



Local Impact Statement Report

For Bills Enacted in 2014

Ohio Legislative Service Commission
September 2015

Table of Contents

Introduction.....	i
--------------------------	----------

Local Government Association Comments

County Commissioners' Association of Ohio	1
Ohio Municipal League.....	3
Ohio Township Association	4
Ohio School Boards Association	6

Fiscal Notes for Bills Enacted in 2014 Requiring Local Impact Statements

Sub. H.B. 5	10
Sub. H.B. 10	21
Am. Sub. H.B. 130	26
Am. Sub. H.B. 213	32
Sub. H.B. 264	37
Sub. H.B. 319	41
Sub. H.B. 366	43
Am. Sub. H.B. 487	47
Am. Sub. H.B. 492	66
Am. Sub. S.B. 43.....	76
Am. S.B. 99	81
Am. Sub. S.B. 143.....	86
Am. Sub. S.B. 243.....	94
Sub. S.B. 250	103
Am. Sub. S.B. 263.....	107
Am. Sub. S.B. 276.....	110
Sub. S.B. 316	119
Am. Sub. S.B. 342.....	121

Appendix

All House and Senate Bills Enacted in 2014.....	124
---	-----

Introduction

R.C. 103.143 requires the Legislative Service Commission (LSC) to determine whether a local impact statement (LIS) is required for each bill that is introduced and referred to committee. An LIS may be required when a bill could result in net additional costs beyond a minimal amount to school districts, counties, municipalities, or townships. An LIS is not required for budget bills or joint resolutions. It is also not required when the bill is permissive or when the bill's potential local costs are offset by additional revenues, offset by additional savings, or caused by a federal mandate. The LIS determination is based solely on the "As Introduced" version of the bill.

R.C. 103.143 also requires LSC to annually compile the final local impact statements completed for laws enacted in the preceding calendar year. The Report is to be completed by September 30 each year. This 2015 Report covers the 136 bills enacted in calendar year 2014, 18 of which required an LIS. The LIS requirement is met through the detailed analysis of local fiscal effects included in LSC's Fiscal Notes.

Regardless of whether a bill requires an LIS, the Fiscal Note analyzes the bill's fiscal effects on both the state and local government. However, under R.C. 103.143, when a bill requiring an LIS is amended in a committee, the bill may be voted out of the committee by a simple majority vote with a revised LIS (a requirement fulfilled by preparing an updated Fiscal Note) or by a two-thirds vote without a revised LIS. Because various bills are exempted from the LIS requirement, this Report does not include every bill enacted in 2014 that may have fiscal effects on local government. It should also be noted that Fiscal Notes in this Report were prepared for the General Assembly's deliberations on pending legislation. This means that cost estimates included in Fiscal Notes may differ from the actual costs of implementing these laws, as the estimates were made before the enacted legislation was implemented. For those who are interested in the local fiscal effects of all legislation enacted in 2014, please see the LSC Fiscal Notes for those laws, which are available on the LSC website (www.lsc.ohio.gov) by clicking on *Bills/Resolutions & Related Documents*.

In addition to this introduction, the Report contains comments from the County Commissioners' Association of Ohio, the Ohio Municipal League, the Ohio Township Association, and the Ohio School Boards Association. LSC is required to circulate the draft Report to these associations for comment and to include their responses in the final Report. The main section of the Report includes the final version of the Fiscal Notes for the 18 bills enacted in 2014 that required an LIS and became law. All 79 House bills and 57 Senate bills enacted in 2014 are listed in the appendix.

This Report may be viewed online at www.lsc.ohio.gov by clicking on *Publications*, and then *Local Impact Statement Report* under the *Staff Research Reports* heading.

**LOCAL GOVERNMENT ASSOCIATION
COMMENTS**



On behalf of the County Commissioners Association of Ohio, thank you for this opportunity to provide comments regarding the 2014 *Local Impact Statement Report*. As you note in the report, various bills are exempted from the LIS requirement. Consequently, the *Local Impact Statement Report* does not accurately capture the impact of state policy decisions on local governments. Primary among those exemptions is the state's biennial budget bill which, in addition to serving as a vehicle for the state funding plan, also contains significant tax and other public policy changes that impact county revenues and expenditures.

COUNTY FINANCES

Various Acts altering state tax policy (H.B. 492, S.B. 250, and S.B. 263) affect the revenue flowing into the state's general revenue fund and thereby the allocation to the Local Government Fund (LGF). Because 1.66% of state general fund revenues are transferred to the LGF, any fluctuation in the state's general fund receipts has a corresponding impact upon the amount of funding counties receive from the LGF. The LGF represents an important source of flexible funding to pay for various state-mandated programs and services counties are required to provide.

Through S.B. 243, the state chose to adopt a public policy of offering a sales tax holiday for back-to-school purchases during which time the collection of sales tax on various items was waived. In addition to the state portion of the sales tax, this waiver was also applied to the independently levied county portion of the sales tax and is projected to result in a loss of revenue to the counties. In such instances where the state modifies a local tax, we believe that it is appropriate for the state to identify a revenue replacement mechanism for the counties.

COUNTY GOVERNMENT RESPONSIBILITIES

Several Acts require counties to provide additional services and incur additional expenses. For example, sheriffs may experience additional workload associated with reviewing and investigating specific homicides and sex offenses (S.B. 316) or see an increase in sex offender registrations and the associated public notification requirements (H.B. 130). County government responsibilities are also acknowledged to be impacted by Acts that require changes to the administration of justice and the operation of the courts with respect to criminal justice reform (S.B. 143), the civil commitment process (S.B. 43), and child custody procedures (H.B. 313). We encourage vigilance against the creation of additional unfunded mandates.

COUNTY AS EMPLOYER/SERVICE PROVIDER

The operation of county government as an employer is also impacted by the actions of the General Assembly. Requirements to cover certain oral cancer medications may increase the county's employee health insurance premiums (S.B. 99). The PUCO being authorized to approve infrastructure development riders for natural gas utilities may increase a county's energy costs (H.B. 319). There may be new costs for those counties that operate county hospitals to comply with new policies on infant mortality (S.B. 276) or that provide hospice care to comply with new regulations to prevent the diversion of controlled substances containing opioids (H.B. 366).

CONCLUSION

Counties are uniquely tied to the state as the provider of state services at the local level on the state's behalf. The vitality and viability of this state/county partnership is directly impacted through all actions of the General Assembly. Therefore, CCAO urges the General Assembly to review all legislation enacted for its impact upon Ohio's local governments through the LIS process. Only then will the General Assembly and the public receive the true picture of the impacts that unfunded mandates and policy decisions have upon the counties and other local governments.

Again, CCAO thanks the Legislative Service Commission for the opportunity to comment on this report and wishes to acknowledge the professionalism and expertise of the LSC staff. Thank you.



The Ohio Municipal League has reviewed the draft of the *Local Impact Statement Report* for Bills Enacted in 2015 and would like to make the following comments.

The report provides helpful information to organizations representing local governments, their respective members and the public: information that would otherwise be difficult to compile.

An area that still needs to be addressed is the section of law that exempts LSC from having to update a local impact statement for the biennial budget, capital appropriation bill or any other budget corrections bill. The League would support legislation that would allow the General Assembly to include these bills that are now exempted in Division (F) of RC 103.143 from these local impact statements. OML also believes that local impact statements should be required at each phase of the legislative process. This is particularly important as substitute versions and amended substitute versions of bills are enacted. Legislation can have a huge fiscal impact upon local government and should be known to all as these bills progress through the legislature.

We are always optimistic that this document will gain a larger recognition with state decision makers as they consider imposing additional programs or duties on local government or reducing limiting funding.

The Ohio Municipal League commends the staff of the Legislative Service Commission for the time and effort they put into the individual statements and to this report.



OHIO TOWNSHIP ASSOCIATION

The Ohio Township Association (OTA) would like to thank the Ohio Legislative Service Commission (LSC) for the opportunity to comment on the proposed *Local Impact Statement Report for Bills Enacted in 2014*. The LSC *Local Impact Statement Report* helps educate members of the General Assembly and our membership on the effect certain legislation will have, and keeps legislators and local officials aware of any unfunded mandate created in legislation proposed and passed by the General Assembly.

As we have stated in the past, the fiscal impact legislation may have on townships often is underestimated. Provisions established in legislation such as filing, notification and public hearing requirements could create significant costs for townships. The OTA is pleased that LSC takes such costs into consideration when determining local fiscal impact.

According to the *Report*, there are six bills with a local impact on townships. Sub. HB 10 requires continuing education and creates an additional procedure for removal from office for township fiscal officers. A board of township trustees is required to pay for the continuing education, thus all townships will see an increase in costs. Furthermore, a township is required to pay reasonable legal expenses of any fiscal officer accused under this new removal procedure. If judgment is entered against the fiscal officer, the officer is required to reimburse the board of trustees, as determined by the court. Conversely, Am. Sub. SB 243 actually provides revenue to townships. The legislation allocated \$10 million to townships to be divided among the townships so that half (\$5 million) is distributed equally and the other half (\$5 million) is apportioned based on road miles in each township.

The changes made in Am. Sub. HB 492, Am. Sub. SB 243, Sub. SB 250 and Am. Sub. SB 263 will reduce the Local Government Fund (LGF), of which townships receive revenue. Any lost LGF revenue will require additional property tax levies. Unlike counties that may levy both a property tax and sales tax and municipalities that may levy a property tax and income tax, townships may only levy the property tax. For most townships, the LGF is the second or third highest source of general fund revenue and any reduction causes fiscal hardships in townships.

It is worth noting, Sub. HB 5, municipal income tax reform, is listed in the *Report* as having a local fiscal impact on just municipalities. We would like to point out that there are some townships that will be impacted by the changes in Sub. HB 5. Townships may create and implement Joint Economic Development Districts (JEDDs) or Joint Economic Development Zones (JEDZs) with neighboring municipalities. These districts or zones facilitate economic development in townships without threat of annexation due to a revenue sharing agreement that includes municipal income tax. The *Report* indicates that municipalities are likely to see a net revenue loss, thus townships that have JEDDs or JEDZs will likely also see a net revenue loss.

While the *Local Impact Statement Report* offers an analysis of legislation passed in 2014, it is not as inclusive as we would like. Two pieces of legislation enacted did not require a local impact statement but ultimately do have a fiscal impact on some townships. In 2014, the General Assembly enacted Sub. HB 289 and Sub. SB 287. Sub. HB 289 eliminates the opportunity for a township to create a JEDZ after December 31, 2014. By eliminating this ability, the General Assembly is eliminating a potential economic development tool and revenue stream for townships. On the flip side, SB 287 expands to townships the ability to invest in municipal bonds, thus potentially growing revenue for townships that pursue this option.

Although the actual impact these new laws will have on townships will not be known until the laws are put into practice, the fiscal analyses provide a base for our townships to determine how a new law may affect their budgets. The Ohio Township Association appreciates the opportunity to provide its input and thanks the Legislative Service Commission for all of their hard work in compiling this data, as it is truly beneficial to legislators and local government groups.



**Ohio School Boards
Association**

The Ohio School Boards Association (OSBA) is pleased to share our comments on the 2015 *Local Impact Statement Report* on selected bills enacted in 2014 as prepared by the Legislative Service Commission (LSC). The report is prepared for members of the Ohio General Assembly and the general public. The document provides the reader with a concise summary and analysis of the fiscal impact of specific bills on public school districts and other local government agencies. The report provides a valuable understanding of the cost and programmatic implications of the selected bills.

The 2015 *Local Impact Statement Report* includes information related to the bills enacted during 2014 that require local impact statements. Three bills included in the report have potential fiscal impact on local school districts. These bills are Sub. House Bill (HB) 10, HB 264, and HB 487.

Sub. HB 10

OSBA was very active throughout the legislative process and did offer testimony on Sub. HB 10. The bill as enacted does address our concerns about the fiscal practices of some charter/community schools. In particular, we support the provisions that deal with those schools declared "unauditable" by the Auditor. The consequences include being charged for any administrative costs required to rectify the situation and future withholding of state funding if the condition is not resolved in a timely manner. We also support the provisions that permit the State Board of Education to suspend, revoke, or limit the license of any fiscal officer who has been suspended and to require the governing authority of a community school to post a surety bond or cash in the amount of \$50,000 with the Auditor of State.

We believe that these steps are essential to ensuring that the expenditures of tax dollars are being accounted for properly.

Sub. HB 264

OSBA was also involved and did register concerns with HB 264, a bill that would place emphasis on services for students with diabetes.

Most of those concerns were addressed by changes to the bill. Many of those changes allowed much more local flexibility, as district leaders seek to meet the individual needs of their students.

We understand the seriousness of the illness and the need for schools to provide appropriate care. Our one outstanding concern with Sub. HB 264 is the provision that requires school districts to allow students with diabetes to attend the building of their choice, regardless of the resources available for their care (and the care of all the diabetic students in the district). This could result in a mandate that districts provide additional staff for every building that individual students might choose to attend, resulting in increased costs, rather than allow the district the flexibility to work out with the students and families, the best option for students.

Am. Sub. HB 487

The Ohio School Boards Association did voice concerns with several measures contained in HB 487 as they relate to primary and secondary education.

One area of concern is the College Credit Plus Program (CCP). We generally support CCP as a way to promote more consistency in the quality of the post-secondary courses, to increase awareness for parents and students of the options available, to reduce barriers to student participation, and to ensure that good data are available with which to evaluate the success of the program going forward.

The funding mechanism for CCP establishes a link between the per-credit hour cost and the school funding formula basic per-pupil amount. No school district would lose more than the per-pupil basic aid amount when a student chooses CCP options. The tuition amount is prorated based on the number of credit hours taken and is referred to as a "ceiling." There is also recognition of the administrative costs incurred by the resident school district under the CCP proposal as the district retains 17% of the prorated basic per-pupil amount. This represents an improvement compared to the post-secondary options program.

However, OSBA opposed the provision in Am. Sub. HB 487 that would require a "floor" within the funding mechanism. This feature has the potential for increasing costs to school districts for students receiving college credit. Many districts, prior to the introduction of CCP, were engaged in agreements with institutions of higher education (IHEs) at the local level, and these agreements required payments from districts that were much lower than the required "floor" as contained in Am. Sub. HB 487. Even though the Chancellor at the Department of Higher Education has the ability to waive the "floor" requirement, we have not seen any IHEs willing to negotiate below the established floor.

OSBA encouraged flexibility for school districts, including the continued use of locally executed agreements to provide students with options to earn college credit. For example, there are agreements that allow for students to take courses on a college campus with a college professor, courses offered on the high school campus but taught by a college professor, or college courses taught by an approved high school teacher on the high school campus.

We were pleased that Am. Sub. HB 487 preserved the ability for school districts to form agreements locally with IHEs for determining the post-secondary options best suited to their own students. Yet we believe the requirement that local agreements be subject to the funding "floor" actually undermines the spirit of flexibility these agreements have traditionally provided.

These comments represent our observations about those bills with major cost implications for public schools. As always, we appreciate the opportunity to share our thinking.

**FISCAL NOTES FOR BILLS ENACTED
IN 2014 REQUIRING
LOCAL IMPACT STATEMENTS**



Ohio Legislative Service Commission

Jean J. Botomogno

Fiscal Note & Local Impact Statement

Bill: Sub. H.B. 5 of the 130th G.A.

Date: December 9, 2014

Status: As Enacted

Sponsor: Reps. Grossman and Henne

Local Impact Statement Procedure Required: Yes

Contents: Revises the laws governing the municipal income tax

State Fiscal Highlights

- The bill requires the Department of Taxation to prescribe a method by which nonindividual taxpayers may submit to municipalities certain required supplemental information through the Ohio Business Gateway. This provision may increase costs for the Department, but the fiscal impact, if any, is expected to be minimal.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2015	FY 2016	FUTURE YEARS
Municipalities			
Revenues	- 0 -	Potential loss	Potential loss
Expenditures	Potential increase or decrease	Potential increase or decrease	Potential increase or decrease

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- The bill's provisions are likely to create, overall, a net revenue loss to municipalities. The revenue impact on a specific municipality will be dependent on changes made by the bill to existing income tax ordinances. Though total revenue losses to municipalities are undetermined, and delayed to future fiscal years, they may be significant, potentially millions of dollars annually.
- The bill also creates a municipal income tax net operating loss review committee which is to produce a report, by May 1, 2017, regarding the impact of the bill's net operating loss carryforward provisions on the revenues of municipalities that levy an income tax. The report is required to contain certain recommendations to address shortfalls. The recommendations may include, but are not limited to, the use of supplemental funds from the Local Government Fund to mitigate those shortfalls.
- The bill also creates a municipal income tax revenue reporting study committee to study the feasibility of requiring municipal corporations to report information on

income tax revenue paid by residents separately from such revenue paid by nonresidents. Its report is due by May 1, 2015.

- Certain provisions may increase or reduce costs to municipalities to conform to changes required by the bill.
-

Detailed Fiscal Analysis

The municipal income tax

Municipal income taxes are generally imposed on wages and other compensation earned by residents of cities and villages that impose this tax, and is also paid by nonresidents working in these municipalities. Additionally, the municipal income tax is applied to business net profits attributable to activities in the municipality. Administration of the municipal income tax is strictly local, either by the cities and villages themselves or by central collection agencies under contract with various municipalities. Rates of taxation in calendar year (CY) 2012 ranged from a low of 0.6% in the city of Indian Hill (Hamilton County) to a high of 3.0% in the city of Parma Heights (Cuyahoga County). Total municipal income tax revenue was estimated at \$4.53 billion by the Tax Department in CY 2012, an increase of \$219.1 million (5.08%) from CY 2011.¹ Approximately \$4.18 billion was collected by cities and \$0.35 billion by villages. Collections ranged from \$3,146 in the village of New Paris (Preble County) to \$734.6 million in the city of Columbus (Franklin County).

Sub. H.B. 5 makes various changes to laws governing the municipal income tax, and requires municipal corporations levying an income tax as of January 1, 2016, and that intend to continue levying the tax thereafter to amend their existing income tax ordinances in a form to comply with the bill's limitations. A number of provisions in the bill would have no significant direct fiscal effect on the state and municipalities. However, certain provisions generally will create income gains, while others will generate revenue losses to municipalities. The fiscal impact on any particular Ohio municipality will be dependent on the specific provisions of its income tax, and the changes to it that would be required by the bill, and to an unknown extent the share of income taxes derived from business profits. LSC economists believe that, on balance, the bill will probably decrease statewide revenues to municipalities. Due to a lack of detailed statewide data on municipal income tax revenue in Ohio, revenue losses to municipalities are undetermined; however, they may be significant, potentially totaling millions of dollars annually. The LSC bill analysis provides a detailed description of the bill. Not all the provisions of the bill are analyzed in the next sections. The following are provisions that are likely to have a discernible fiscal effect on the state or municipalities.

¹ http://tax.ohio.gov/divisions/tax_analysis/tax_data_series/local_government_funds/lg11/LG11_CY12.stm. A total of 601 municipalities (240 cities and 361 villages) levied the tax in CY 2012.

Fiscal effect on the state

The bill permits municipal tax administrators to require taxpayers to submit additional information with annual returns, amended returns, and applications for refunds. The bill requires the Department of Taxation, by January 1, 2016 to prescribe a method by which nonindividual taxpayers may submit the required supplemental information through the Ohio Business Gateway. This requirement may increase costs for the Department of Taxation, though those costs may be absorbed as part of the normal operations of the Department.

Fiscal effect on municipalities

Individual and business income tax law and rules vary by municipality. The bill expressly prohibits municipal corporations and tax administrators from adopting rules to administer a municipal income tax that conflict with statutory limitations on the tax. Thus, the bill requires municipalities to modify, where different, their income tax laws and rules to conform to requirements of Sub. H.B. 5. As such, the bill will create income gains and losses for each municipality, depending on changes that must be made to conform to those requirements. The net effect of those gross gains and losses may result in net gains for certain municipalities, depending on their specific municipal income tax laws, while generating net losses for others. However, it is also possible the bill may have no material fiscal effect for a number of other municipalities.

The bill generally establishes a uniform tax base applicable to all municipal corporations levying an income tax by defining the forms of income that municipal corporations may tax and the forms that they may not tax. For individuals, the tax base generally includes compensation, net profits from business activities minus net operating loss (NOL) carryforward, and winnings from lotteries and gambling activities. A nonresident individual's compensation is included, under particular circumstances, in the municipal income tax base if earned for work in the taxing municipality, and a nonresident's net profit is only included to the extent it is assigned to the taxing municipality under specified apportionment and allocation provisions in the bill. For individuals who have a business, net profit is defined as the profit required to be reported for federal income tax purposes on various federal forms (e.g., Form 1040 Schedules C, E, and F). However, the bill authorizes an exception to the general income tax base for a "qualified municipal corporation" that adopted as its tax base, on or before December 31, 2011, the Ohio adjusted gross income (OAGI) plus certain exemptions or deductions, allowing such municipalities to continue this modified OAGI as the tax base for the taxation of individual residents. The bill also authorizes such municipal corporations to exempt income earned by nonresident individuals and the net profits of certain persons from the tax and corresponding withholding obligations.

The next sections provide the fiscal impact of certain provisions of the bill. Please note that the listing is not exhaustive and those provisions would have differing impacts on various municipalities. Initial fiscal effects of the bill are likely to start in FY 2016, though the bulk of fiscal effects would occur in later years.

