidelines that are applicable to all subdivisions.

The first guideline permits the fiscal officer to request an amended certificate from the budget commission when the fiscal officer determines that the amount to be collected will be greater or less than the current estimate. The second guideline requires a fiscal officer to request an amended certificate when the fiscal officer determines that the amount to be received is greater than the current estimate and the legislative authority intends to appropriate and spend the excess. The final guideline requires a fiscal officer to request an amended certificate when the fiscal officer determines that the amount to be collected is less than the current estimate and the deficiency will reduce available resources below the level of current appropriations.

"Super" Blanket Certification of the Availability of Funds

The section now authorizes the use of the "super" blanket certification by all subdivisions. This authority had been limited to counties. Blanket certifications are limited to a maximum of $5,000 and length of three months or year-end, whichever comes first. The new super blanket certification permits the fiscal officer to certify amounts greater than $5,000. The certification is authorized to be outstanding for any period up to the end of the fiscal year and more than one certificate is permitted to be outstanding at one time. The certification must identify a specific line-item appropriation in a specific fund. The certification may be limited to a specific vendor, if desired. A list of obligations incurred and expenditures made under each certificate must be maintained by the fiscal officer.

The section lists the permitted purposes of the certification . They are: the services of an accountant, architect, attorney at law, physician, professional engineer, construction project manager, consultant, surveyor, or appraiser by or on behalf of the subdivision; fuel oil, gasoline, food items, roadway materials and utilities; and any purchase exempt from competitive bidding under Ohio Revised Code Section 125.04 and any other specific expenditure that is a recurring and reasonably predictable operating expense.

Questions concerning the information presented in this bulletin may be directed to the Local Government Services Division of the Office of the Auditor of State at (800) 345-2519.