Provisions that are likely to increase municipal income tax revenues

Municipalities generally allow a deduction for employees' business expenses (either 100% of Form 2106 expenses or the amount deducted for federal purposes in Schedule A of federal Form 1040). Unreimbursed employee expenses deducted for federal tax purposes are generally business vehicle use, travel, meals, and entertainment. The bill authorizes the existing deduction for unreimbursed employee business expenses, but only to the extent the expenses for a nonresident taxpayer are situated to the municipality where the individual performed the services. For resident taxpayers, all their unreimbursed expenses may be deducted in their municipality of residence. For municipalities that currently allow a reduction of an individual's taxable wages for unreimbursed employee expenses, this situsing provision may potentially raise taxable income and increase revenues.

The provision that specifies net profits for purposes of the municipal income tax law and allowing for requests of information from federal income tax schedules is likely to increase revenue for those municipalities not currently requiring those additions to the other items of income in their municipal ordinances.

Provisions that are likely to decrease municipal income tax revenues

The bill allows only a taxpayer who is a professional gambler for federal income tax purposes to subtract the amount of the taxpayer's federal wagering loss deduction, thus reducing taxable income by that amount.

The bill exempts from tax all intangible income, including any such income reported on federal Schedule C, E, or F. This provision will decrease revenue for municipalities that currently tax intangible income reported in those federal forms.

The bill exempts from income tax payments from pensions, whether or not they are included in "qualifying" wages as defined in the bill (R.C. 718.01(R)), resulting in a decrease in revenue for municipalities where such pension payments are currently taxed. The bill also exempts from tax any compensation, other than qualifying wages as defined in the bill, received for up to 20 days per year by a nonresident individual for personal services performed in the municipal corporation. If the municipal corporation is not "a base of operation" as defined in the bill, the compensation is to be treated as earned or received where the individual is domiciled.² The bill specifies that this provision does not apply to income of professional athletes or entertainers or public figures. These changes are likely to decrease revenue to municipalities that include in their taxable base nonwage compensation that would be exempted in the bill.

The bill requires all municipal corporations to allow NOLs to be carried forward for five years for NOLs incurred in taxable years beginning after 2016. For a municipal corporation that levies an income tax before 2016, taxpayers must use the existing carryforward period, if any, prescribed in municipal tax ordinances for losses incurred

² For example, this exemption would apply to compensation paid to a member of the board of directors of a corporation if the member is a nonresident of the municipality or the state.

in taxable years beginning before 2017, then use a five-year carryforward starting with losses incurred in taxable years beginning in 2017 or later. However, for taxable years beginning in 2018 and through 2022, in a municipality that levies an income tax before 2016, a business may deduct only 50% of the business net operating loss that would otherwise be allowed. During this period, the business is allowed to carryforward some of the unused losses, though the bill specifies that a net operating loss does not include unutilized losses resulting from basis limitations, at-risk limitations, or passive activity loss limitations. The bill specifies that the temporary 50% limitation does not apply to NOLs incurred in taxable years before 2017 and deductible under existing municipal income tax ordinances.

Most municipalities allow NOLs with carryforwards that vary by municipality. However, a number of municipalities currently disallow net operating losses. Those municipalities are likely to experience reduced revenue from this provision, depending on the extent of the reduction in municipal taxable income from businesses and individuals. Although the 50% limitation for taxable years beginning after 2018 and before 2022 would lessen the annual fiscal impact on the cash flow of municipalities that do not currently allow NOLs or those that permit fewer than five years of carryforwards, depending on the size of tax receipts from business profits and general economic conditions, total statewide revenue losses from the NOL provisions are likely to be sizable. For taxable years beginning in 2023, the full NOL deduction would be allowed to taxpayers, resulting in a full reduction of revenue from this provision, when compared to current tax ordinances, for those municipalities that do not allow NOLs. Appendix A, attached to this fiscal note, provides details on the treatment of the net operating loss deduction in tax ordinances of Ohio's largest municipalities.

The bill modifies the "casual" or "occasional" entrant exemption to increase the number of days, from 12 to 20 per year, that a nonresident individual may work in a municipal corporation without incurring income tax liability there, and defines how such days are to be counted. The bill generally prohibits a municipal corporation from taxing the compensation paid to a nonresident individual who worked in the municipality for 20 days or fewer in a year, and the employer is not required to withhold income taxes on qualifying wages paid to the employee. Such compensation is not exempt if the individual works more than 20 days in the year and the employer elects to withhold income taxes for every day the employee worked in the municipal corporation, including the first 20 days. (These provisions generally do not apply to a person performing personal services at a petroleum refinery located in a municipal corporation that imposes an income tax.) The bill generally defines a "principal place of work" for employees and requires employers to assign qualifying wages to that place of work. However, if there are two or more municipal corporations in which the employee spent an identical number of days that is greater than the number of days the employee spent in any other municipal corporation, the employer shall allocate the employee's qualifying wages among those two or more municipal corporations. A municipal

corporation to which qualifying wages are allocated shall be the employee's "principal place of work" with respect to those qualifying wages.

The bill prohibits a municipal corporation from taxing any compensation paid to a nonresident employee of an employer with less than \$500,000 in annual revenue, if that employer's only fixed location is not located in the municipal corporation. The bill makes other changes to the withholding requirements for the municipality of location of employers with less than \$500,000 in revenue. The occasional entrant-related provisions, overall, are likely to decrease income currently taxed by certain municipalities or withheld by employers, and as a result, are likely to decrease municipal income tax collections.³

The bill precludes assessments after the later of three years after a person filed the return subject to the assessment or after the due date of the return, or one year and 60 days after an appeal of an assessment becomes final, except when a person fails to remit taxes held in trust or fails to file a return, a taxpayer agrees to a longer period, or files a fraudulent return, and limits the amount of penalties and interest that may be charged for failure to file returns or pay taxes on time. These provisions are likely to reduce municipal income tax revenues for municipalities that assess taxpayers beyond the three-year limitation in the bill and collect revenues from those assessments.

Other provisions

Creation of a municipal income tax net operating loss review committee

The bill creates a temporary 11-member committee composed of taxpayer, municipal, and legislative representatives to study and issue a report on the potential fiscal impact of the five-year NOL carryforward requirement, provided adequate data is received. The bill requires the Committee to analyze revenue data for at least 13 municipalities that would be included in a "representative sample"; at least three of the municipalities would have a population of more than 250,000; five cities or villages would have a higher ratio of business taxpayers to resident individual taxpayers relative to the state average; and five cities or villages would have a higher ratio of resident individual taxpayers to business taxpayers relative to the state average. Of the three persons representing municipal corporations, at least two must represent those that do not allow NOL carry forwards. The bill specifies that members of the committee are not to receive compensation or reimbursements of expenses. The bill requires municipalities that levy an income tax to report specified information about revenue losses from NOLs to the committee. The bill requires the committee to report its finding on revenue effects by May 1, 2017, and states that the report shall contain recommendations to address revenue shortfalls, which may include, but shall not be

³ An individual whose municipal income taxes may not be withheld due to the changes may still owe tax to his or her city of residence, or not owe tax if the individual resides in a nontaxing locality. Potential amounts due, but not withheld, may or may not be collected.

limited to, the use of supplemental funds from the Local Government Fund to mitigate those shortfalls.

Residency and domicile

The bill defines "domicile" as the principal residence a person intends to use for an indefinite period of time and provides that an individual is presumed domiciled in a municipality if the tax administrator reasonably concludes that the individual is domiciled there. The bill specifies a list of factors that must be used in determining or rebutting the presumption of an individual's domicile. The impact of this provision is undetermined, though it is probable that certain taxpayers that are paying municipal income taxes, or are currently assessed by certain municipalities for income taxes, would become exempt under the new criteria in the bill.

Resident credit for tax paid to other municipalities

The bill requires municipal corporations that allow residents to claim a credit equal to all or a portion of the tax the resident paid elsewhere to allow it for taxes the resident paid to all municipal corporations, including tax paid by a pass-through entity owned by the resident. This provision may reduce revenue to municipalities that do not allow such treatment of taxes paid by pass-through entities.

Taxation of pass-through entities

Most municipalities impose their income tax on pass-through entities (PTEs, e.g., partnerships, S-corporations, limited liability companies, etc.) or their investors/owners. Under current law, municipal corporations may tax PTEs' net profits at either the entity level or the owner level, but not both. However, a municipal corporation may make that choice separately for each class of entity (e.g., tax partnerships and LLCs at the partner or member level, and tax S-corporations at the entity level). The bill makes several changes to the taxation of PTEs, some of which are mentioned below.

The bill prohibits municipal corporations from taxing the income from PTEs at the individual owner level, except for residents of the municipal corporation, but exempts residents' distributive shares of net profits from an S-corporation unless the municipal corporation taxed such shares of residents before 2015.

The bill requires municipal corporations to tax PTEs, including S-corporations, at the entity level, similar to corporations. However, the bill also authorizes a resident individual to use losses incurred by a PTE attributable to the individual's share to offset "any other" net profit, though this provision may not apply with respect to ownership interest in S-corporations unless distributive shares of the profits are subject to tax in the municipal corporation. This provision is likely to create a revenue loss for municipalities that do not allow such treatment or offsets of gains and losses, including those from NOL carryforwards.

The bill requires that a business be allowed to deduct net profit or add losses of a PTE of which the business is an owner, unless the PTE profit or loss is included as a part of an affiliated group. Also, the bill provides that exempt income of the PTE keeps its character when transferred to the owners.

De minimus payment or refund amounts

The bill specifies a minimum threshold at \$200 for filing estimated tax payments, and a minimum filing and payment threshold of \$10 for taxpayers. In addition, the bill does not require municipal corporations to issue refunds of \$10 or less. The de minimus provisions would reduce both revenues and costs to municipal corporations.

Consolidated tax returns

Generally, once a parent of an affiliated group of corporations elects to file a single consolidated return at the federal level or the state level, instead of separate returns for each of its affiliates, it must continue to do so while it remains in existence, unless it gets the Internal Revenue Service's permission to file separate federal returns. For purposes of municipal taxation, the parent company may use apportionment and allocation factors (based on property, sales, and wages) to reflect corporate activity within the municipality when filing municipal income tax returns. However, the group must continue to file a consolidated tax return with the municipality, unless the tax administrator grants permission to deconsolidate, or is permitted to deconsolidate at the municipal income tax level after obtaining IRS's permission to deconsolidate at the federal level.

The bill appears to allow a parent company of an affiliated group, after five years, to elect or not to file separate municipal income tax returns for each affiliate. (The election may be made after each five-year period.)⁴ The bill also provides for the parent company to include or not gains and losses of pass-through entity affiliates or their allocation factors when filing municipal income tax returns. Those changes would allow strategic reductions in municipal income tax liabilities by corporate parents, and thus potentially would result in revenue losses to some municipalities.

Municipal income tax revenue reporting study committee

The bill also creates a municipal income tax revenue reporting study committee to study the feasibility of requiring municipal corporations to report information on income tax revenue paid by residents separately from such revenue paid by nonresidents. The committee shall be composed of the following: three members of the Senate; three members of the House of Representatives; and six members representing

⁴ The bill also appears to require a parent to file a consolidated municipal income tax in a year the taxpayer has filed a federal consolidated tax return, though this may occur after a tax administrator determines "by a preponderance of the evidence that intercompany transactions have not been conducted at arm's length and that there has been a distortive shifting of income and expenses with regard to allocation of net profits to the municipal corporation."

business interests or municipal corporations that levy an income tax. The bill specifies that the members of the committee are not compensated or reimbursed for expenses. The committee shall study the costs and benefits of, and challenges involved in, requiring that municipal corporations report the information on taxes paid by nonresidents. On or before May 1, 2015, the committee shall issue a report of its findings and recommendations with respect to the reporting requirement. The committee shall provide copies of the report to the Governor, the President and Minority Leader of the Senate, and the Speaker and Minority Leader of the House of Representatives. The committee shall cease to exist on May 1, 2015.

Taxpayer bill of rights

The bill requires that tax administrators generally conduct, except in cases involving suspected criminal activity, an audit of a taxpayer during regular business hours and after providing reasonable notice, and provide to the taxpayer a written description of the roles of the tax administrator and of the taxpayer during an audit and a statement of the taxpayer's rights, including any right to obtain a refund of an overpayment of a tax, assistance or representation by an attorney, accountant, bookkeeper, or other tax practitioner. A taxpayer may refuse to answer any questions asked by the person conducting an audit until the taxpayer has an opportunity to consult with the taxpayer's attorney, accountant, bookkeeper, or other tax practitioner. If the tax administrator fails to substantially comply with the provisions of the taxpayer bill of rights, the tax administrator, upon application by the taxpayer, shall excuse the taxpayer from penalties and interest arising from the audit. Under certain conditions specified in the bill, a taxpayer aggrieved by an action or omission of a tax department or an employee of the municipal corporation may bring an action in the court of common pleas of the county in which the municipal corporation is located. Upon a finding of liability on the part of the tax administrator or the municipal corporation, the tax administrator or the municipal corporation shall be liable to the taxpayer in an amount equal to the sum of compensatory damages and costs of litigation and attorneys' fees sustained by the taxpayer. If the court determines that a taxpayer's conduct in the proceedings section is "frivolous," as defined in the bill, the court may impose a penalty against the taxpayer in an amount not to exceed \$10,000 which shall be paid to the municipality. These provisions may increase costs to certain municipalities.

Problem resolution officer

The bill requires tax administrators of municipal corporations with a population larger than 30,000 to appoint at least one problem resolution officer to assist taxpayers with pending administrative cases. The bill does not require municipalities to hire a problem resolution officer. Thus, this provision may increase costs for municipalities that do not have such officers only for those municipalities that decide to hire staff specifically for this purpose.

Appendix A

NOL in tax ordinances of Ohio's largest municipalities

Data from the Ohio Business Gateway indicate that about 60% of all Ohio municipalities that levy an income tax allow NOL deductions with carryforwards of up to five years, and those receive about 53% of total statewide municipal income tax revenues. Another 10% of municipal corporations allow carryforwards of up to three years, while collecting approximately 10% of statewide municipal income taxes. The remaining 30% of municipal corporations, which currently do not allow NOLs, collect roughly 37% of statewide municipal income taxes. Those municipalities are likely to experience the most reductions in revenue from NOL provisions in Sub. H.B. 5. The table below provides details on the treatment of NOLs in tax ordinances of the largest municipalities (based on income tax receipts) across the state.

Treatment of Net Operating Losses by Largest Ohio Municipal Corporations			
Municipal Corporation	2012 Income Tax Collections	Percentage of Statewide Collections	NOL and Carryforwards, Number of Years
Columbus	\$734,574,788	16.2%	No
Cleveland	\$338,046,790	7.5%	Yes, five years
Cincinnati	\$334,930,176	7.4%	Yes, five years
Toledo	\$158,522,842	3.5%	Yes, five years
Akron	\$132,439,409	2.9%	Yes, three years
Dayton	\$101,533,962	2.2%	No
Dublin	\$75,430,513	1.7%	No
Canton	\$45,506,906	1.0%	Yes, three years
Youngstown	\$45,360,986	1.0%	Yes, five years
Kettering	\$40,929,081	0.9%	Yes, three years
Solon	\$40,849,411	0.9%	Yes, five years
Westerville	\$38,723,401	0.9%	No
Mentor	\$36,100,204	0.8%	Yes, five years
Oregon	\$34,870,905	0.8%	Yes, five years
Parma	\$33,997,011	0.8%	Yes, five years
Blue Ash	\$32,679,637	0.7%	Yes, five years
Springfield	\$30,364,333	0.7%	No
Strongsville	\$29,074,716	0.6%	Yes, five years
Beachwood	\$26,720,881	0.6%	Yes, five years
Euclid	\$24,925,965	0.6%	Yes, five years
Independence	\$24,426,014	0.5%	Yes, five years
Fairfield	\$23,973,447	0.5%	Yes, three years
Twinsburg	\$23,537,424	0.5%	No
Mansfield	\$23,335,975	0.5%	No
Mason	\$22,383,868	0.5%	Yes, five years
Hamilton	\$22,056,839	0.5%	Yes, three years
Findlay	\$22,044,345	0.5%	Yes, five years

Treatment of Net Operating Losses by Largest Ohio Municipal Corporations			
Municipal Corporation	2012 Income Tax Collections	Percentage of Statewide Collections	NOL and Carryforwards, Number of Years
Cleveland Heights	\$21,993,687	0.5%	Yes, five years
Elyria	\$21,630,188	0.5%	Yes, five years
Sharonville	\$21,541,108	0.5%	Yes, three years
Westlake	\$21,384,694	0.5%	Yes, five years
Whitehall	\$21,171,373	0.5%	No
Shaker Heights	\$21,082,579	0.5%	Yes, five years
Worthington	\$21,056,614	0.5%	No
Newark	\$19,932,018	0.4%	No
Middletown	\$19,659,982	0.4%	Yes, five years
New Albany	\$19,563,041	0.4%	No
Cuyahoga Falls	\$19,252,832	0.4%	Yes, five years
Lakewood	\$19,252,828	0.4%	Yes, five years
Grove City	\$19,085,048	0.4%	No
Hilliard	\$19,083,794	0.4%	No
Green	\$19,074,594	0.4%	Yes, five years
Lorain	\$18,639,033	0.4%	Yes, five years
Delaware	\$18,074,847	0.4%	Yes, three years
Brook Park	\$17,694,985	0.4%	Yes, five years
Warren	\$17,645,592	0.4%	No
Hudson	\$17,600,926	0.4%	Yes, five years
Middleburg Heights	\$17,220,219	0.4%	Yes, five years
Lancaster	\$17,061,307	0.4%	No
Bowling Green	\$16,077,219	0.4%	Yes, five years
Top 50	\$2,942,118,334	65.0%	

Ohio's 50 largest municipal corporations, based on income tax collections, collected about \$2.94 billion, or roughly two-thirds of the \$4.53 billion in municipal income tax receipts in CY 2012. Among those largest municipalities, 28 municipal corporations allow an NOL deduction with a five-year carryforward (50% of tax collections of this group), and seven allow an NOL deduction with a three-year carryforward (10% of tax collections). The remaining 15 do not allow an NOL deduction (40% of tax collections).



Ohio Legislative Service Commission

Tom Wert

Fiscal Note & Local Impact Statement

Bill: Sub. H.B. 10 of the 130th G.A.

Date: December 9, 2014

Status: As Enacted

Sponsor: Rep. C. Hagan

Local Impact Statement Procedure Required: Yes

Contents: Creates alternative removal from office procedures for local fiscal officers and makes other changes

State Fiscal Highlights

- The Auditor of State and Attorney General could incur additional GRF costs to process affidavits and evidence or to prosecute cases under the alternative procedures regarding the removal of local government fiscal officers.
- The Auditor of State could incur new costs to develop and conduct local fiscal officer education programs required by the bill. These costs could be at least partially offset by registration fees paid by participants. These receipts would be deposited into the Auditor of State Training Program Fund (Fund 5840).
- The Auditor of State would incur minimal new administrative costs covered by the GRF to provide written notifications to community schools, STEM schools, and college preparatory schools that are declared unauditable and to the Department of Education.
- The State Board of Deposit and Treasurer of State might both incur negligible increases in costs to comply with monthly reporting requirements established by the bill.

Local Fiscal Highlights

- Counties, townships, and municipal corporations would be required to pay the cost to defend a county auditor, county treasurer, or local fiscal officer subject to alternative removal procedures established by the bill. If convicted, the official would be required to reimburse the applicable entity for reasonable costs as determined by the court.
- Townships, cities, and villages would incur costs to reimburse fiscal officers for the costs of participating in the education and continuing education programs required under the bill.

- The bill allows a board of county commissioners to appoint an acting officer to perform the duties of a suspended county elected official during the time between the beginning of the suspension and the time that an interim replacement official can be appointed by the county central committee that nominated the suspended officer. Under the bill acting officers are entitled to the same rate of pay as the suspended official.
 - Community schools, STEM schools, and college-preparatory schools could incur administrative costs to prepare responses to the Auditor of State if their financial records are declared unauditable. Additionally, STEM and college-preparatory schools could be subjected to withholding of state funding from the Department of Education if they fail to correct the unauditable condition in a timely manner.
-

Detailed Fiscal Analysis

Overview of alternative removal procedures

The bill establishes procedures for removing county auditors, county treasurers, and other local fiscal officers from office as an alternative to the removal procedures provided under current law. Other local fiscal officers include: (1) township fiscal officers, (2) village fiscal officers, (3) village clerk-treasurers, (4) village clerks, (5) city auditor, (6) city treasurer, or (7) in the case of a municipal corporation having a charter that designates an officer who, by virtue of the charter, has duties similar to those of the other officer previously mentioned.

These alternative removal procedures, if employed, could have fiscal implications for the Auditor of State, the Attorney General, political subdivisions, and county courts of common pleas. However, it is unclear how frequently these alternative procedures would come into play. Under these alternative removal proceedings, the most significant costs incurred by counties or other political subdivisions would be legal expenses to defend the accused officials. If a judgment is rendered against the county auditor, county treasurer, or other fiscal officer, the bill requires the court to order the defendant to reimburse the applicable political subdivision for those expenses, up to a reasonable amount as determined by the court.

The Auditor of State could incur new costs to review submitted affidavits and evidence alleging that local officials have committed wrongdoing. Specifically, the Auditor of State would be required to determine if clear and convincing evidence exists to support the allegations, and to provide written notifications to specific parties based on these findings. Any such costs incurred by the Auditor of State would be paid from GRF appropriation item 070321, Operating Expenses. In turn, the Attorney General could incur new costs to investigate and prosecute cases forwarded by the Auditor of State. The costs that the Attorney General incurs would likely be paid from GRF appropriation item 055321, Operating Expenses.

Additionally, county courts of common pleas could incur new costs stemming from the additional caseload. For each of these entities, the costs will depend on the frequency in which the alternative removal procedures are employed and the nature of the individual cases. Finally, an unlikely but noteworthy scenario could occur under the bill's provision concerning false statements in a sworn affidavit that is used as evidence during an alternative removal proceeding. Under the bill, a person who makes a false statement in a sworn affidavit is guilty of a felony of the third degree. Third degree felonies are punishable by a fine of up to \$10,000 and possible prison terms of between one and five years. Depending on the number of cases and convictions under this provision, there could be increased costs for courts of common pleas stemming from additional caseloads. Additionally, the Department of Rehabilitation and Correction and county sheriffs could incur new costs to incarcerate additional individuals if they are found guilty of the charges brought against them.

Procedure for appointing replacements for suspended county elected officials

Under current law, in the event that a county elected officer is suspended from performing the duties of office, the central committee of the political party that nominated the suspended public official is required to appoint an interim replacement official for the duration of the suspension. The bill establishes a timeframe for this appointment and allows a board of county commissioners to appoint an acting official during the time between the beginning of the suspension and the appointment of the interim replacement. Under the bill, an acting officer is entitled to the same rate of pay as the suspended public official. As a result, counties that appoint an acting officer will incur payroll costs that they otherwise would not have during the period between suspension of a public officer and the appointment of the officer's interim replacement.

Continuing education requirements for public fiscal officers

The bill establishes education and continuing education requirements for public fiscal officers including: (1) township fiscal officers, (2) the auditor or treasurer of a municipal corporation, (3) village fiscal officers, clerk-treasurers, or clerks, and (4) the appointed head of a municipal corporation finance department. Specifically, the bill requires the Auditor of State to provide courses and establish rules for completion and verification of education programs that meet criteria specified by the bill. The bill also requires the Auditor of State to issue certificates of completion to each fiscal officer who completes the education programs and failure to complete notices to those who fail to do so. In addition to the above offices, the Auditor of State would also be required to issue certificates of completion to county auditors that have completed all of their education requirements established in current law.

As a result of these changes, the Auditor of State could incur new costs to adopt rules, provide required courses, and issue certificates. However, these costs could be at least partially offset by registration fees charged to participants in the education programs. These continuing education programs would be funded by registration fees

and other conference proceeds deposited into the Auditor of State Training Program Fund (Fund 5840). The bill requires the legislative authority of an education program participant to reimburse the participant for any registration fees along with other reasonable travel, lodging, and meal expenses incurred while participating.

Community schools, STEM schools, and college-preparatory boarding schools

The bill modifies current law requiring the governing authority of a community school to suspend the community school fiscal officer of an unauditable community school until the Auditor of State is able to complete an audit. If the school's fiscal officer is suspended, the bill requires the governing authority to appoint a person to assume the duties of the fiscal officer during the suspension. If that person is not licensed as a treasurer, the bill requires the Superintendent of Public Instruction to approve the replacement. The bill also grants the State Board of Education authority to suspend, revoke, or limit the license of a fiscal officer who has been suspended. Additionally, the bill creates new law requiring the governing authority of a community school to post a surety bond or cash in the amount of \$50,000 with the Auditor of State. In the event that the school closes, this surety would be used to cover any unpaid costs due to the Auditor of State for performing an audit.

For STEM schools and college-preparatory boarding schools declared unauditable, the bill contains similar provisions regarding notifications and responses required by the Auditor and school districts that have been declared unauditable. Specifically, the bill requires the Auditor of State to provide the operator with a written notification. In turn, the operator must respond with a plan detailing the process for correcting the unauditable condition. The Auditor of State and operator of a STEM school or college-preparatory boarding school would incur minor costs to prepare these notices and responses. State funding from the Department of Education could also be withheld from STEM schools and college-preparatory schools if they remain unauditable. In addition, the bill requires the suspension of the fiscal officer responsible for the finances of the STEM school or college-preparatory boarding school. Finally, the bill requires that the fiscal officer of a college-preparatory school obtain a surety bond in an amount approved by the school's board of trustees to be filed with the county auditor. As a result, STEM schools, college-preparatory boarding schools, and county auditors may incur some minimal costs to process the surety bonds.

State Board of Deposit

The bill requires the Chairperson of the State Board of Deposit to provide a monthly report to the Board consisting of notifications received from the Treasurer of State that public moneys have been classified as interim moneys. Under the bill, this monthly report is required to be posted to a public website maintained by the Treasurer of State. As a result, both the State Board of Deposit and the Treasurer of State could incur slight increases in expenses to comply with these requirements. State Board of Deposit expenditures are paid from the Board of Deposit Expense Fund (Fund 4M20).

Expenses incurred by the Treasurer of State would likely be paid from GRF appropriation item 090321, Operating Expenses.

HB0010EN.docx/jc



Ohio Legislative Service Commission

Garrett Crane

Fiscal Note & Local Impact Statement

Bill: Am. Sub. H.B. 130 of the 130th G.A. **Date:** June 4, 2014
Status: As Enacted **Sponsor:** Rep. Fedor

Local Impact Statement Procedure Required: Yes

Contents: Modifies court procedures and criminal offenses associated with human trafficking, enhances the penalty for soliciting, and declares an emergency

State Fiscal Highlights

STATE FUND	FY 2015 – FUTURE YEARS
General Revenue Fund (GRF)	
Revenues	- 0 -
Expenditures	Potential, possibly significant, annual incarceration cost increase
Indigent Defense Support Fund (Fund 5DY0)	
Revenues	Potential, likely no more than minimal, annual gain in locally collected state court costs
Expenditures	- 0 -
Victims of Crime/Reparations Fund (Fund 4020)	
Revenues	Potential, likely no more than minimal, annual gain in locally collected state court costs
Expenditures	- 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2015 is July 1, 2014 – June 30, 2015.

- **Incarceration expenditures.** As a result of the bill's felony solicitation enhancements, additional offenders/juveniles could be sentenced to a state prison/juvenile correctional facility. The resulting increase in annual state incarceration costs for the Department of Rehabilitation and Correction and/or the Department of Youth Services is uncertain, but could be significant as the number of offenders and juveniles may total in the hundreds or more per year statewide.
- **Court cost revenues.** As the number of felony solicitation convictions may run in the hundreds or more annually statewide, there may be a minimal increase in locally collected state court costs credited to the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020) each year.

Local Fiscal Highlights

LOCAL GOVERNMENT

FY 2014 – FUTURE YEARS

County Criminal and Juvenile Justice Systems

Revenues	Potential annual gain in court costs and fines
----------	--

Expenditures	Potential annual increase in operating costs
--------------	--

Municipal Criminal Justice Systems

Revenues	Potential annual loss in court costs and fines
----------	--

Expenditures	Potential annual decrease in criminal justice system operating costs
--------------	--

County Sheriffs

Revenues	Potential minimal annual gain in sex offender registration fees
----------	---

Expenditures	Potential, more than minimal, annual increase in sex offender registration and notification costs
--------------	---

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- **Felony solicitation.** The bill could generate a savings effect for certain municipal criminal justice systems and a related expenditure increase in county criminal and juvenile justice operating costs, as certain solicitation cases may shift from the former to the latter and potential sanctions elevate. The number of cases that could be affected in this manner in any given municipality or county is uncertain, but could be in the hundreds annually in certain local jurisdictions. In some of these local jurisdictions, the magnitude of the related shift in revenues and expenditures could exceed minimal per year.
- **County sheriffs.** The requirement that felony solicitation offenders register as Tier II sex offenders may have a more than minimal impact on the annual costs of sex offender registration and notification administration for certain county sheriff departments. These costs may be offset to some degree by the collection of additional sex offender registration fees.

Detailed Fiscal Analysis

Overview

Of the bill's numerous changes to laws related to human trafficking, this fiscal analysis focuses on the changes carrying the most potential to affect state and/or local government revenues and expenditures as follows:

- Enhances the penalty for soliciting from a misdemeanor of the third degree to a felony of the fifth degree if the person solicited is 16 or 17 years old and a felony of the third degree if the person solicited is less than 16 years old or has a developmental disability; and
- Requires the above-referenced offender to register as a Tier II sex offender.

Both of the above-noted changes apply to the seller and the purchaser of sexual activity for hire. Thus, there will be situations where the seller and the purchaser are arrested and charged at the same time and place, and both will be subject to the bill's felony enhancement and sex offender registration requirements. Current law enforcement policies and procedures yield a much higher percentage of solicitation violations for selling sexual activity for hire than for purchasing such activity. The bill's enhanced penalties could alter local enforcement practices such that a significantly higher number of apprehensions include both the purchaser and the seller.

Felony solicitation

Under current law and law enforcement practice, both purchasers and sellers of sexual activity for hire can face prosecution for a violation of the prohibition against solicitation (R.C. 2907.24). Over 90% of the convictions for solicitation violations are of sellers of sexual activity for hire, suggesting that local law enforcement focuses generally on the sellers and not the purchasers of sexual activity for hire. Additionally, current practice indicates that, when a minor faces a situation where they could be charged with a solicitation (for selling) violation, law enforcement generally utilizes, where possible, its discretion to charge the minor with other violations related to their apprehension (such as disorderly conduct, theft, drug possession, loitering) rather than charging the minor with a solicitation violation. Thus, there is not a lot of solid data on the frequency with which these transactions involve a seller that is a minor. The information that is available, however, suggests that there are a relatively significant number of minors involved in the selling of sexual activity for hire.

If the bill's felony penalty enhancements lead law enforcement to place a greater emphasis on policing the purchasers of sexual activity for hire, then the number of arrests, prosecutions, and convictions for this type of behavior could increase as compared to current practice. The size of this potential increase is unknown but potentially significant, as a large number of persons involved in solicitation as sellers are minors. According to a preliminary report of the Ohio Attorney General's Human Trafficking Commission, the average age for an individual to become a victim of child sex trafficking was 13, and an estimated 49% of human trafficking victims were under age 18 when they were first trafficked.

As noted above, a minor selling sexual activity for hire is generally not charged with solicitation by arresting authorities but may face other related criminal conduct, e.g., loitering. If law enforcement changes their current practice in this regard, then a minor selling sexual activity for hire could face an increased penalty under the bill. Under these conditions, the potential number of new felony violations increases by several hundred to thousands annually statewide.

Local fiscal effects

The changes in the bill that may produce noticeable local costs are: (1) the penalty enhancements for solicitation with a person under the age of 18 or

developmentally disabled, and (2) the required classification of the offender as a Tier II sex offender. These changes, discussed in more detail below, may generate costs for county criminal and juvenile justice systems and savings for municipal criminal justice systems. Also noted are the bill's changes to the state's existing intervention in lieu of conviction law.

Solicitation penalty enhancements

The bill could generate a savings effect for certain municipal criminal justice systems and a related expenditure increase in county criminal and juvenile justice operating costs, as certain solicitation cases are likely to shift from the former to the latter and potential sanctions elevate. The number of cases that could be affected in this manner in any given municipality or county is uncertain, but could be in the hundreds annually in certain local jurisdictions. In some of these local jurisdictions, the magnitude of the related shift in revenues and expenditures could exceed minimal per year.

The bill's felony solicitation penalty enhancements will affect local expenditures on certain criminal and juvenile cases in two ways. First, certain criminal cases that would have been handled by a municipal court or a county court as misdemeanors under existing law will shift to a court of common pleas where they will be handled as felonies and offenders could be subjected to more serious sanctions. As a result, municipalities may realize some savings in their annual criminal justice system expenditures related to investigating, adjudicating, prosecuting, defending (if indigent), and sanctioning offenders. Conversely, counties could experience an increase in their annual criminal justice system expenditures, as felonies are typically more time consuming and expensive to resolve and the local sanctioning costs can be higher as well.

Second, offenders who are young enough to be processed through the juvenile courts would also face the possibility of more serious penalties and sentencing. As a result, the annual costs to county juvenile justice systems to resolve these cases and appropriately sanction the offending juveniles may rise.

The felony penalty enhancements could create a loss of court cost and fine revenue for municipalities while increasing court cost and fine revenue for counties. The amount of court cost and fine revenue that will shift in this manner per year is uncertain.

Sex offender registration

Expenditures. The bill requires a person convicted of a violation of solicitation with a person under age 18 or who is developmentally disabled to register as a Tier II sex offender under the existing Sex Offender Registration and Notification (SORN) Law. Under current law, a Tier II sex offender is required to register with the appropriate county sheriff every 180 days for 25 years. According to the Buckeye State Sheriffs' Association, it costs a sheriff approximately \$269.10 per registrant per year to perform SORN-related duties and responsibilities. As previously noted, the potential

number of felony solicitation convictions that will be generated as a result of the bill is uncertain, but could easily be in the hundreds or more annually statewide. In certain counties, the SORN Law-related costs could easily exceed \$10,000 per year.

Revenues. Under current law unchanged by the bill, the sheriff may charge a fee for the registration or changes in registration for a sex offender required to register with the sheriff. The fee is deposited into the county general fund and allocated back to the sheriff to be used to defray the cost associated with registering offenders and providing community notification. The amount of registration revenue expected to be collected is likely to be minimal regardless of the number of new registrants. For a variety of reasons, most offenders are unwilling or unable to pay. Thus, the degree to which this revenue may offset all or some portion of the annual costs associated with additional Tier II sex offenders is uncertain.

Intervention in lieu of conviction

The bill expands the category of persons eligible for intervention in lieu of conviction (ILC), and allows an offender who is a victim of human trafficking to apply for ILC. Under current law, if the court elects to consider such a request, a hearing is scheduled, an assessment ordered, and an intervention plan recommended. If the court then grants the request, the offender is required to fulfill all of the terms and conditions of that plan for at least one year, which is likely to include participation in treatment and recovery support services.

These changes may increase, to some degree, the number of offenders requesting and then being granted ILC. Presumably, this will increase, to some degree, the costs that the court and its affiliated entities incur to assess offenders, develop intervention plans, and pay for offender participation in those plans. Whether those costs will be more or less than might otherwise have been incurred to sanction such offenders is uncertain.

State fiscal effects

Incarceration expenditures

As a result of the bill's felony solicitation enhancements: (1) additional adult offenders could be sentenced to prison, which would increase the Department of Rehabilitation and Correction's (DRC) annual incarceration costs, and (2) additional juvenile offenders could be committed to the state, increasing the Department of Youth Services' (DYS) annual care and custody costs. The annual magnitude of the increase in incarceration costs for DRC and/or DYS is uncertain but could be significant.⁵ The

⁵ The average annual cost for DRC to incarcerate an offender in prison is currently around \$22,836 (or \$62.57 per day), with the marginal annual cost of adding an offender estimated at between \$3,000 and \$4,000. The average annual cost of incarcerating a juvenile in a DYS facility is currently around \$202,502 (or \$554.80 per day), with the marginal annual cost of adding a juvenile estimated at \$10,000.

number of sellers and buyers that could be convicted of a felony, rather than a misdemeanor as under current law, may run into the hundreds or more annually statewide. Potentially offsetting this possible cost incarceration increase is the bill's ILC expansion provision, which may divert some felony offenders/juveniles into local treatment systems that might otherwise have been sentenced to a state prison or juvenile correctional facility.

State revenues

The bill's felony solicitation enhancements may lead to a minimal at most annual gain for the state in the amount of locally collected court cost revenue that would be divided between the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020). The state court costs imposed for a felony generally total \$60, with \$30 of that amount being deposited equally to the credit of Fund 5DY0 and Fund 4020. The number of felony convictions could easily total in the hundreds or more annually statewide.

Prohibitions and penalties generally

Under the bill, the penalty for soliciting is enhanced from a misdemeanor of the third degree to a felony of the fifth or third degree depending on the circumstances present. As noted, these enhancements will apply to both the seller and the purchaser.

In addition, the bill creates new, and expands existing, prohibitions. These prohibitions include trafficking in persons (felony of the first degree), commercial sexual exploitation of a minor (felony of the third degree), and unlawful advertising of massage (felony of the fifth degree). It is not expected that these prohibitions, or in the case of human trafficking the elimination of certain elements of the prohibition for certain victims, will lead to a significant increase in the number of felony cases statewide.

The table below summarizes the sentences and fines for a misdemeanor of the third degree, as well as those for felonies of the fifth, third, and first degrees. This reflects current law's general sentence and fine structure, which is unchanged by the bill.

Sentences and Fines for Certain Offense Levels Generally		
Offense Level	Possible Fine	Possible Term of Incarceration
3rd Degree Misdemeanor	Up to \$500	Up to 60-day jail stay
5th Degree Felony	Up to \$2,500	6, 7, 8, 9, 10, 11, 12 months definite prison
3rd Degree Felony	Up to \$10,000	1, 2, 3, 4, 5 years definite prison
1st Degree Felony	Up to \$20,000	3, 4, 5, 6, 7, 8, 9, 10, 11 years definite prison



Ohio Legislative Service Commission

Maggie Wolniewicz and other LSC staff

Fiscal Note & Local Impact Statement

Bill: [Am. Sub. H.B. 213 of the 130th G.A.](#)

Date: June 4, 2014

Status: As Enacted

Sponsor: Reps. Pelanda and Celebrezze

Local Impact Statement Procedure Required: Yes

Contents: Child custody

State Fiscal Highlights

- **Ohio Department of Job and Family Services.** The bill increases the length of time the Ohio Department of Job and Family Services (ODJFS) may provide additional Kinship Permanency Incentive Program (KPIP) payments after the required initial payment from 36 months to 48 months, based on the availability of funds. ODJFS estimates this change would cost approximately \$885,600 per year, if implemented.

Local Fiscal Highlights

- **Counties.** The bill explicitly permits a court of common pleas to appoint a guardian ad litem in certain cases concerning an alleged dependent child, which may increase the costs that the court incurs in paying for those services. In jurisdictions that do not already do so and that utilize paid attorneys as guardians ad litem, in particular those with a relatively large number of dependency cases, that cost increase could easily total tens of thousands of dollars or more annually.

Detailed Fiscal Analysis

Guardian ad litem for dependent child

Under current law, a court of common pleas must appoint a guardian ad litem to protect the interest of a child in certain proceedings concerning an alleged abused or neglected child and in some cases concerning an alleged dependent child. The bill amends that law to explicitly "permit" the court to appoint a guardian ad litem in any other proceeding concerning an alleged dependent child. As a result, it is possible that the utilization of guardians ad litem by the court of common pleas may increase to some degree in certain counties, as will the related costs. The magnitude of those increases will depend upon: (1) the degree to which the court, under current law and

practice, is already appointing a guardian ad litem in dependency cases, (2) the extent to which the court opts to use this permissive authority, and (3) the degree to which the court is using unpaid volunteers versus paid attorneys. It is possible that the resulting annual cost increase for certain courts could easily be in the tens of thousands of dollars or more.

Dependency case statistics

In many instances, Ohio court statistics aggregate abuse, neglect, and dependency cases into a single composite category, which makes it difficult to determine the number of those cases that involve dependency. That said, we have identified six counties that do disaggregate these statistics in a manner that is readily available. The following table provides a breakdown of abuse, neglect, and dependency cases for those six counties for 2012.

Abuse, Neglect, & Dependency Cases for Certain Counties, 2012				
County	Abuse	Neglect	Dependency	Total
Cuyahoga*	368	1,369	946	2,683
Delaware	18	9	24	51
Lake	65	49	233	347
Portage	86	109	136	331
Ross	45	7	140	192
Shelby	16	47	7	70
Total	598	1,590	1,486	3,674

*Most recent data available was from 2011.

As seen in the table, for those counties as a group, dependency cases totaled 1,486, or 40.4%, of the 3,674 abuse, neglect, and dependency cases. According to the Supreme Court of Ohio's Composite Report for the Entire State, there were 13,103 abuse, neglect, and dependency cases filed in 2012. Using this percentage and extrapolating to the state as a whole, one can estimate that as many as 5,294 dependency cases statewide may have resulted in the appointment of a guardian ad litem in 2012 ($13,103 \times 40.4\%$). As current law requires the appointment of a guardian ad litem in certain dependency cases, that number would have been lower, but by how much is uncertain.

Guardian ad litem

A guardian ad litem may be either a trained volunteer known as a court appointed special advocate (CASA), or a paid attorney. The costs a court incurs to appoint a guardian ad litem will likely be minimized to some degree if CASA services are available. In the event that CASA services are not available or the demand exceeds CASA service capacity, and paid attorneys have to be utilized, additional costs will be incurred. Of note is that, of the 13,103 new cases alleging abuse, neglect, or dependency that were reported to the Supreme Court of Ohio in 2012, CASAs were appointed in 7,238, or 55.2%.

The following table lists the 38 counties that currently have CASA programs.

Counties with CASA Programs				
Allen	Erie	Huron	Pickaway	Stark
Athens	Franklin	Logan	Preble	Summit
Butler	Geauga	Lorain	Putnam	Warren
Clark	Greene	Lucas	Richland	Wayne
Clermont	Guernsey	Mahoning	Ross	Wood
Columbiana	Hamilton	Miami	Sandusky	Wyandot
Darke	Hancock	Montgomery	Seneca	
Delaware	Henry	Ottawa	Shelby	

According to the Office of the Public Defender, assigned counsel was utilized in 14,135 abuse, neglect, and dependency cases in FY 2013, accruing total costs of approximately \$11.9 million.⁶ This averages out to approximately \$839 per case.⁷ This suggest that, if the annual increase in the number of dependency cases utilizing the appointment of a guardian ad litem were as few as 12, and the court uses paid attorneys, then the additional cost could reach \$10,000 per year (12 x \$839). If the increase was more on the order of 120 cases, then the additional cost could reach \$100,000 per year (120 x \$839).

State reimbursement

Under current law, Ohio counties are required to provide and pay for legal counsel for persons who cannot afford to hire their own attorney when a right to counsel exists. The Office of the Ohio Public Defender reimburses counties up to 50% of the costs incurred to provide such representation. For attorneys appointed to represent individuals in juvenile court, including those appointed as a guardian ad litem, the maximum fee permitted is \$1,000. If the amount appropriated for reimbursement is insufficient to pay the full 50%, whatever funds are available are prorated and distributed to the counties. In FY 2012, the state reimbursement rate was 35%. To the extent that counties incur additional costs to provide guardian ad litem services as a result of the bill, the Office of the Ohio Public Defender may find that it needs to adjust the state reimbursement rate as the total amount appropriated for that purpose is fixed.

Motion requesting permanent custody

Under current law, in certain situations, a court may terminate parental rights and grant permanent custody of a child to a county public children services agency (PCSA) or private child placing agency that files a motion for permanent custody if the

⁶ FY 2013 statistics reflect caseload and expenses incurred from March 2012 through February 2013.

⁷ This figure provides an average for all cases utilizing assigned counsel and does not differentiate between cases in which assigned counsel was acting as an attorney or acting as a guardian ad litem.

court determines, by clear and convincing evidence that it is in the best interest of the child. The bill essentially broadens current law by creating an additional situation in which parental rights may be terminated and custody granted to such an agency. As a result, there may be an increase in the number of permanent custody motions filed by a PCSA or private child placing agency with the court of common pleas. The increase in such motions is expected to be relatively small, which means that the potential cost of the additional time and effort that a PCSA and court of common pleas expend on such matters will be minimal at most annually.

Planned permanent living arrangements

Under current law, a court may order a child who has been adjudicated an abused, neglected, or dependent child to be placed in a planned permanent living arrangement with a PCSA or private child placing agency if it is in the best interest of the child and certain conditions exist. The bill modifies one of these conditions by restricting the use of planned permanent living arrangements to children who are 16 years of age and older. This restriction is unlikely to generate any discernible costs for a PCSA or the court of common pleas.

The bill further requires the court of common pleas to consider several additional factors prior to making a determination to place a child in a planned permanent living arrangement. There are unlikely to be any discernible costs for the court of common pleas to comply with this requirement.

The bill also requires the Ohio Department of Job and Family Services (ODJFS) to develop a model notice to be provided by a PCSA or a private child placing agency that has custody of a child to a caregiver in certain planned permanent arrangements. A PCSA or private child placing agency may modify the notice to apply to the needs of the agency. There would be a minimal increase in administrative costs to ODJFS to develop the model notice. There would be a minimal increase in administrative costs to PCSAs to provide the notice and to modify the model notice if a PCSA elects to modify the notice.

Kinship Permanency Incentive Program

The bill increases the length of time ODJFS may provide additional Kinship Permanency Incentive Program (KPIP) payments after the required initial payment from 36 months to 48 months, based on the availability of funds. The KPIP provides time-limited incentive payments to kinship caregivers who meet eligibility criteria. Under current law, kinship permanency incentive payments are paid every six months. H.B. 59 of the 130th General Assembly appropriates \$5.25 million for the KPIP in FY 2014 and FY 2015, including a \$1.75 million earmark of federal Temporary Assistance for Needy Families funds in both fiscal years. ODJFS currently pays \$525 for the initial payment and \$300 for subsequent payments. According to ODJFS, approximately 1,476 children would be eligible for a seventh and eighth redetermination annually. ODJFS estimates this change would cost approximately \$885,600 per year, if implemented.

Qualified immunity of foster caregiver

The bill grants a PCSA, private child placing agency, or private noncustodial agency serving as a foster child's supervising agency or custodian immunity from civil liability for any injury to person or property resulting from a foster caregiver's or an agency's decisions allowing a foster child to participate in an extracurricular, enrichment, or social activity. Under the bill, immunity is contingent on the foster caregiver using a reasonable and prudent standard.

Current law already grants a foster caregiver qualified immunity from liability in a civil action to recover damages. The bill's immunity provision may further limit a PCSA's liability than is the case under current law, which could in turn save a PCSA expenses that might otherwise have been incurred to litigate and settle certain matters.

Public children services agency training

The bill requires that training for a foster caregiver provided by a PCSA, child placing agency, or private noncustodial agency acting as a recommending agency for a foster caregiver include training for the caregiver that relates to providing independent living services to a child placed in certain settings. There could be an increase in costs to PCSAs to provide the new training, if they are not already providing similar training.

Duty to report child abuse

Current law requires certain persons acting in an official or professional capacity and know, or have reasonable cause to suspect based on facts, that a child under 18 or a mentally retarded, developmentally disabled, or physically impaired child under 21 has suffered or faces a threat of suffering any form of abuse or neglect to report the abuse to a PCSA or a municipal or county peace officer in the county in which the child resides or in which the abuse or neglect is occurring or occurred. The bill expands this list of persons to include court-appointed special advocates and guardians ad litem. There could be an increase in costs to PCSAs and local law enforcement agencies to take additional reports and to investigate any new allegations if new reports are taken.



Ohio Legislative Service Commission

Edward M. Millane

Fiscal Note & Local Impact Statement

Bill: Sub. H.B. 264 of the 130th G.A.

Date: June 3, 2014

Status: As Enacted

Sponsor: Reps. Wachtmann and Barnes

Local Impact Statement Procedure Required: Yes

Contents: Establishes care for students with diabetes in schools

State Fiscal Highlights

- The Ohio Department of Education (ODE) may incur an increase in administrative costs to adopt nationally recognized guidelines for the training of school employees in diabetes care for students, to annually report the number of students with diabetes and the number of errors associated with the administration of diabetes medication, and to develop a 504 plan information sheet. These costs are not likely to be significant.

Local Fiscal Highlights

- The bill may result in an increase in the number of 504 plans under federal law, which may increase administrative costs for some schools.
- Schools that opt to provide training to staff to administer care to diabetic students may incur costs. Costs will depend on the number of staff trained, the frequency of the training, and the individual who provides the training. Schools that do not have a school nurse may need to hire an outside licensed health care professional to provide the training.
- Schools may incur minimal administrative costs if they opt to provide training to certain bus drivers and school employees in the recognition of hypoglycemia and hyperglycemia and actions to take in response to both of these medical situations.

Detailed Fiscal Analysis

The bill establishes requirements concerning diabetes care provided to students in public (traditional school districts, community schools, college-preparatory boarding schools, and STEM schools) and chartered nonpublic schools. Specifically, the bill requires that a school ensure that all diabetic students attending their respective buildings receive appropriate diabetes care in accordance with orders signed by the treating physicians and with a 504 plan. It also authorizes a school nurse, or in the absence of a school nurse, a school employee trained in diabetes care as prescribed by the bill, to administer diabetes medication. To assist schools in providing care to diabetic students, the bill requires the Ohio Department of Education (ODE) to adopt nationally recognized training guidelines for the training of school employees in care for diabetic students and to develop a 504 plan information sheet for use by schools. Those provisions of the bill with potential fiscal effect are discussed below in more detail.

ODE duties under the bill

The bill requires ODE, in consultation with the Department of Health, the American Diabetes Association, and the Ohio School Nurses Association, to adopt nationally recognized guidelines for the training of school employees in diabetes care for students. The guidelines must be adopted no later than 180 days after the bill's effective date and must address several topics, including: (1) recognizing the symptoms of hypoglycemia and hyperglycemia, (2) the appropriate treatment for a student exhibiting symptoms of hypoglycemia and hyperglycemia, (3) performing blood glucose and ketone tests in accordance with a physician's orders and recording the results of those tests, and (4) administering insulin, glucagon, or other medication in accordance with a physician's orders. Development of these guidelines may increase the administrative burden of ODE. However, there are a number of free resources available that may mitigate the costs associated with this requirement.⁸

In addition to adopting these guidelines, ODE is required to develop an information sheet to be used by a school when notifying a student's parent, guardian, or other person that the student may be entitled to a 504 plan. ODE is also required, no later than March of each year, to issue a report on the number of students with diabetes and the number of errors associated with the administration of diabetes medication and to make the report available on its website. Any costs associated with these responsibilities are not likely to exceed minimal.

⁸ For example, the Texas Diabetes Council, with assistance from numerous organizations including the American Diabetes Association, developed a report titled, *Guidelines for Training School Employees Who Are Not Licensed Healthcare Professionals* in July 2005. The document's title page also states it is related to the "Care of Elementary and Secondary School Students with Diabetes."

504 plans

The bill requires that, no later than 14 days after receiving an order signed by a student's physician, the school inform the student's parent, guardian, or other person in charge that the student may be entitled to a 504 plan. Schools can use the information sheet provided by ODE to provide this notification. A 504 plan details the accommodations a student with a disability, including a student with diabetes, requires in school to receive the same opportunities as the student's peers, as required under federal law.

The notification of parents may result in the schools receiving an increase in requests for 504 plans. Schools may incur administrative costs in developing and implementing these plans for students with diabetes. However, the costs are not likely to be significant as the number of such plans for any one school is likely to be small. According to the National Diabetes Education Program, approximately 215,000 people under the age of 20 (less than 1%) have diabetes in the United States.⁹

Training in schools

Diabetes care

In order to meet the bill's requirement that schools provide care to their diabetic students, the bill authorizes schools to provide diabetes care training to school employees. The training is to take place prior to the beginning of the school year, or, as needed, within 14 days of the enrollment of a student with diabetes or within 14 days of being notified by a parent that a student has been diagnosed with diabetes. A school nurse or, if a school does not employ a nurse, a licensed health care professional with expertise in diabetes must provide and coordinate the original and any necessary follow-up training.

Should a school that enrolls a student with diabetes want to provide diabetes care training to staff, it is likely to incur additional administrative costs. Costs are dependent on the number of individuals participating in the training, the frequency of the training, and whether the school already employs a school nurse. If a school has to hire an outside professional to provide the training, the school could incur a fee for doing so. There are a number of free training resources available that may help lower any costs of providing training.¹⁰

⁹ <http://ndep.nih.gov/teens/index.aspx>.

¹⁰ For example, the U.S. Department of Health, National Institutes of Health, and Centers for Disease Control and Prevention have issued a publication titled, *Helping the Student with Diabetes Succeed: A Guide for School Personnel*, which is available on the National Diabetes Education Program website. Also, the American Diabetes Association provides at no cost a training curriculum consisting of PowerPoint slides and video titled, *Diabetes Care Tasks at School: What Key Personnel Need to Know*.

The bill authorizes the principal of the school to issue a written notice, containing certain specified information, requesting staff to volunteer for training. Schools that solicit volunteers in this manner are likely to incur some additional, negligible administrative costs.

Emergency training

Schools are also authorized to provide to bus drivers responsible for the transportation of a diabetic student, and to all school employees who have primary responsibility for supervising a child with diabetes during the school day, training in the recognition of hypoglycemia and hyperglycemia and actions to take in response to emergency situations involving hypoglycemia and hyperglycemia. It appears that this training will be separate from the training mentioned above as it will likely involve more participants than just employees voluntarily receiving diabetes care training. However, costs for schools opting to provide this training are likely not to exceed minimal as, again, they could use numerous online training materials.¹¹

Immunity from liability

The bill states that any school or school employee is not liable for damages in a civil action for injury, death, or loss to person or property as a result of activities authorized under the bill, unless the act or omission constitutes willful or wanton neglect. Unless a person or school conducts an action that exceeds this threshold, they cannot be sued for civil damages for performing duties under the bill.

School reporting requirement

The bill requires, no later than December 31 of each year, that each school report to ODE the number of students with diabetes enrolled in the school and the number of errors associated with the administration of diabetes medication during the previous school year. Any costs for this reporting requirement are likely to not be significant.

HB0264EN.docx/th

¹¹ A search for "recognizing and treating hyperglycemia in schools" on the American Diabetes Association's website shows results for several documents.



Ohio Legislative Service Commission

Russ Keller

Fiscal Note & Local Impact Statement

Bill: Sub. H.B. 319 of the 130th G.A.

Date: December 11, 2014

Status: As Enacted

Sponsor: Rep. Grossman

Local Impact Statement Procedure Required: Yes

Contents: Permits a natural gas company to apply for an infrastructure development rider to cover costs of certain economic development projects

State Fiscal Highlights

- No direct fiscal effect on the state.

Local Fiscal Highlights

- Potential increase in expenditures to counties, municipalities, townships, and school districts. The amount of the increase, if any, depends on the infrastructure development costs approved for recovery from customers by the Public Utilities Commission of Ohio (PUCO).

Detailed Fiscal Analysis

H.B. 319 permits a natural gas company to file an application with the Public Utilities Commission of Ohio (PUCO) for approval of an infrastructure development rider to cover "prudently incurred" infrastructure development costs.¹² The approved costs must be for one of the following:

1. An economic development project that meets criteria set forth by PUCO in administrative rules adopted after H.B. 319 is enacted.
2. An economic development project that is certified by the Director of Development Services under the Site Ohio certification program.

The bill prohibits PUCO from authorizing the infrastructure development rider if the proceeds to be generated by the rider exceed annual thresholds defined by the bill. For those economic development projects authorized under PUCO's administrative rule criteria, a natural gas company may not recover more than \$2 each year from any single

¹² The meaning of "prudently incurred" with respect to "infrastructure development costs" is unclear, and is not defined in the bill.

customer in the state for all projects. For those economic development projects authorized by the Site Ohio certification program, a natural gas company may not recover more than \$1 each year from any single customer in the state for all projects. The LSC bill analysis provides other details of the bill, including the application and approval process.

A natural gas company that establishes an infrastructure development rider must file an annual report with PUCO detailing both the infrastructure development costs and the rider rate for the upcoming 12 months. PUCO may audit a natural gas company to determine if infrastructure development costs incurred and collected by the company conformed to PUCO's orders.

H.B. 319 specifies that any property installed or constructed by a natural gas company "to enable the provision of natural gas service" to an economic development project must be considered "used and useful in rendering public utility service."

Fiscal effect

The cost of an infrastructure development rider will increase costs for the customer base, which includes counties, municipalities, townships, and school districts. The number and magnitude of these infrastructure development riders depends on the regulatory approval of PUCO. It is uncertain what gas companies will seek in terms of infrastructure development riders over the forthcoming years, and it also is uncertain how many of these riders will be approved by PUCO. Nevertheless, the bill limits the costs paid by any single customer to no more than \$3 per calendar year. In that scenario, a customer would be paying the maximum allowable charges under both a PUCO-defined economic development project and a Site Ohio project. According to statistics reported on the PUCO website, as of June 2014 there were 3.05 million residential natural gas customers in Ohio and over 253,000 commercial and industrial natural gas customers.

H.B. 319 stipulates that property installed or constructed by a natural gas company to enable the provision of natural gas service to an economic development project must be considered used and useful in rendering public utility service. This allows utilities to expand their valuation of property, which is used in determining rates for services rendered by a public utility. According to testimony in Senate committee, the property installed or constructed for those sites or facilities that do not yet have natural gas customers would not be considered "used and useful in rendering public utility service" but for the provisions in this bill.



Ohio Legislative Service Commission

Wendy Risner

Fiscal Note & Local Impact Statement

Bill: Sub. H.B. 366 of the 130th G.A.

Date: June 4, 2014

Status: As Enacted

Sponsor: Rep. Sprague

Local Impact Statement Procedure Required: Yes

Contents: To require hospice care programs to establish procedures to prevent diversion of controlled substances that contain opioids

State Fiscal Highlights

- **Ohio Department of Health (ODH).** ODH will experience an increase in costs as a result of the requirement that hospice care programs establish procedures to prevent diversion of controlled substances that contain opioids. These costs will include the hiring of a Non Long-Term Care Facilities Surveyor and additional survey costs, as well as rule promulgation and information technology costs primarily in the first year of implementation. The cost for these is anticipated to be approximately \$226,426 in the first year and \$176,200 in each subsequent year. There could also be costs to ODH to review, as part of the license renewal application, written evidence that a hospice program is in compliance with the bill's requirements. If ODH finds that a program is not in compliance, fine revenue might be collected.

Local Fiscal Highlights

- **Government-owned hospices.** Government-owned hospices could experience an increase in costs relating to the bill's requirements to establish procedures to prevent diversion of controlled substances that contain opioids.
- **Local law enforcement.** Local law enforcement could experience an increase in costs to investigate reports from hospice concerning the quantity and type of controlled substances containing opioids that are included in the patient's interdisciplinary plan of care and that are not relinquished to a hospice program. There would also be costs to dispose of these substances.
- **Municipal courts.** Municipal courts could experience an increase in court costs if individuals fail to relinquish controlled substances containing opioids that were included in a patient's interdisciplinary plan of care after receiving a written request from a hospice program to do so. Any court costs could be offset, or partially offset, by any fine revenues collected.

Detailed Fiscal Analysis

The bill requires each hospice care program, licensed by the Ohio Department of Health (ODH) and that provides hospice care and services in a hospice patient's home, to establish a written policy that establishes procedures for preventing the diversion of controlled substances containing opioids that are prescribed for a patient. The policy is to include procedures for the disposal of any such drugs prescribed to a hospice patient as part of the patient's interdisciplinary plan of care that are relinquished to the program after a hospice patient's death or that otherwise are no longer needed by a hospice patient. The policy is to require the disposal be documented by a program employee and conducted in any of the following manners: (1) performed by a program employee and witnessed by the patient or patient's family member, (2) performed by the patient or patient's family member and witnessed by a program employee, or (3) performed by a program employee and witnessed by another program employee.

The bill requires the Director of Health to adopt rules that do the following: establish procedures a hospice care program must follow while investigating a sign of suspected diversion of controlled substances containing opioids, and establish requirements for reporting to a local law enforcement agency the results of an investigation of suspected diversion.

The bill requires, as part of a hospice patient's interdisciplinary plan of care, each hospice program that provides hospice care and services in the patient's home, to do the following: (1) before providing hospice care and services, distribute a copy of the written procedures to the patient and patient's family and discuss the policies with them, (2) assess the patient, patient's family, and care environment for any risk factors associated with diversion, (3) maintain records of controlled substances containing opioids prescribed to the patient and included in the patient's interdisciplinary plan of care, including accurate counts of the numbers dispensed and used, (4) monitor the use and consumption of controlled substances containing opioids prescribed to the patient and included in the patient's interdisciplinary plan of care, including prescription refills, for signs of diversion, (5) investigate any sign of suspected diversion in accordance with rule, (6) report the results of an investigation of suspected diversion to local law enforcement with jurisdiction in accordance with rule, (7) before providing hospice care and services, inform the patient and the patient's family that the program will dispose of any controlled substances containing opioids that are no longer needed by the patient and were included in the patient's interdisciplinary plan of care, (8) after a patient's death, or when no longer needed by the patient, request, in writing, that the patient's family relinquish to the program for disposal any remaining controlled substances containing opioids that were included in the patient's interdisciplinary plan of care, and (9) report to law enforcement with jurisdiction the quantity and type of controlled substances containing opioids that were included in the patient's

interdisciplinary plan of care and that were not relinquished to the program. The bill specifies that if certain provisions are complied with, the program, its employees, officers, or directors, or a prescriber of controlled substances containing opioids that were included in the patient's interdisciplinary plan of care are not liable in damages to any person or government entity in a civil action unless the action or omission constitutes willful or wanton misconduct.

The bill specifies that no person who receives a written request shall fail to relinquish controlled substances containing opioids that were included in a patient's interdisciplinary plan of care. The bill requires law enforcement with jurisdiction, following a report, to investigate and dispose of the substances containing opioids. Additionally, the bill specifies that any person who fails to relinquish controlled substances containing opioids that were included in a patient's interdisciplinary plan of care after receiving a written request from a hospice program, is guilty of a minor misdemeanor.

The bill requires the hospice program, if the program provides hospice care and services in a hospice patient's home, to submit written evidence that the program is in compliance with the bill's requirements as part of the license renewal application required every three years. This is required not later than one year after the effective date of the bill. If after review of this written evidence, ODH determines that the program is not in compliance with the bill's requirement, ODH may suspend a hospice care program's license for not more than six months and may also impose a fine not to exceed \$20,000. The bill also requires, not later than one year after the bill's effective date, the ODH Director to adopt rules establishing and procedures for the submission and review of the written evidence required for license renewal.

Fiscal effect

Department of Health

Hospices are licensed by ODH and ODH charges a fee for activities relating to hospice regulation. The initial hospice license fee is \$600, while fees are \$1,625 for a licensing inspection, \$850 for a complaint inspection, and \$350 for a follow-up inspection.

As a result of the bill, there would be additional duties related to the survey process. According to ODH, an additional day would be necessary to complete the survey process relating to the bill's requirements. ODH estimates that the additional survey costs would be approximately \$232,635 over the three-year renewal cycle (\$77,545 per year). ODH would also need to hire a Non Long-Term Care Facilities Surveyor at a cost of \$98,655 per year (including fringe benefits). Lastly, ODH maintains that there would be rule development and information technology costs of approximately \$50,226 in the first year of implementation. There could also be costs to ODH to review, as part of the license renewal application, written evidence that a

hospice program is in compliance with the bill's requirements. If ODH finds that a program is not in compliance, fine revenue might be collected.

Department of Medicaid

According to the Ohio Department of Medicaid (ODM), there should be no direct impact on the Medicaid Program as a result of the bill. ODM states that the rates for hospice care are set at the federal level.

Government-owned hospices

The Midwest Care Alliance, which represents hospices, stated that hospices already have some procedures in place to prevent controlled substance diversion. However, hospices might experience an increase in administrative costs as a result of the bill. The increase would depend on how the requirements were actually implemented and on what diversion measures are currently in place in hospice programs. In addition, there could be an increase in costs to investigate suspected diversion of drugs if hospice care programs do not already do so. According to the Alliance most hospice care programs in Ohio are nonprofit entities. However, some hospices are operated by local governments.

Local law enforcement

Local law enforcement could experience an increase in costs to investigate reports from hospice programs concerning the quantity and type of controlled substances containing opioids not relinquished to the hospice program. There would also be costs to dispose of these substances.

Municipal courts

Municipal courts could experience an increase in court costs if individuals fail to relinquish controlled substances containing opioids that were included in a patient's interdisciplinary plan of care after receiving a written request from a hospice program to do so. Any court costs could be offset, or partially offset, by any fine revenues collected.



Ohio Legislative Service Commission

Jason Phillips and other LSC staff

Fiscal Note & Local Impact Statement

Bill: Am. Sub. H.B. 487 of the 130th G.A. **Date:** June 4, 2014
Status: As Enacted **Sponsor:** Rep. Brenner

Local Impact Statement Procedure Required: Yes

Contents: Modifies law related to primary and secondary education

State Fiscal Highlights

Post-Secondary Enrollment Options replaced by College Credit Plus

- The bill renames the Post-Secondary Enrollment Options Program (PSEO) as the College Credit Plus Program (CCP) and makes numerous changes to the program that will go into effect for the 2015-2016 school year.
- In FY 2013, payments to colleges under PSEO totaled about \$28.5 million. For public school students, these payments are made through a transfer of school district state aid. For nonpublic students, these payments are made directly by the state, subject to an appropriation.
- The bill's changes to the payment structure may decrease the per credit hour payments received by colleges and universities in some cases.
- The bill makes students enrolled under CCP eligible for state share of instruction (SSI) subsidies, which could change the distribution of SSI to colleges and universities.
- The bill may lead to an increase in costs for public colleges, the Ohio Board of Regents, and the Ohio Department of Education (ODE) due to additional administrative requirements.

High school assessments and graduation requirements

- The bill sets the replacement of the Ohio Graduation Tests (OGTs) with the College and Work Ready Assessment System beginning with students entering ninth grade on or after July 1, 2014. These changes are expected to result in cost avoidance totaling about \$50 million through FY 2019. The vast majority of avoided costs occur in FY 2016 and FY 2017, as the state will no longer be required to provide the OGTs to tenth grade students in those years.

- The bill also specifies that there be only seven end-of-course exams instead of the eight or ten under the State Board's current plan. Reducing the number of exams may further reduce the cost of the high school testing program.

State School for the Blind preschool and career-technical programs

- The bill requires the State Board of Education to establish a preschool educational program and a career-technical education and work training program for visually impaired students, which will be administered by the State School for the Blind (OSB). As a result of the preschool program and any necessary expansion of the School's career-technical programs, the state's expenditures may increase.

Solvency Assistance Fund debt forgiveness

- If any districts take advantage of the bill's provisions allowing the net amount of solvency assistance owed by a school district to be cancelled, the Solvency Assistance Fund (Fund 5H30) will experience a decrease in revenue. The Director of Budget and Management may transfer cash from the GRF to offset this decrease.

Local Fiscal Highlights

Post-Secondary Enrollment Options replaced by College Credit Plus

- In FY 2013, payments to colleges under PSEO totaled about \$28.5 million. For public school students, these payments are made through a transfer of school district state aid.
- Currently, school districts may have dual enrollment agreements with colleges that are similar to PSEO, but outside of the PSEO payment structure. The bill largely eliminates these outside agreements, incorporating all similar agreements within the CCP structure.
- The bill's changes to the payment structure may decrease the per credit hour payments deducted from district state aid in some cases.
- The bill extends CCP eligibility to students in grades 7-8, potentially resulting in additional CCP participants and thus, an increase in deductions of school district state aid to pay colleges.
- The bill may lead to an increase in costs for school districts due to additional administrative requirements.

EdChoice eligibility

- The bill expands eligibility for EdChoice beginning in the 2016-2017 school year. If, as a result, more scholarships are awarded, deductions of school district state aid will increase. Districts may also experience a decrease in expenditures due to educating fewer students.

Conditional waiver pilot program

- The bill creates a waiver program for up to five years for STEM schools and certain innovative school districts for state achievement assessments, teacher evaluations, and report card ratings. The development and ongoing administration of this waiver program and alternative assessments will increase the administrative burden on participating schools. If ODE is not able to obtain a waiver from federal testing requirements, schools participating in this waiver program may see a reduction in federal funding.

Performance ratings

- The bill prohibits ODE from assigning an overall letter grade on district and school report cards for the 2014-2015 school year and using report card ratings for that year in determining various sanctions or penalties. Under the bill, some districts and schools may not bear the expense of potential sanctions or penalties that they otherwise would have had to bear.

Solvency Assistance Fund debt forgiveness

- Under the bill, if certain conditions are met, a school district that acquires another school district that has received, but not completely repaid, a solvency assistance advance will not absorb the net amount owed by the transferring district. As a result, this district's expenditures will be lower under the bill than otherwise.

Detailed Fiscal Analysis

The bill makes many changes to the laws governing primary and secondary education. Provisions in the bill with a fiscal effect are discussed below.

Post-Secondary Enrollment Options replaced with College Credit Plus

Overview

The Post-Secondary Enrollment Options Program (PSEO) permits students to take courses for both college and high school credit while in high school. Under the program, students may take the course free of charge and have the college reimbursed for the costs associated with the course. PSEO payments to colleges for public high school students are deducted from the state aid of the educating school district or school. Such payments for nonpublic and home-instructed students are made from set-asides of certain GRF appropriations. According to Ohio Department of Education (ODE) data, 14,860 public school and 1,202 nonpublic school students participated in PSEO statewide in the 2011-2012 school year, the latest data readily available.¹³

¹³ H.B. 59 of the 130th General Assembly expanded the program to include home-instructed students beginning with the current 2013-2014 school year.

The bill renames PSEO as the College Credit Plus Program (CCP) and makes numerous changes to the program. Many of the bill's changes reflect recommendations made by the Chancellor of the Ohio Board of Regents pursuant to H.B. 59 of the 130th General Assembly. Most notably from a fiscal perspective, these changes involve (1) the formula for payments to colleges, (2) CCP's elimination of other dual enrollment agreements similar to PSEO, (3) the extension of eligibility to students in grades 7-8, (4) permitting a public college to include a student enrolled under CCP in its "state share of instruction" count for state higher education subsidies, and (5) additional program requirements for public colleges and high schools. The net effect of these changes on the overall amount paid to colleges through deductions of school district state aid and expenditure of dedicated state funds is unclear, as the bill contains changes that have the effect of both decreasing and increasing aggregate payment amounts. These provisions are discussed in more detail below. Under the bill, CCP will not begin operation until the 2015-2016 school year. Until then, PSEO will continue to operate in its current form.

Payment formula

Current law

Under current law, colleges are paid based on the lesser of (1) the actual cost of tuition, textbooks, materials, and fees that the student otherwise would have been responsible for or (2) an amount based on the tuition base (equal to the formula amount), the full-time equivalency percentage of the student, and the percentage of time during the school day that the student spends at the college. In practice, the amount paid depends on the number of Carnegie units the high school permits a student to earn per year.¹⁴ One Carnegie unit is equal to one five-credit hour semester class. If a full-time student may earn six Carnegie units per year, then the amount paid for a five-credit hour course under PSEO is one-sixth of the tuition base, or about \$967 in FY 2015 based on the formula amount of \$5,800 ($\$5,800 \times (1/6)$). This translates to about \$193 per credit hour ($\$967 \div 5$). If a full-time student may earn seven Carnegie units per year, then the amount paid per credit hour is somewhat smaller. In this case, the amount paid for a five-credit hour course is one-seventh of the tuition base, or about \$829, which translates to about \$166 per credit hour. Current law permits the Superintendent of Public Instruction and the Chancellor to adopt rules permitting schools to enter into alternative PSEO funding agreements with colleges. However, since the Ohio Department of Education (ODE) is unaware of any such agreement being requested, the rules have yet to be adopted.

Changes made by the bill

In general, the bill requires the CCP payments made by ODE to be based on the number of credit hours in which a student is enrolled during the previous term.

¹⁴ A Carnegie unit is the basic unit of credit used to meet high school graduation requirements. Typically, one Carnegie unit is awarded for courses scheduled for 120 instructional hours.

Further, unless an agreement specifying an alternative payment structure is entered into by the high school and the college, which the bill permits under certain conditions, ODE must pay the college the following default per credit hour amounts:

- The default ceiling amount for a student enrolled in a college course delivered on the college campus, at another location operated by the college, or online. This amount is calculated as 83% of the formula amount divided by either 30 or 45, depending on whether the college operates on a semester or quarter schedule, respectively. Using the FY 2015 formula amount of \$5,800, this calculates to about \$160 for each semester credit hour ($\$5,800 \times 0.83 = \$4,814$; $\$4,814 \div 30 = \160.47 per credit hour) and about \$107 for each quarter credit hour.
- 50% of the default ceiling amount, for a student enrolled in a college course delivered at the student's high school but taught by college faculty.
- The default floor amount, defined as 25% of the default ceiling amount, for a participant enrolled in a college course delivered at the student's high school and taught by a high school teacher who has met the established credential requirements.
- For a home-instructed or nonchartered nonpublic student enrolled in a public or private college, ODE must pay the college the default ceiling amount for each completed credit hour when the student is enrolled in a college course delivered on the college campus, at another location operated by the college, or online.

Because the full formula amount will no longer be the basis of the payments, payment amounts to colleges may decrease. For example, instead of being paid \$967 for a five-credit hour semester class, as in the example above, a college would be paid about \$802 under the bill for a course delivered on a college campus ($\$160.47$ per credit hour \times 5 credit hours = \$802.35). The amount would be less for a course delivered at the student's high school. The amount of any decrease will vary by school district and community school, as it will depend on the maximum number of Carnegie units currently allowed by each school and the format and location in which students receive instruction through the program. On the other hand, the bill makes a public or nonpublic secondary school responsible for paying the cost of textbooks for participants enrolled in a public college. These costs are currently paid by a college receiving reimbursement under PSEO. Ultimately, the result of these changes is likely to be a shift in a portion of the cost of educating such students to the colleges in which they enroll. Note that the bill's change from an annual payment schedule to a semiannual schedule will artificially inflate the total amount of the payments made in FY 2016. Statewide, payments to colleges totaled \$28.5 million for students attending college under PSEO in the 2012-2013 school year. For additional details concerning PSEO payments, please see the **Appendix** below.

Elimination of other dual enrollment agreements

While PSEO is one dual enrollment option for high school students, current law also permits a school district or a participating nonpublic school to enter into an agreement with a college or university to establish a similar dual enrollment program. These agreements do not carry the same payment amount requirements and prohibitions on student charges as PSEO. Also, school districts make payments directly to the college under these agreements rather than through the deduction and transfer mechanism of PSEO. Some school districts may currently pay less per credit hour under these alternative dual enrollment agreements than under PSEO, or potentially nothing at all if, for example, the student or parent is responsible for the entire cost of tuition negotiated between the district or school and the college. LSC is unaware of any comprehensive source of data concerning these arrangements that indicates how prevalent they are or what payment rates are commonly negotiated.

The bill eliminates the authority for schools and colleges to enter into these agreements and instead states that, in general, CCP will govern arrangements in which a secondary grade student enrolls in a college and, upon successful completion of coursework taken under the program, receives transcribed credit from the college.¹⁵ The bill permits a high school and a college to enter into an agreement establishing an alternative payment structure for tuition, textbooks, and fees. However, the payments made under these agreements must be distributed through the state, either through the method of deducting and transferring school district state aid or disbursement of dedicated state funds for nonpublic or home-instructed students. In general, the payments made for each student by ODE under such an agreement cannot exceed the default ceiling amount or be less than the default floor amount, unless the Chancellor approves an agreement that includes payment below the default floor amount. The effect of this change is an increase in deductions of school district state aid for districts that are currently participating in other dual enrollment agreements. However, direct expenditures made by these school districts will decrease. The net effect on a school district will depend on the difference, if any, in rates paid under the current agreements and the rates paid under CCP or an alternative payment structure.

Student eligibility

Under current law, public and nonpublic school students are eligible to participate in PSEO if they are enrolled in grades 9-12, or are in the equivalent of those grades if instructed at home. The bill extends CCP eligibility to public and nonpublic school students in grades 7-8 and home-instructed students in the equivalent of those grades as long as a student meets the applicable eligibility criteria required of secondary students for participation. Extending eligibility may result in additional participants in

¹⁵ The bill grants exceptions for (1) an agreement governing an early college high school program that meets certain exemption criteria, (2) an advanced placement course or international baccalaureate diploma course, and (3) until July 1, 2016, an approved career-technical education program that grants articulated credit to students.

the program. If so, the effect of this provision is an increase in deductions of school district state aid and expenditures of dedicated state funds to pay colleges. Because of this change, the bill also requires each public and participating nonpublic school to provide information and counseling services about CCP to all students enrolled in grades 6-11, instead of grades 8-11 as under current law. This provision may increase the administrative burden of school districts and community schools.

State share of instruction count

Though public colleges may receive less from payments of school district state aid and state funds set aside specifically for CCP, the bill makes students enrolled under CCP eligible for state share of instruction (SSI) subsidies. A public college's "state share of instruction" is the main subsidy that is paid by the state toward the instructional operating cost of the institution. Note that an increase in the number of students eligible for the SSI subsidy formula could result in a small decrease in the amount of subsidy funding per student, depending on the amount appropriated.

Program requirements

The bill revises various requirements associated with the program. For instance, the bill requires all public colleges, with the exception of the Northeast Ohio Medical University, to participate in CCP. While all such colleges currently participate, they are not required to do so under current law. The bill also makes changes to the information provided by high schools and colleges, requires public and participating nonpublic high schools and public and participating colleges to collect, report, and track specified data related to the program, and requires that CCP courses be taught by teachers meeting credential requirements established by the Chancellor. In addition, colleges must provide high school teachers teaching CCP courses for a college with at least one professional development session per school year and conduct at least one classroom observation per school year of each course authorized by the college. These provisions, which are discussed in more detail in the LSC Bill Analysis, may lead to an increase in costs for colleges, school districts, the Ohio Board of Regents, and ODE due to additional administrative requirements. However, the bill permits any high school or college that is subject to the requirements of CCP to apply to the Chancellor and the Superintendent for a waiver from these requirements. The criteria to receive a waiver are to be adopted in rule by the Chancellor and the Superintendent.

High school assessments and graduation requirements

Current requirements and implementation plan

Under current law, Ohio students must meet both curriculum and testing requirements in order to successfully earn a high school diploma. To meet the testing requirements, students must attain a passing score on the five tests commonly referred to as the Ohio Graduation Tests (OGTs). The OGTs are scheduled to be phased out in favor of the College and Work Ready Assessment System, which is comprised of end-of-course exams and a nationally standardized assessment measuring college readiness

in the tenth grade. Current law does not specify a date by which the OGTs are eliminated and the new system begins. Rather, the timeline and plan for implementation of the new system and the revised graduation requirements are determined according to rules that the State Board of Education must adopt. However, current law also stipulates that the rule-making process cannot begin until after the new assessment system has been fully developed and that the rules do not become effective until one year after they are filed in final form.

Because of these provisions, ODE indicates that the new graduation requirements will begin to apply to students entering the ninth grade in the 2016-2017 school year. This means that the OGTs will continue to be administered to sophomores through that school year. Due to a combination of the requirements associated with Ohio's federal Elementary and Secondary Education Act waivers and Ohio's memorandum of understanding with the other members of the Partnership for the Assessment of Readiness in College and Careers (PARCC), the end-of-course exams under the new assessment system and the OGTs will both be administered for three school years: 2014-2015, 2015-2016, and 2016-2017. It costs the state about \$25 million per year to furnish, score, and provide score reports for the OGTs. These costs are supported mostly by the GRF but also by some federal funds. Under current law, the state would incur these costs for the next three school years in addition to those necessary to administer the new assessments.

Changes made by the bill

OGT phase-out

The bill eliminates the one-year delay to the effective date of the State Board's rules and specifies that the College and Work Ready Assessment System will replace the OGTs as one determinant for a diploma beginning with students who enter the ninth grade in the 2014-2015 school year (the class of 2018). As a result, the OGTs must be offered through the 2014-2015 school year to all tenth grade students and in the following two school years for those who fail to pass the tests. Thus, the bill's phase-out of the OGT will likely result in cost avoidance of around \$23 million each year in FY 2016 and FY 2017. The state will also avoid around \$2 million per year in costs in FY 2018 and FY 2019 that would have been necessary to provide the OGTs to students that were not able to pass one or more of the tests in their sophomore year.

End-of-course exams

Under a plan adopted by the State Board in November 2013, school districts may choose to have their students take either eight or ten end-of-course exams. Instead, the bill specifies that there be only seven end-of-course exams. Reducing the number of exams may reduce the cost of the high school testing program.

Current law permits districts and schools to use substitute exams selected by the Superintendent and the Chancellor in lieu of the state-prescribed end-of-course exams. Districts and schools are responsible for paying the cost of the substitute exams under

the State Board's plan. The bill eliminates the requirement that the Superintendent and Chancellor select substitute exams and only permits advanced placement, international baccalaureate, and dual enrollment or advanced standing program examinations in the areas of physical science, American history, and American government to be used as substitute exams. This provision will increase ODE's assessment system costs relative to what they would have been otherwise, depending on the number of districts that would have opted to use substitute exams in the other subject areas at their own expense.

On the other hand, the bill requires a student in an advanced placement or international baccalaureate course or in any other dual enrollment or advanced standing program in the three subject areas noted above to take the applicable substitute examination in lieu of the state-prescribed end-of-course exam. This provision may result in a small reduction from what the state's assessment system costs would have been otherwise.

Effective October 1, 2015, the bill allows any chartered nonpublic school to forgo end-of-course examinations if that school publishes the results of the college and career readiness assessment for each graduating class. It also prohibits the State Board from imposing any additional requirements or assessments for chartered nonpublic schools to grant a diploma. Under continuing law, the state furnishes the assessments comprising the OGTs and, once implemented, the College and Work Ready Assessment System to chartered nonpublic schools. Thus, this provision may reduce ODE's assessment system costs, if nonpublic schools choose to forgo the exams.

The bill also creates a committee to make recommendations regarding graduation requirements and other state-mandated testing requirements for students who attend chartered nonpublic schools. The work of the committee may increase ODE's administrative burden.

Nationally standardized college readiness assessment

The bill specifies that the assessment selected as the nationally standardized college readiness assessment be used for college admission and include components in English, mathematics, science, and social studies. The bill also specifies that the assessment be administered to all eleventh grade students. The assessment previously selected as the college readiness assessment, the Preliminary Scholastic Aptitude Test (PSAT), is not used for college admission and was to be administered to tenth grade students. As a result of this provision, ODE's administrative burden may increase to carry out a new request for proposals (RFP) process to select a new test. The state's cost to administer the assessment may also change, depending on the terms negotiated with the newly selected test's vendor. As a point of reference, the contracted per student cost for the PSAT was \$10.20, for a total estimated cost of \$1.53 million per year.

Graduation requirements

As noted above, current law generally requires a high school student to obtain passing scores on prescribed assessments in order to receive a high school diploma. In

addition to the applicable curriculum requirements (which the bill does not change), the bill enables students entering the ninth grade in the 2014-2015 school year and thereafter to qualify for a high school diploma by meeting one of the following conditions: (1) be remediation-free on nationally standardized assessments in English, reading, and mathematics,¹⁶ (2) attain a cumulative passing score on the end-of-course exams, or (3) attain a score that demonstrates workforce readiness and employability on a State Board-selected job skills assessment and obtain either an industry-recognized credential or a professional license from a state agency or board that requires an examination for issuance of that license.

Providing additional testing options to qualify for a diploma may result in more students who are able to graduate on time, which may slightly affect statewide average daily membership (ADM) and thus, state aid. School districts may also realize a reduction in expenditures that may have been necessary to educate students that otherwise would not have graduated on time. The multiple criteria to qualify for a diploma may also improve the performance of districts and schools on the graduation rate and other applicable components of the local report cards. Improved report card performance may affect the number of districts and schools subject to various sanctions and privileges that are tied to performance ratings.

Job skills assessment

As alluded to above, the bill requires school districts to administer a State Board-selected, nationally recognized job skills assessment to students who opt to take it. The assessment will be used to demonstrate a student's workforce readiness and employability. Taking this assessment does not exempt students from the end-of-course exams or the nationally standardized college readiness assessment. One option for the State Board will be the WorkKeys assessments developed by ACT, Inc. The bill requires the state to reimburse a school district for the costs of administering the job skills assessment. The overall cost to the state is uncertain, as it will depend on how many students opt to take the assessments and the terms of the contract negotiated with the assessment vendor.

EdChoice scholarship eligibility

The Educational Choice Scholarship Program ("EdChoice") provides scholarships to eligible students to attend participating nonpublic schools. The bill modifies the determination of whether a school is low-performing for the purposes of the EdChoice program by adding a new qualification. Beginning in the 2016-2017 school year, students will be eligible if they are enrolled in or will be enrolling in a building that serves any of grades 9-12 and received a grade of "D" or "F" on the four-year adjusted cohort graduation rate component of the local report card for two of the three most

¹⁶ To be considered remediation-free, a student must score at or above certain subscore thresholds in English, reading, and mathematics on one of several assessments, such as the ACT, SAT, Accuplacer, or COMPASS.

recent report cards. As a point of reference, 135 traditional school district buildings received a grade of "D" or "F" on that component on the 2012-2013 report cards. Of these, 31 already meet one or more of the existing EdChoice program qualifications.

If more schools are considered to be low-performing under the bill, it is likely that more students will be eligible for EdChoice. Under continuing law, traditional EdChoice students are counted in their resident districts' ADM for funding purposes. Funding for the student, however, is deducted from the district's calculated state funding allocation and transferred to the nonpublic school. If more students participate under the traditional program criteria, deductions from qualifying school districts will increase. Districts may also experience a decrease in expenditures due to educating fewer students. The maximum EdChoice scholarship amount is \$4,250 for grades K-8 and \$5,000 for grades 9-12.

Other provisions relating to assessments, academic content standards, and report cards

Online assessments

The bill allows school districts to administer state assessments for the 2014-2015 school year in either an online format or with paper and pencil. If more schools select to administer the assessments with paper and pencil than would have been the case under current law, ODE may see an increase in assessment costs. The bill also requires ODE to submit a report on the security of student data with regard to the administration of online assessments and to publish the number of districts and schools that administered the assessments online, with paper and pencil, and any combination of the two. These provisions will increase ODE's administrative burden.

Conditional waiver pilot program

The bill permits STEM schools and certain school districts to apply for a waiver from state requirements for achievement assessments, teacher evaluations, and reporting of data for report card ratings. The waiver request must propose an alternative assessment system that must be approved by the Superintendent of Public Instruction. The bill also requires that ODE seek a waiver from the testing requirements of the federal "No Child Left Behind Act of 2001" and create a mechanism for the comparison of the proposed alternative assessments and the state assessments. The development and ongoing administration of this waiver program will have an additional administrative burden on participating schools and ODE. ODE could see an increase or decrease in the costs to administer state achievement assessments depending on the choices made by schools. If ODE is not able to obtain a waiver under the federal "No Child Left Behind Act of 2001" then schools participating in this waiver program may see a reduction in federal funding.

Reading assessment for third graders

For the 2014-2015 school year, the bill requires that the fall administration of the third grade reading assessment use the assessment administered the previous year, the

Ohio Achievement Assessment (OAA), and that the spring administration of the assessment to a student who does not attain a score high enough to be promoted to fourth grade on the fall assessment also use the OAA. However, the bill requires the spring administration of the assessment to a student who *does* attain a score high enough to be promoted to fourth grade on the fall assessment to use the new assessment developed by the Partnership for Assessment of Readiness for College and Careers (PARCC). As a result, ODE must provide two different assessments for the spring administration, which increases ODE's administrative costs.

High school assessments for students in nonchartered nonpublic schools and home-instructed students

The bill permits any student enrolled in a nonchartered nonpublic school or home-instructed student to participate in the college and career readiness assessment and the end-of-course examinations under the state's new College and Work Ready Assessment System. ODE is required to adopt rules for the administration and scoring of these assessments. The cost of providing these assessments should not be significant as it will depend on the number of students choosing to participate in the assessment system, which is likely to be low.

Diagnostic assessments

The bill updates and adds consistency to requirements associated with diagnostic assessments. The changes are designed to clarify flexibility for school districts, clean up older erroneous language, exempt students with significant cognitive disabilities from testing in the same manner as the third grade reading guarantee, and allow ODE to implement the K-3 literacy measure using diagnostic data as previously required. The bill should reduce the administrative costs associated with the diagnostic assessments for ODE and local school districts.

Achievement assessments as public records

The bill requires, beginning with the spring administration of the 2014-2015 school year, that questions on the achievement assessments and corresponding preferred answers become a public record according to a prescribed formula. Making the questions public may increase ODE's expenditures associated with the development of future tests.

Exemption from elementary assessment

Under continuing law, chartered nonpublic schools with enrollments consisting of at least 65% state scholarship students must administer the elementary achievement assessments to all students whose parents do not opt out. Beginning with the 2015-2016 school year, the bill provides an exemption from this requirement for certain schools with enrollments consisting of at least 95% students with disabilities and meeting certain other eligibility requirements if the school submits a waiver request that is approved by the Superintendent. The bill may minimally reduce expenditures associated with student assessments for ODE.

Assessments report

The bill requires the Superintendent of Public Instruction to submit a report regarding state assessments, including a review of the number of elementary and secondary assessments administered and recommendations for decreasing the number of assessments, and the number of designated dates for and duration of the administration of the assessments. This provision will increase ODE's administrative burden.

Academic standards review committee

The bill creates the English language arts and social studies academic standards review committees and tasks the committees with reviewing the state standards in their respective subject areas. ODE may face some additional administrative expenses to provide administrative support to these committees.

Academic content standards

The bill prohibits the State Board of Education from adopting or revising academic content standards in social studies, American history, American government, or science as part of a multistate consortium. Under the bill, the State Board will not gain any potential savings or revenues from joining a multistate consortium, if such a consortium were to form.

Performance ratings

The bill prohibits ODE from assigning an overall letter grade on district and school report cards for the 2014-2015 school year and using report card ratings for that year in determining various sanctions or penalties. The bill also permits ODE, at the discretion of the State Board, to not assign grades for the six components encapsulating various performance measures. Under the bill, some districts and schools may not bear the expense of potential sanctions or penalties that they otherwise would have had to bear.

The bill also requires ODE, by October 1 each year starting in 2015, to report for each school district, community school, and college-preparatory board school the results of various performance measures with respect to students with disabilities and to post these reports on its website for comparison purposes. This provision will increase ODE's administrative burden.

Academic distress commissions

The bill removes two conditions qualifying a district for an academic distress commission. Districts with 50% of their schools scoring an overall grade of "D" or "F" on any of the aggregated performance measures or districts receiving a grade of "F" for the value-added progress dimension no longer qualify for an academic distress commission under those specific conditions. This may decrease the number of districts with an academic distress commission, thereby saving potential expenditures required by those commissions for those districts.

The bill also requires the Superintendent of Public Instruction, by December 31, 2014, to submit recommendations for legislative changes regarding intervention for poor performing school districts that are at risk of becoming subject to an academic distress commission. This provision will increase ODE's administrative burden.

Provisions relating to career advising and career-technical education

Student career advising

The bill requires ODE to develop and post on its website model policies on career advising and student success plans by December 1, 2014. These requirements will minimally increase the administrative burden of ODE.

The bill requires school districts to adopt a policy on career advising for the 2015-2016 school year and update that policy every two years, identify students who are at risk of dropping out using a research-based method and develop a student success plan, and notify a student's parents and allow them to assist in the development of a student success plan. These requirements will increase the administrative burden on school districts.

The bill also requires ODE to establish a clearinghouse of information regarding the identification of and intervention for at-risk students and an online clearinghouse of research related to proven practices on career advising and student success plans, both of which will increase ODE's administrative burden.

Student career-technical education

Under current law, a school district may already provide career-technical education to seventh and eighth graders. ODE has developed and posted sample course descriptions and outlines covering grades 7-8. Beginning in the 2015-2016 school year, the bill requires districts to provide this type of education in grades 7-8 unless the district receives a waiver from ODE. As a result of this change certain school districts could see an increase in administrative expenses associated with providing career-technical education to grades 7-8. The current school funding formula provides additional funding for students enrolled in career-technical programs. In FY 2015, this funding ranges from \$1,210 to \$4,800 per full-time equivalent student depending on the type of career-technical program. If the provision results in more seventh and eighth graders enrolling in career-technical courses, state formula funding for career-technical education will increase.

Provisions relating to community schools

Sponsor confirmations

The bill prohibits ODE from making any payment of state aid to a community school opening for its first year of operation until the sponsor of that school makes certain confirmations with respect to the operations and facilities of the school. As a result, payments of state aid to new community schools may be delayed if the confirmations are not made on a timely basis.

Sponsor approval from ODE

The bill exempts an educational service center that proposes to establish a conversion community school located in a county within the territory of the service center or in a county contiguous to such county from the requirement to obtain sponsor approval by ODE. This provision may reduce ODE's administrative burden.

Reopening of a permanently closed community school

The bill prohibits a community school, including an e-school, that is permanently closed for poor academic performance from being reopened if various conditions indicative of the school simply reopening without significant changes in oversight, administration, teaching staff, and accountability plans are met. If a student were to leave a community school that is prevented from reopening under the bill to attend a school in the student's resident school district, the funding for the student would no longer be deducted from the resident district's state aid. Since the district would be responsible for educating the student, its expenditures may increase. Deductions for each community school student are at least \$5,800 in FY 2015; deductions are higher for students receiving special education, career-technical, or limited English proficient services or who are economically disadvantaged or in grades K-3.

Preschool and career-technical education programs at the State School for the Blind

The bill requires the State Board of Education to establish a preschool educational program for children with visual impairments as well as a training program for parents of such children. The Ohio State School for the Blind (OSB) currently provides preschool outreach services to families and early intervention teams by providing information on visual impairment resources, learning tools, and other vision-related services. OSB also facilitates a parent mentor program that serves families of children with disabilities. The bill permits the Superintendent of OSB to establish reasonable fees for participation in the programs to defray the costs of carrying them out. The fees will be deposited in the State School for the Blind Even Start Fees and Gifts Fund, which the bill creates. The School for the Deaf (OSD) currently operates a similar preschool program that is funded mostly by the GRF. As a point of reference, OSD's preschool program incurred expenses of about \$775,000 in FY 2013.

The bill also requires the State Board to establish a career-technical education and work training program for secondary and post-secondary students whose disabilities are visual impairments. Currently, OSB assists visually impaired students in grades 7-12 through a Life Skills program that focuses on resume building and interview skills, a job placement program for 18 to 20-year-old students that exposes students to workplace opportunities, and a job placement program in partnership with Project Search available for students after graduation. To the extent the bill expands OSB's career-technical education and work training program, the state's expenditures may increase.

The bill also creates a State School for the Blind Educational Program Expense Fund, similar to one used by the School for the Deaf, that may receive money from donations, bequests, fundraising activities, fees, and other related receipts for use in educational programs and expenses related with student activities. Currently, any moneys received by OSB from donations, bequests, the school vocational program, and other sources are credited to the State School for the Blind – Student Activity and Work-Study Fund (Fund 4M50). Appropriations from this fund are about \$460,000 in FY 2014 and FY 2015.

Solvency Assistance Fund debt forgiveness for certain consolidating school districts

Through the Solvency Assistance Fund (Fund 5H30) shared resources account, ODE provides interest-free advances to school districts in fiscal emergency to enable them to remain solvent and to pay unforeseen expenses of a temporary or emergency nature that the districts otherwise cannot pay from existing resources. The bill provides that the net amount of solvency assistance owed by a school district can be cancelled under the following two scenarios as long as certain specified conditions are satisfied. These scenarios are the transfer of a district's entire territory to another district and the merger of school districts within the same educational service center territory.

If any districts take advantage of these provisions, Fund 5H30 will experience a decrease in revenue. The Director of Budget and Management may transfer cash from the GRF to offset this decrease. A school district that acquires another school district that has received, but not completely repaid, a solvency assistance advance will not absorb the net amount owed by the transferring district. As a result, this district's expenditures will be lower under the bill than otherwise.

Other provisions

Third grade reading guarantee for scholarship students

The bill requires any third grade student, subject to certain exemptions, enrolled in a chartered nonpublic school with a scholarship under EdChoice or the Cleveland Scholarship and Tutoring Program to be subject to the third grade reading guarantee. Additionally, chartered nonpublic schools that enroll students in grades K-3 and accept students under those scholarship programs must adopt policies and procedures for the annual assessment of reading. If a chartered nonpublic school opts to use the ODE-developed diagnostic assessments to assess reading skills, ODE must furnish them to the school. There is likely only a negligible cost, at most, for ODE as a result of this provision. Such assessments are available online at the ODE website.

Alternative staffing under third grade reading guarantee

The bill permits districts and community schools that cannot meet the requirements for assigning teachers to certain students under the third grade reading guarantee in fiscal years 2015 and 2016, to develop and submit to ODE an alternative staffing plan. This may give schools more flexibility in teacher assignments.

Report of expenditures for gifted students

Under the current school funding formula, the state provides school districts with funding for gifted identification and education. The bill requires ODE, by October 30 each year, to publish on its website each school district's expenditure of these funds in the prior school year. This provision may increase ODE's administrative costs.

School Energy Conservation Program

The bill modifies school district reporting requirements under the School Energy Conservation Program, which may minimally decrease the administrative costs of certain districts.

Resident educator license renewal

The bill requires the State Board of Education to adopt rules regarding the renewal of resident educator licenses and alternative educator licenses. Current law allows the State Board to extend resident educator licenses as well as alternative educator licenses on a case-by-case basis without adopting specific rules to govern those license renewals. Under the bill, the State Board may experience a minimal administrative burden to establish the required rules concerning license renewals.

Classroom facilities for STEM schools

The bill requires the School Facilities Commission (SFC) to establish guidelines for assisting STEM schools in the acquisition of classroom facilities and requires (rather than permits as under current law) SFC, subject to approval of the Controlling Board, to provide funding to assist a STEM school in the acquisition of classroom facilities if it determines that the school meets the guidelines. This may result in STEM schools being awarded facilities funding. Under continuing law, a STEM school must match the funding provided by SFC.

Concussion assessment in interscholastic and youth sports

The bill requires that the Ohio Department of Health (ODH) establish a committee regarding concussions and head injuries sustained by athletes while participating in interscholastic and youth sports. The bill requires the committee to develop and publish guidelines addressing the diagnosis and treatment of concussions and head injuries, the conditions under which an athlete may be granted clearance to return to practice or competition, and the education requirements for persons who assess and clear athletes to return to practice or competition after suffering a concussion. ODH may experience a minimal increase in administrative costs to support the work of the committee.

Emergency management plans

The bill expands current law regarding school safety plans. It renames the plans as "emergency management" plans and expands the information contained in the plan and the entities that are to receive a copy of the plan. It also requires at least one emergency management test to evaluate the plan each year. This provision may

increase the administrative burden of school administrators to the extent current school safety plans do not meet the new requirements.

GED testing eligibility

Under current law, in order to take the GED tests, an individual must not be currently enrolled in high school and must not have earned a high school diploma. Test takers must also be at least 19 years old, unless the applicant qualifies for an age exception. In that case, persons as young as 16 years old may take the test. The bill lowers the minimum testing age to 18 and modifies the requirements for those seeking an age exception by requiring only a parent, guardian, or court official's written approval. Currently, an applicant also must have the superintendent of the school district or the principal of the community school or STEM school in which the applicant last attended, or their designees, complete and sign a GED age waiver form. The fiscal effects of relaxing these GED test restrictions are likely minimal.

School Based Health Care Advisory Workgroup

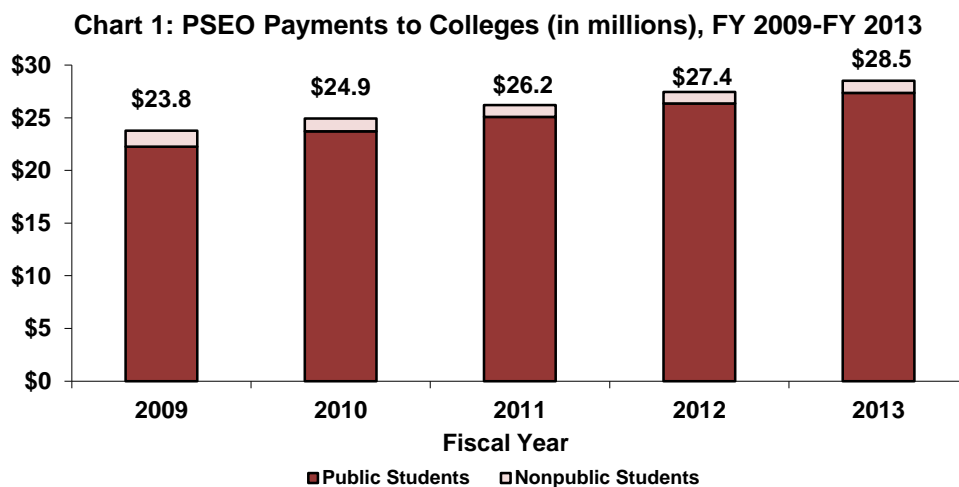
The bill creates a School Based Health Care Advisory Workgroup, which serves primarily to study and recommend health-related practices and strategies that improve student academic achievement and health outcomes. The Workgroup consists of one member from each of the following seven state agencies: the Superintendent of Public Instruction's office, the Department of Developmental Disabilities, the Department of Health, the Department of Job and Family Services, the Department of Medicaid, the Department of Mental Health and Addiction Services, and the Office of Health Transformation. The Workgroup also consists of 22 members from various education and health-related associations and organizations, as well as four state legislators.

The School Based Health Care Advisory Workgroup is tasked with studying the correlation between student health and academic achievement, identifying and recommending model practices for communities to use in improving academic achievement through better student health, recommending financial strategies to sustain these models, recommending health care delivery strategies that improve health outcomes, and exploring the community learning center model delivery of student health care services. Since the members of this Workgroup will serve without compensation, there is no direct financial impact on the state or any state agency. However, since involvement with this Workgroup may be considered among an employee's duties, the agencies involved may experience a slight increase in their administrative workload.

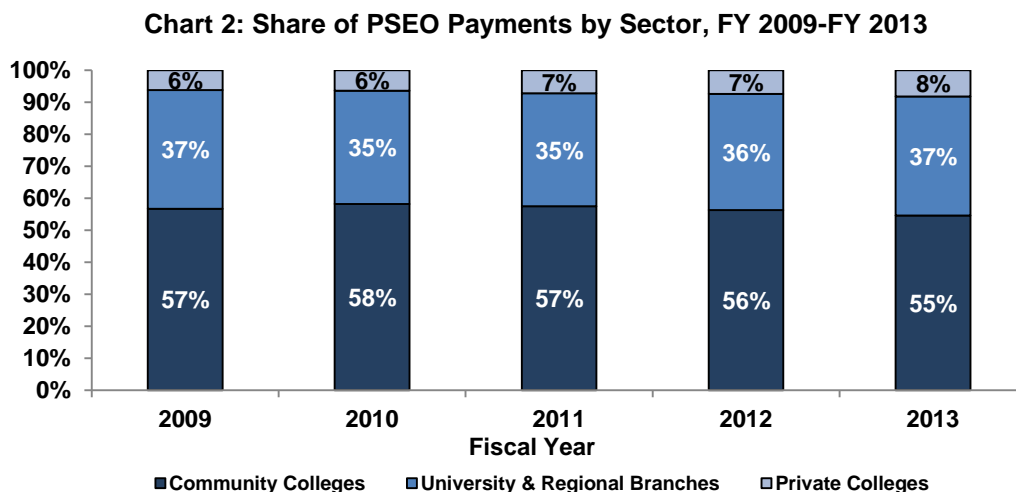
Appendix

Background information on PSEO payments

Statewide, deductions from FY 2013 state aid for PSEO payments to colleges were about \$27.4 million, according to ODE statements of settlement of state aid for school districts and community schools while payments for nonpublic students amounted to about \$1.2 million, based on data in the state's accounting system. Chart 1 below illustrates the statewide amount of PSEO payments to colleges over the past five fiscal years. As the chart shows, the overall amount paid under PSEO has risen steadily in recent years, driven mostly by payments for public school students. Note that the fiscal year indicated in the chart represents the year for which the payments were made, not the year in which the payments were disbursed.



The majority of PSEO payments flow to community colleges followed by university and regional branches. Payments to private colleges make up a relatively small share of the total. Chart 2 below shows the relative share of PSEO payments flowing to each sector, based on data in the state's accounting system.





Ohio Legislative Service Commission

Ruhaiza Ridzwan

Fiscal Note & Local Impact Statement

Bill: Am. Sub. H.B. 492 of the 130th G.A.

Date: June 3, 2014

Status: As Enacted

Sponsor: Rep. Scherer

Local Impact Statement Procedure Required: Yes

Contents: To provide authorization and conditions for the levy and administration of taxes in this state

State Fiscal Highlights

- Shortening the minimum holding period of investments, from five to two years, necessary for an investment to qualify for the small business investment income tax credit, would accelerate the realization of these credits and the resulting reduction in state personal income tax (PIT) revenue. Losses will occur mainly in the taxable years that include the period from July 1, 2015, through June 30, 2018, thereby affecting the timing of up to about \$150 million in tax credits. The GRF will bear 96.68% of the total revenue loss, with the Local Government Fund (LGF; Fund 7069) and the Public Library Fund (PLF; Fund 7065) each bearing losses equal to 1.66% of the total.
- Allowing job creation and retention tax credits to be claimed against the motor fuel receipts tax (MFRT, which would be renamed the petroleum activity tax, or PAT, under the bill), may decrease revenue to the Motor Fuel Receipts Tax Fund (Fund 5NX0, renamed the Petroleum Activity Tax Fund by the bill). Revenue to that fund is subsequently transferred to other state funds. Ultimately, any revenue loss due to the tax credits would affect, most notably, the Highway Operating Fund (Fund 7002) in the budget of the Department of Transportation.
- The bill would decrease PAT revenue by approximately \$6.2 million per year, beginning in FY 2016, based on the price difference between the average wholesale price of a gallon of all grades of gasoline and the average wholesale price of a gallon of unleaded regular gasoline. Any revenue loss would affect the funds mentioned above. The changes apply to tax periods beginning on or after July 1, 2015. Under the bill, the PAT rate is 0.65% of the "calculated gross receipts," instead of "gross receipts" under current law.
- Allowing the recipient of a nonrefundable job retention tax credit initially awarded against the commercial activity tax (CAT) to claim the credit against the PAT would shift any decrease in tax receipts attributable to such tax credits to PAT, instead of

the CAT. The increase in revenue from the CAT would go to the GRF (50%), the School District Tangible Property Tax Replacement Fund (Fund 7047, 35%), and the Local Government Tangible Property Tax Replacement Fund (Fund 7081, 15%). Gains to Fund 7047 and Fund 7081 would subsequently be transferred to the GRF.

- Eliminating the part-year computation of the base used to compute the increase in an employer's Ohio income tax withholdings for the purpose of the job creation tax credit is likely to reduce such credits in the first year of agreements. The credits are refundable and may be taken against the domestic and foreign insurance taxes, the financial institutions tax, the PIT, or the CAT. However, LSC does not have an estimate of the amount of any increase in tax revenue that may result from this change. Any revenue gains would be experienced by the GRF, except in the case of revenue gains under the CAT, which would be split between the GRF, Fund 7047, and Fund 7081 (as explained in the preceding bullet).
- Allowing the Director of Development Services to reduce the amount, percentage, or term of a research and development loan tax credit, if the loan recipient fails to comply with requirements specified in the loan agreement, may result in reduced credits taken against the PIT or the CAT, and increased state revenue from these taxes. The amount of any revenue gains appears indeterminate.
- Shifting the responsibility to sell cigarette tax stamps and receive cigarette tax returns from the Treasurer of State to the Tax Commissioner would shift related administrative costs from the Office of the Treasurer of State to the Department of Taxation. Under the bill, revenue resulting from any charges to licensed dealers will be deposited into the Cigarette Tax Enforcement Fund (Fund 6390), a fund in the Department of Taxation's budget.
- Requiring the Tax Commissioner to include interest when refunding any overpayments of natural gas distribution tax, kilowatt hour tax, and tire fees may minimally decrease receipts from such taxes and fees. Currently, revenue from the natural gas distribution tax, and 88% of revenue from the kilowatt hour tax, is deposited into the GRF.
- Changes related to the motor fuel tax (MFT) may minimally reduce the Treasurer's administrative costs, but may minimally increase the Department of Taxation's administrative costs. In addition, it may minimally increase revenue from penalties related to MFT. Such revenue would benefit various state funds, primarily Fund 7002, and counties, municipalities, and townships.

Local Fiscal Highlights

- Several provisions of the bill have the potential to affect GRF revenue, as explained above. The Local Government Fund (LGF) and the Public Library Fund (PLF) would each bear 1.66% of any tax revenue loss (or gain) experienced by the GRF. Any revenue losses to the LGF and PLF would result in reduced distributions to counties,

municipalities, townships, and public libraries. Conversely, any revenue gains to the funds would result in increased distributions to those political subdivisions.

- A portion of any gain in revenue, likely minimal, under the motor fuel tax due to penalties, would be distributed to counties, municipalities, and townships.
 - Property in an enterprise zone qualified for tax exemption except for failure of the owner to comply with filing requirements may be exempted following application. The exemption is limited to property in Montgomery or Summit counties.
 - Specifying that municipal corporations may award job creation and retention municipal income tax credits to taxpayers not awarded a corresponding state credit clarifies existing law but does not seem to change it. It therefore appears to have no fiscal effect.
-

Detailed Fiscal Analysis

The bill changes requirements related to certain existing tax credits. It requires the Tax Commissioner to include interest when refunding any overpayments of natural gas distribution tax, kilowatt hour tax, and tire fees. It shifts the responsibility to sell cigarette tax stamps and receive cigarette tax returns, and it requires certain motor fuel dealers to remit motor fuel tax (MFT) payments electronically. The bill also revises law governing for-hire motor carriers. And the bill contains administrative changes related to certain taxes administered by the state.

Several of the provisions have no fiscal effect on the state or local governments; only two or three of the tax credit provisions seem likely to have a significant fiscal effect. The following are provisions that may have fiscal effects on the state and/or local governments. Please note that revenue changes to the GRF affect local governments, since 1.66% of GRF tax revenue received in a month is transferred the next month to the Local Government Fund (LGF); similarly, another 1.66% of GRF tax revenue in a month is transferred the next month to the Public Library Fund (PLF). These transfers dilute the ultimate effect on the GRF of a change in GRF revenue; the ultimate change in GRF revenue is 96.68% of the initial change.

Tax credits

"Invest Ohio" income tax credit investment holding period

The bill shortens the minimum holding period of investments in smaller businesses, from five to two years, necessary for the investment to qualify for an income tax credit. Continuing law grants income tax credits for investors in businesses having specified minimum employment in Ohio and having not more than \$50 million in assets or \$10 million in annual sales. Within six months after an investment, a business must spend at least the amount of the investment to purchase or acquire assets or to pay employees, new or existing, in Ohio. Currently, investments made on or after July 1,

2013, must be held for at least five years. The shortened holding period also shortens the period during which the business must hold any assets it must acquire after receiving a qualifying investment.

Fiscal effect

A taxpayer may claim the nonrefundable credit against the taxpayer's income tax liability in the taxable year that includes the last day of the holding period, and may carry forward any unused portion of the credit for up to seven years. Shortening the holding period accelerates the realization of these credits and the resulting reduction in state personal income tax revenue. The total value of tax credits granted is limited in continuing law to \$100 million per biennium. Losses will occur mainly in the taxable years that include the period from July 1, 2015, through June 30, 2018, thereby affecting the timing of tax credits worth approximately \$150 million. Personal income tax (PIT) revenue is deposited into the GRF. Because this provision simply accelerates the claiming of the credits, there would be a corresponding revenue increase in the future (though it could be many years in the future).

Job creation and retention credits against motor fuel receipts tax

The bill authorizes job creation and retention tax credits to be claimed against the tax levied on a supplier with gross receipts from the first sale of motor fuel in the state (i.e., the motor fuel receipts tax, which would be renamed the petroleum activity tax, or PAT, under the bill) beginning on or after July 1, 2014. The bill also allows the recipient of a nonrefundable job retention tax credit to claim a credit initially awarded against the commercial activity tax (CAT) against the PAT.

Fiscal effect

This provision would shift any decrease in tax receipts attributable to nonrefundable job creation and retention tax credits to the PAT, instead of the CAT. It may decrease revenue to the Motor Fuel Receipts Tax Fund (Fund 5NX0, renamed the Petroleum Activity Tax Fund under the bill). Revenue to that fund is subsequently transferred to other state funds. Ultimately, any revenue loss would affect, most notably, the Highway Operating Fund (Fund 7002) in the budget of the Department of Transportation.

Computation of job creation tax credits

The bill eliminates the part-year computation of the base used to compute the increase in an employer's Ohio income tax withholdings for the purpose of the job creation tax credit. Currently, an employer's credit amount depends on how much its annual Ohio income tax withholdings for employees exceed those withholdings for a 12-month base period ending when the credit agreement is approved, or in some cases, recommended for approval; but if the credit is approved after the beginning of the employer's annual tax period, the amount included in the base period for the first year's credit is reduced proportionately. This provision eliminates the part-year computation.

Fiscal effect

Job creation tax credits in the first year of agreements appear likely to be reduced by this change. The credits are refundable and may be taken against the domestic and foreign insurance taxes, the financial institutions tax, the PIT, or the CAT. LSC does not have an estimate of the amount of any increase in tax revenue that may result from this change. Revenue from all these taxes is deposited into the GRF, though in the case of the CAT, the GRF share is 50%, with the remaining share deposited into two property tax replacement funds – the School District Tangible Property Tax Replacement Fund (35%) and the Local Government Tangible Property Tax Replacement Fund (15%). The deposits in non-GRF funds are used by the state to reimburse school districts and other local governments for the reductions and phase-out of local taxes on tangible personal property. Changes in the CAT revenue ultimately affect only the GRF, though, since required amounts of property tax replacement payments each year are predetermined.

Research and development loan tax credit noncompliance

The bill allows the Director of Development Services to reduce the amount, percentage, or term of a research and development loan tax credit if the loan recipient fails to comply with job creation, job retention, or other requirements specified in the loan agreement.

Fiscal effect

The bill may result in reduced credits taken against the PIT or the CAT, and increased state revenue from these taxes. The amount of any such gains appears indeterminate. All revenue from the PIT and 50% of revenue from the CAT is deposited into the GRF.

Municipal job creation and retention tax credits

The bill replaces statutory language specifying that a municipal corporation may grant a credit to foster job creation or job retention to a taxpayer that also receives such a credit from the state, instead stating that a municipal corporation may grant such a credit without regard to whether the taxpayer was awarded a state job creation or retention tax credit. Nothing in current law limits or prohibits a municipal corporation from awarding a job creation or retention credit to a taxpayer not awarded a corresponding state credit, so there does not seem to be a fiscal effect from this provision.

Sale of cigarette tax stamps

The bill shifts the responsibility to sell cigarette tax stamps and receive cigarette tax returns from the Treasurer of State to the Tax Commissioner. Under current law, cigarette tax stamps are sold by the Treasurer of State and by county treasurers that are appointed as deputies of the Treasurer for that purpose. Wholesale dealers, persons with untaxed cigarettes, and distributors and importers of other tobacco products are required to file returns with the Treasurer of State who, after marking the date of receipt, is required to transmit the return to the Commissioner. The bill requires that the

Commissioner sell the cigarette tax stamps and that returns be made and filed directly to the Commissioner, and eliminates reporting requirements regarding the sale of cigarette tax stamps for the Treasurer of State. The bill also requires that amounts collected from charges for the costs of shipping cigarette tax stamps to wholesale dealers be credited to the Cigarette Tax Enforcement Fund (Fund 6390) rather than the Cigarette Administrative Fund (Fund 6050).

The bill eliminates provisions in current law authorizing the use of a metering device in lieu of tax stamps to show that the excise tax has been paid. The bill also changes the due date for reporting and paying the other tobacco product (OTP) tax from the last day of each month to the 23rd day of each month.

The bill eliminates the Tobacco Settlement Enforcement Fund (Fund T087), which was used by the Tax Commissioner to enforce provisions of Ohio tax law related to the sale of certain tobacco products.

Fiscal effect

The bill would shift costs related to sales of cigarette tax stamps and administration of cigarette tax returns from the Office of the Treasurer of State to the Department of Taxation. Under continuing law, such costs are charged to the licensed dealer. Revenue resulting from the charges is currently deposited into the Treasurer's Fund 6050; under the bill that revenue will instead be deposited into Fund 6390, a fund in the Department of Taxation's budget.

Use of Fund T087 was phased out in FY 2009. The Department of Taxation's costs to enforce cigarette tax laws have been paid from the GRF, appropriation item 110404, since that time. A de minimus cash balance (about \$15,000) was retained in Fund T087 until July 2013, at which time this balance was transferred out.

Advancing the due date for paying the tax could create a one-time revenue gain in the first fiscal year the change takes effect, since some revenue due in June might not have been booked until July under current law.

Motor fuel tax

The bill makes several changes to motor fuel tax (MFT). The bill authorizes the Commissioner to require motor fuel dealers to remit tax payments electronically under rules adopted by the Treasurer of State or through the Department of Taxation's website. The bill modifies the penalty the Commissioner may impose for a dealer's failure to remit payments electronically as required. The bill authorizes the Commissioner to impose a penalty, up to \$50, for failure to file timely reports on persons, such as transporters, that are required to file motor fuel reports but are not required to remit motor fuel excise tax. In addition, the bill authorizes the Commissioner to formally assess such person if the person does not pay the full amount of the penalty. Under continuing law, the Commissioner may impose a similar penalty on motor fuel dealers for failing to timely file reports or remit motor fuel excise tax, but the penalty for motor fuel dealers equals up to the greater of \$50 or 10% of the dealer's

tax liability for that month. The bill changes the current penalty for a dealer that is required to make tax payments by electronic funds transfer, but fails to do so. Under the bill, the penalty is up to \$25 or 5% of the payment for the first reporting period the dealer fails to pay tax electronically, and up to \$50 or 10% of the payment for each subsequent period of noncompliance.

The bill also makes a number of changes to administrative law involving the tax, including modification of the content of a monthly report that the Tax Commissioner is required to issue, removal of a requirement that motor fuel dealers apply for a refund permit before being able to receive refunds, and information that the Commissioner is authorized to share with motor fuel retailers. For details on these provisions, please see the LSC Bill Analysis.

Fiscal effect

The changes related to MFT may minimally reduce the Treasurer's administrative costs, but may minimally increase the Department of Taxation's administrative costs. In addition, they may minimally increase revenue from penalties related to MFT, which are generally considered to be revenue arising from the tax. Accordingly, any revenue gains from such penalties will go to various state funds, primarily the Highway Operating Fund (Fund 7002), and to counties, municipalities, and townships.

Interest on overpayments of natural gas distribution tax, kilowatt hour tax, and tire fees

The bill requires the Tax Commissioner to include interest when refunding any overpayments of natural gas distribution tax, kilowatt hour tax, and tire fees. Under current law, interest is included only when the overpayment is due to an illegal or erroneous assessment.

Fiscal effect

The requirement above may decrease minimally receipts from natural gas distribution tax, kilowatt hour tax, and tire fees. Revenue from the natural gas distribution tax, and 88% of revenue from the kilowatt hour tax, is deposited into the GRF.

Petroleum Activity Tax (PAT)

The bill changes the motor fuel receipts tax to be imposed on gross receipts to a petroleum activity tax (PAT) to be imposed on calculated gross receipts. Under the bill, PAT is levied based on the following "calculated gross receipts": (1) with respect to sales of gasoline, the product obtained by multiplying the total number of gallons by the average wholesale price of a gallon of unleaded regular gasoline, six months prior to the tax period, (2) with respect to sales of motor fuel that is not gasoline, the product obtained by multiplying the total number of gallons of motor fuel first sold within this state by a supplier during the tax period by the average wholesale price of a gallon of

diesel fuel, six months prior to the tax period. The changes apply to tax periods beginning on or after July 1, 2015.

The bill requires the Commissioner to determine and publish, on its website, the statewide average wholesale prices of a gallon of unleaded regular gasoline and of a gallon of diesel fuel for each calendar quarter. The figures must be published at least 15 days before the beginning of the calendar quarter. The bill requires the Commissioner to use the average price on pricing information available from the United States Energy Information Administration (EIA) or, if such information is not available from that agency, the Commissioner may use another publicly available source. The price data must not include any federal or state excise taxes and must be rounded up to the nearest one-tenth of one cent.

The bill does not prohibit a person from separately or proportionately billing or invoicing the PAT to a purchaser of motor fuel. The bill requires any person that knowingly receives motor fuel from a supplier that is not licensed as a motor fuel dealer to include in the calculation of the person's calculated gross receipts the number of gallons of motor fuel the person received in this state or transported into this state from the unlicensed supplier.

Fiscal effect

The bill would decrease PAT revenue by millions of dollars per year. Under the bill, the PAT rate is 0.65% of the "calculated gross receipts." Under current law, MFRT is levied based on the amount of "gross receipts" derived from motor fuels (the number of gallons of motor fuel multiplied by various prices, i.e., retail or wholesale prices of various types of motor fuels).

According to EIA data, Ohio Gasoline and Diesel Retail Prices, between August 2013 and January 2014, the average wholesale price of a gallon of all grades of gasoline during the six-month period was \$2.77 while the average wholesale price of a gallon of unleaded regular gasoline during the same period was \$2.62. According to Department of Taxation data, in FY 2012 about 5 billion gallons of gasoline and 1.5 billion gallons of special fuels were taxed in FY 2012.¹⁷ Using the price difference between the average wholesale price of a gallon of all grades of gasoline and the average wholesale price of a gallon of unleaded regular gasoline above, the estimated PAT revenue loss would be about \$6.2 million per year. This revenue loss would ultimately affect primarily the Highway Operating Fund (Fund 7002), counties, municipalities, and townships.

Other administrative tax law changes

The bill authorizes the Tax Commissioner to adopt rules requiring returns for any tax or fee administered by the Commissioner to be filed electronically or filed using the telefile system (under current law, the Commissioner may adopt such rules only

¹⁷ Source: Ohio Department of Taxation, *Motor Fuel Tax Collections and Gallons Taxed Fiscal Year 2012*.

with respect to specified taxes, e.g., employer income tax withholding, motor fuel tax, CAT). The bill authorizes the Department of Taxation (TAX) to disclose information to the Development Services Agency (DSA) for specified purposes (currently, taxpayer information possessed by TAX may not be disclosed to anyone unless the law specifically permits disclosure). The bill prohibits disclosure of this information by officers and employees of DSA except for purposes of evaluating potential tax credits, grants, and loans. And the bill prescribes uniform standards for the date when the Tax Commissioner is considered to have received a document or payment by mail, in person, or electronically, including by fax, and it prescribes uniform standards for the date when a person is considered to have received a document or payment from the Tax Commissioner by mail.

The bill consolidates two types of "exporter" license into one "exporter" license for purposes of the motor fuel tax. The bill creates a new "transporter" license for purposes of the motor fuel tax for a person that transports motor fuel by any manner into Ohio, including a railroad company, a pipeline company, or water transportation company; and the bill requires each transporter to register with the Commissioner and report all deliveries of motor fuel made anywhere in the state on forms prescribed by the Commissioner.

The bill requires the Commissioner to prepare a list of suppliers holding an active PAT license each month, including certain information about each supplier.

Fiscal effect

The provision related to electronic filing may reduce the Department's administrative costs. The other provisions have no fiscal effect.

Property tax abatement

The bill allows a tax exemption for real property eligible for exemption under a qualifying enterprise zone agreement, except for failure of the property owner to comply with the filing requirements to obtain the exemption. The exemption is limited to counties with populations over 500,000 but less than 600,000 in the 2010 decennial census, which limits the exemption to Montgomery and Summit counties, with the consent of a municipal corporation with a population over 15,000 and less than 20,000, which could include Tallmadge or Twinsburg in Summit County, or Springboro or Vandalia in Montgomery County. The owner may obtain abatement of unpaid taxes, penalties, and interest, and may receive a refund of any amount paid that would have qualified for exemption. To obtain the exemption, the property owner must apply within three months after the effective date of this part of the bill.

For-hire motor carrier tax receipts

The bill requires the Public Utilities Commission of Ohio (PUCO) to provide for-hire motor carriers, instead of a single receipt, a tax receipt for each of the carrier's motor vehicles for which a tax has been paid under the for-hire motor carrier law. The bill also requires that the appropriate tax receipt be kept in each motor vehicle operated

by the carrier. Under the bill, the carrier must maintain records that track which tax receipt is assigned to each motor vehicle.

Fiscal effect

This provision codifies current practice, and has no fiscal effect.

HB0492EN.docx/jc



Ohio Legislative Service Commission

Justin Pinsker

Fiscal Note & Local Impact Statement

Bill: Am. Sub. S.B. 43 of the 130th G.A.

Date: June 4, 2014

Status: As Enacted

Sponsor: Sens. Burke and Tavares

Local Impact Statement Procedure Required: Yes

Contents: To make changes to the laws governing the civil commitment of and treatment provided to mentally ill persons

State Fiscal Highlights

- The bill changes the term "mentally ill person subject *to hospitalization* by court order" in Chapter 5122. of the Revised Code to "mentally ill person subject to court order." This change could clarify that persons could be served in a community setting rather than only in a hospital. If more persons are treated in a community setting, the Ohio Department of Mental Health and Addiction Services (OMHAS) could realize some savings in hospital costs, but the state could experience an increase in community Medicaid costs.
- The bill modifies the criteria that a mentally ill person must meet to be subject to court order. This modification in the criteria will result in an increase in the number of civil commitment cases heard in probate courts and thus, the number of persons who are civilly committed. This will increase state costs for hospitalization and community Medicaid.

Local Fiscal Highlights

- The bill changes the term "mentally ill person subject *to hospitalization* by court order" in Chapter 5122. of the Revised Code to "mentally ill person subject to court order." This change could clarify that persons could be served in a community setting rather than only in a hospital. If more persons are treated in a community setting, local behavioral health boards could experience an increase in costs.
- The bill modifies the criteria that a mentally ill person must meet to be subject to court order. This modification in the criteria will result in an increase in the number of civil commitment cases heard in probate courts and thus, the number of persons who are civilly committed. This will increase probate court costs and local board treatment costs.

- The bill requires a local probate court to charge \$25 for the filing of an affidavit and proceedings for a mentally ill person subject to court order. The court may waive the fee if it finds that the affiant is indigent or for good cause shown. This provision would result in a gain in fee revenue for the local probate court if the court does not waive the fee.
- The bill grants persons including, but not limited to, local boards of alcohol, drug addiction, and mental health services and community mental health services providers, immunity from any liability while providing court-ordered treatment from the person receiving court-ordered treatment, provided the person is acting in good faith. The bill's immunity provision may further limit a local board's liability than is the case under current law, which could in turn save a local board legal expenses that might otherwise have been incurred.
- Under the bill, for a respondent who is ordered to receive treatment in an outpatient setting, if at any time after the first 90-day period the entity or person to whom the respondent was ordered determines that the respondent has demonstrated voluntary consent for treatment, that entity or person is required to immediately notify the respondent, the respondent's counsel, the attorney designated by the local board of alcohol, drug addiction, and mental health services, and the local probate court. If a respondent consents to voluntary treatment and the respondent's case is dismissed, the bill might reduce court caseload and costs.
- The bill allows the entity or person to whom the respondent was ordered for treatment to submit a report to the local probate court if the respondent fails, as specified in the bill, to comply with their treatment. If a respondent does not comply with their treatment, resulting in additional report filings and additional hearings, the bill might increase court caseload and costs.
- Under current law, a county is required to pay the costs, fees, and expenses of an attorney appointed by the probate division for an indigent who allegedly is a mentally ill person. The bill adds to the same section of law the costs, fees, and expenses of an attorney appointed by the probate division for a person suffering from alcohol and other drug abuse and who may be ordered to undergo treatment. Under the bill, probate courts would have to pay the costs, fees, and expenses of an attorney appointed by the probate division for a person suffering from alcohol and other drug abuse and who may be ordered to undergo treatment. The court could seek reimbursement from OMHAS. However, the funding source in the bill (GRF line item 334506, Court Costs) is already being fully used to reimburse probate courts for a portion of the costs, fees, and expenses of an attorney appointed by the probate division for an indigent who allegedly is a mentally ill person.

Detailed Fiscal Analysis

The bill makes several changes to the laws governing court-ordered commitment of and treatment provided to mentally ill persons.

Definition of mentally ill person subject to court order

The bill changes the term "mentally ill person subject to *hospitalization* by court order" in Chapter 5122. of the Revised Code to "mentally ill person subject to court order." This change could clarify that persons could be served in a community setting rather than only in a hospital. The Ohio Department of Mental Health and Addiction Services (OMHAS) is responsible for the costs of state psychiatric hospitals. Local behavioral health boards are responsible for the cost of treatment in the community unless the person is on Medicaid, in which case the state and federal government share the cost. It is generally assumed that treatment in the community could cost less than treatment in a hospital. If more persons are treated in a community setting, local boards could experience an increase in costs. On the other hand, OMHAS could realize some savings in hospital costs, but the state could experience an increase in community Medicaid costs.

Criteria to be subject to court order

The bill also modifies the criteria that a mentally ill person must meet to be subject to court order to include persons who would benefit from the treatment as manifested by evidence of behavior that indicates all of the following: (1) the person is unlikely to survive safely in the community without supervision, based on a clinical determination, (2) the person has a history of lack of compliance with treatment for mental illness and certain conditions apply, (3) the person, as a result of the person's mental illness, is unlikely to voluntarily participate in necessary treatment, and (4) in view of the person's treatment history and current behavior, the person is in need of treatment in order to prevent a relapse or deterioration that would be likely to result in substantial risk of serious harm to the person or others. The bill states that an individual who meets only these new criteria is not subject to hospitalization.

This modification to the criteria will result in an increase in the number of civil commitment cases heard in probate courts and thus, the number of persons who are civilly committed. This will increase probate court, state, and local board costs. According to the Ohio Judicial Conference, probate court costs for civil commitment cases are estimated to be \$100 for the service of notice, \$120 for transportation, \$200 to \$300 for indigent counsel, and \$300 to \$400 if an independent psychiatric evaluation is needed. There could be additional costs such as witnesses, referees, court reporters, and other hearing costs. OMHAS currently provides some reimbursement for civil commitment cases to probate courts from GRF line item 334506, Court Costs. H.B. 59 of the 130th General Assembly appropriated \$784,210 to this line item in FY 2014. The modification to the criteria could result in some savings to the state and local boards if

mentally ill persons receive treatment before the illness progresses to an acute level. The bill also requires a local probate court to charge \$25 for the filing of an affidavit and proceedings for a mentally ill person subject to court order. The court may waive the fee if it finds that the affiant is indigent or for good cause shown. This provision would result in a gain in fee revenue for the local probate court if the court does not waive the fee.

Voluntary consent to treatment

Under the bill, for a respondent who is ordered to receive treatment in an outpatient setting, if at any time after the first 90-day period the entity or person to whom the respondent was ordered determines that the respondent has demonstrated voluntary consent for treatment, that entity or person is required to immediately notify the respondent, the respondent's counsel, the attorney designated by the local board of alcohol, drug addiction, and mental health services, and the local probate court. The bill also requires the entity or person overseeing treatment to submit to the court a report of the findings and recommendations. After receiving the report, the probate court may dismiss the case upon review of the facts. If a respondent consents to voluntary treatment and the respondent's case is dismissed, the bill might reduce court caseload and costs.

Report for failure to comply with treatment

The bill allows the entity or person to whom the respondent was ordered for treatment to submit a report to the local probate court if the respondent fails, as specified in the bill, to comply with their treatment. Upon receipt of the report, the court must promptly schedule a hearing to review the case. The local board must receive notice of the hearing and the local board and the entity or person treating the respondent must submit a report to the court with a plan for appropriate alternative treatment, if any, or recommend that the court discontinue the court-ordered treatment. The bill also requires that the court consider available and appropriate alternative placements but cannot consider criminal sanctions that result in confinement in a jail or other local correctional facility based on the respondent's failure to comply with the treatment plan. The court may only order the respondent to a more restrictive placement if certain criteria are met and may not order inpatient treatment unless the court determines by clear and convincing evidence presented by the local board that the respondent meets other specified criteria. If a respondent does not comply with their treatment, resulting in additional report filings and additional hearings, the bill might increase court caseload and costs.

Immunity from liability

The bill grants persons including, but not limited to, local boards of alcohol, drug addiction, and mental health services and community mental health services providers, immunity from any liability while providing court-ordered treatment from the person receiving court-ordered treatment, provided the person is acting in good faith. The bill's

immunity provision may further limit a local board's liability than is the case under current law, which could in turn save a local board legal expenses that might otherwise have been incurred.

Attorney fee reimbursement for local probate courts

Under current law, a county is required to pay the costs, fees, and expenses of an attorney appointed by the probate division for an indigent who allegedly is a mentally ill person. The county may seek reimbursement from OMHAS for these costs. Each fiscal year OMHAS must allocate an amount for reimbursements. The total of all the allocations to counties must equal the amount appropriated for the fiscal year to OMHAS specifically for this purpose. The bill adds to the same section of law the costs, fees, and expenses of an attorney appointed by the probate division for a person suffering from alcohol and other drug abuse and who may be ordered to undergo treatment.

This provision would likely result in additional costs to probate courts. However, the magnitude of the impact cannot be determined due to a lack of data. It is unknown how many cases of involuntary treatment for alcohol and other drug abuse there have been as a result of Casey's Law (S.B. 117 of the 129th General Assembly). According to OMHAS, the Department and the local alcohol, drug addiction, and mental health services boards do not track involuntary treatment for alcohol and other drug abuse. LSC found the same to be true for probate courts.

Under the bill, probate courts would have to pay the costs, fees, and expenses of an attorney appointed by the probate division for a person suffering from alcohol and other drug abuse and who may be ordered to undergo treatment. The court could seek reimbursement from OMHAS. However, the funding source in the bill (GRF line item 334506, Court Costs) is already being fully used to reimburse probate courts for a portion of the costs, fees, and expenses of an attorney appointed by the probate division for an indigent who allegedly is a mentally ill person. For FY 2013, OMHAS allocated a total of \$544,999 to probate courts from GRF line item 334506. This amount reimbursed approximately 40% of probate court costs related to civil commitments. H.B. 59 of the 130th General Assembly appropriated \$784,210 to line item 334506 in FY 2014 and FY 2015. Assuming the reimbursement sought by probate courts in FY 2014 would be similar to what the probate courts sought in FY 2013, the current FY 2014 appropriation would cover approximately 53% of probate court costs related to civil commitments this fiscal year.



Ohio Legislative Service Commission

Ruhaiza Ridzwan

Fiscal Note & Local Impact Statement

Bill: [Am. S.B. 99 of the 130th G.A.](#)

Date: June 3, 2014

Status: As Enacted

Sponsor: Sens. Oelslager and Tavares

Local Impact Statement Procedure Required: Yes

Contents: Insurance and Medicaid coverage for orally administered cancer medications

State Fiscal Highlights

- The bill may increase costs to the state of providing health benefits to its employees and their dependents.
- The costs of state self-insured health benefits are paid out of the State Employee Health Benefit Fund (Fund 8080), of which somewhat less than half would be derived from GRF-supported payroll, with various state funds providing the rest.
- The bill exempts public employee benefit plans, like the state's, from its requirements if cost increases due to the requirements exceed 1% of health costs. The bill specifies procedures required to demonstrate this, which include a determination by the Superintendent of Insurance.
- The bill would increase the Department of Insurance's administrative expenses related to regulation and enforcement of requirements associated with coverage for cancer chemotherapy medications. Any such costs would be paid from the Department of Insurance Operating Fund (Fund 5540).
- The bill would increase Medicaid GRF spending by several thousand dollars annually.

Local Fiscal Highlights

- The requirement that the bill imposes on health insurers may increase insurance premiums of local governments' health benefit plans. Any increase in insurance premiums would increase costs to local governments to provide health benefits to employees and their dependents. Any such increase is unlikely to exceed \$1 million per year statewide in total, for counties, municipalities, townships, and school districts. Any political subdivision that already provides the required benefit would experience no cost increase.

- The bill exempts public employee benefit plans and other health insurers from its requirements if cost increases related to the required coverage exceed 1% of the annual premiums or rates charged by local governments' health benefit plans.
-

Detailed Fiscal Analysis

Insurance coverage for orally administered cancer medications

The bill would prohibit health insurers that provide basic health care services or prescription drug services from: (1) providing coverage for or imposing cost sharing¹⁸ for orally administered cancer chemotherapy treatments on a less favorable basis than coverage or cost sharing imposed for intravenously administered or injected cancer medications, or (2) imposing an increase in cost sharing solely for orally administered, intravenously administered, or injected cancer medications. The bill specifies that the prohibition does not preclude an insurer from requiring an enrollee to obtain prior authorization before orally administered cancer medication is dispensed to the enrollee. "Health insurers" in this bill include health insuring corporations (HICs), sickness and accident insurance policies for an individual or group, public employee benefit plans, and multiple employer welfare arrangements.¹⁹ The bill applies to policies, contracts, agreements, or plans issued, delivered, renewed, established, or modified in Ohio on or after January 1, 2015.

The bill specifies that an insurer is deemed to be in compliance with the parity requirement, if the cost sharing imposed under its policy, contract, or agreement for orally administered cancer treatments does not exceed \$100 per prescription fill. However, the bill does not specify the maximum quantity of oral cancer drugs (i.e., number of days supply) that must be dispensed for each prescription filled, relative to the cost sharing responsibility of up to \$100.

Under the bill, an insurer is not required to comply with the chemotherapy treatments parity, if it is able to document, based on claims experience, that its costs increased by 1% or more due to the bill's requirements. The bill specifies a procedure for documenting such cost increases that includes a determination by the Superintendent of Insurance that the cost increase has been demonstrated by experience.

Under current law, no mandated health benefits legislation enacted by the General Assembly may be applied to sickness and accident or other health benefits

¹⁸ The bill defines cost sharing as the cost to an individual insured according to any coverage limit, copayment, coinsurance, deductible, or other out-of-pocket expense requirement imposed by the policy, contract, or agreement.

¹⁹ The bill specifies that the prohibitions do not apply to any individual or group policy of sickness and accident insurance that provides coverage for specific diseases or accidents only, or to any hospital indemnity, Medicare supplement, disability income, or other policy that offers only supplemental benefits.

policies, contracts, plans, or other arrangements until the Superintendent of Insurance determines that the provision can be applied fully and equally in all respects to employee benefit plans subject to regulation by the federal Employee Retirement Income Security Act of 1974 (ERISA) and employee benefit plans established or modified by the state or any political subdivision of the state. The bill includes provisions that exempt its requirements from this restriction.

The bill specifies that the act be named the "Robert L. Schuler Act."

Fiscal effect

The bill would increase the Department of Insurance's administrative expenses related to regulation and enforcement of coverage for cancer chemotherapy medications. LSC staff believe that any increase in such expenditures would likely be minimal. Currently, the Department's administrative costs are paid from Fund 5540.

According to a Department of Administrative Services (DAS) official, the state's health benefit plans are currently providing coverage for a prescribed and orally administered cancer medication for cancer chemotherapy treatments. In addition, officials at DAS have expressed a concern that the bill would increase costs to the state, due to future cancer patients beginning to take a brand name version of a drug instead of a generic version. They attribute this result to the effective elimination of a cost incentive for patients to take the generic version. Department officials believe that it is not currently possible to attach a precise estimate to the increase in future costs.

Currently, the state administers a self-insured health benefits plan in which the state pays all benefit costs directly while contracting with private insurers to administer the benefits. The costs are paid from the Health Benefit Fund (Fund 8080). Fund 8080 receives funding through employee payroll deductions and state agency contributions toward their employees' health benefits.²⁰ Approximately half of the contributions come out of the GRF while various other state funds provide the rest. In FY 2013, state spending from Fund 8080 was \$585.3 million.²¹

The requirement under the bill may increase insurance premiums for local governments' health benefit plans. Any increase in insurance premiums would increase costs to local governments to provide health benefits to employees and their dependents. If some of the local government plans already included both treatments, those plans would experience no fiscal impact of the requirement. LSC staff is unable to quantify the bill's fiscal impact on local governments due to lack of information on the specific benefits offered under their employee health benefit plans. Despite the uncertainties caused by data limitations, though, LSC staff consider it unlikely that the costs to local governments would exceed \$1 million per year statewide. That figure is

²⁰ Currently, full-time employees pay 15% of the premium cost, with state agencies paying the remainder. Part-time employees pay a larger percentage, dependent upon hours worked each week.

²¹ Including expenditures related to dental and vision benefits.

derived from an estimate for the state of California by the California Health Benefits Review Program (CHBRP), and is thereby dependent upon both the accuracy of the CHBRP estimate and on the validity of adjustments made to that estimate to arrive at a figure applicable to Ohio's public employers. Generally, orally administered cancer chemotherapy treatments are included under a prescription plan.

Due to the coverage exception under the bill, any increase in insurance costs that would be incurred by the plans due to the requirements under this bill would be limited to 1% per year.

Background information

According to data from the National Program of Cancer Registries,²² in 2010 25,784 new cases of cancer were diagnosed and reported among Ohioans who are under 65 years old. Based on data derived from the Annual Social and Economic Supplement of the Current Population Survey (CPS), published by the U.S. Census Bureau, in 2012, approximately 58.4% of Ohioans received their health insurance coverage through their employers. In addition, according to U.S. Bureau of Labor Statistics (BLS) annual average nonagricultural employment data for Ohio in 2012, 1.1% of the Ohio nonfarm workforce was employed by state government, 4.7% was employed by local government, and 5.3% was employed in local government education. Using the number of cancer cases and the percentage of Ohioans that received their health insurance coverage through their employers as stated above, approximately 15,058 new cancer patients each year may be covered by an employer's health plan. Assuming 4.7% of those individuals were employed by local government, and 5.3% were employed in local government education, the estimated number of new cancer patients that may be covered under a county, municipality, or township health plan is approximately 708, and the number of cancer patients that may be covered by a school district-sponsored health plan is about 798. At a cost between \$10 and hundreds of dollars for a 30-day supply of anticancer pills, the estimated costs to provide coverage for a prescribed oral anticancer medication for all new cancer patients covered by a local government's health benefit plan would likely be over \$180,720 and could be up to tens of millions of dollars in each year statewide, depending on the type of anticancer drugs used and the number of people being treated for cancer. The requirement would shift some of the estimated cost from an insurance beneficiary to an insurer.

In 2009, California enacted a law similar to S.B. 99.²³ According to a study conducted by the CHBRP dated April 17, 2009, the California bill would increase insurance premiums paid by both employers and employees by almost \$19.7 million.

²² Source: National Program of Cancer Registries: 1999 – 2010 Incidence, WONDER On-line Database, United States Department of Health and Human Services, Centers for Disease Control and Prevention and National Cancer Institute; 2013. Accessed at <http://wonder.cdc.gov/cancernpcr.html> on November 18, 2013.

²³ S.B. 161 for the 2009-2010 California State legislature.

The study concluded that the average portion of the premium paid by an employer would increase between \$0.03 and \$0.24 per member per month (PMPM), and the average portion of the premium paid by employees would increase between \$0.01 and \$0.04 PMPM.

Although the study was based on data for California, the estimates could be a good indicator of how much an insurance premium paid by both employers and employees in Ohio may increase under S.B. 99. Based on the study, approximately 18.5 million Californians under age 65 were covered under an employer's health insurance plan in 2007. Using data from the U.S. Census Bureau, about 6.0 million people under age 65 were covered under an employer plan in Ohio in 2012. Adjusting the \$19.7 million cost estimate for the difference in insured populations, the CHBRP estimate implies that the bill's requirement would raise costs for all Ohio employers by approximately \$6.4 million per year. Based on their shares of Ohio employment in 2012, local government and school district employers would see cost increases of roughly \$0.6 million of that \$6.4 million. The accuracy of the \$0.6 million figure depends on the accuracy of the CHBRP estimate and on a number of assumptions about the comparability of Ohio's and California's health care markets. Thus, the most that LSC staff can say about the bill's cost is that it is unlikely to increase costs for local governments statewide by more than \$1 million per year.

Medicaid coverage for orally administered cancer medications

The bill requires that the Medicaid Program cover prescribed, orally administered cancer medications on at least the same basis as the coverage for intravenously administered or injected cancer medications. The bill also prohibits the Department of Medicaid from instituting cost sharing requirements for prescribed, orally administered cancer medications that are greater than any cost sharing requirements instituted for intravenously administered or injected cancer medications. The bill specifies that the Department is not precluded from requiring a Medicaid recipient to obtain prior authorization before a prescribed, orally administered cancer medication is dispensed to the recipient. The bill specifies that the Medicaid Program must not implement the coverage related to oral cancer medications during a fiscal year if the Medicaid Director determines that the implementation would cause the costs of the Medicaid Program's coverage of prescribed drugs to increase by more than 1% over such costs for the most recent previous fiscal year for which the amount of such costs is known.

Fiscal effect

According to an official at the Department of Medicaid, the bill would have a minimal fiscal impact to the Medicaid Program, approximately \$3,000 per year for the Medicaid fee-for-service program and perhaps a similar amount for the Medicaid managed care program.



Ohio Legislative Service Commission

Maggie Wolniewicz

Fiscal Note & Local Impact Statement

Bill: [Am. Sub. S.B. 143 of the 130th G.A.](#)

Date: June 4, 2014

Status: As Enacted

Sponsor: Sens. Seitz and Smith

Local Impact Statement Procedure Required: Yes

Contents: Criminal, juvenile, and motor vehicle law changes

State Fiscal Highlights

- **Office of the Attorney General.** The Attorney General may experience a cost increase to release information processed by the Bureau of Criminal Identification and Investigation relating to certain arrests and delinquent child adjudications pursuant to a request for a criminal records check.
- **Department of Rehabilitation and Correction.** The bill's provisions pertaining to transitional control may increase the number of prisoners transferred from prison and into transitional control, as well as the length of time such offenders may serve for having committed a felony while on transitional control. The resulting net fiscal impact on the annual institutional operating costs of the Department of Rehabilitation and Correction are uncertain.
- **State agencies as grant recipients.** The bill makes changes to HIV testing requirements and brings Ohio into compliance with federal grant specifications set forth by the U.S. Department of Justice pertaining to certain grants awarded by the Office of Violence Against Women so that a portion of the funds awarded are not withheld.
- **Department of Youth Services.** The provision clarifying a court's authority to commit a delinquent child to the Department of Youth Services and increasing the length of stay for a supervised release violation may increase the Department's annual care and custody costs.
- **GRF revenues.** The bill's provision permitting an applicant to request the sealing of the records of more than one case on a single application may result in the loss of \$30 in filing fee revenue that is collected and deposited into the state treasury to the credit of the General Revenue Fund (GRF) for each such record sealing application filed.

Local Fiscal Highlights

- **Clerks of court.** The bill makes changes to the records sealing law by expanding the cases eligible for sealing. It appears that clerks of courts generally will be able to handle the likely increase in record sealing activity with no more than a minimal annual increase in staff time and related operating costs.
- **County and municipal general revenue funds.** The bill's provision permitting an applicant to request the sealing of the records of more than one case on a single application may result in the loss of \$20 of the filing fee revenue that is collected and deposited into a county or municipal general revenue fund for each such record sealing application filed.
- **County and municipal courts.** The bill's provisions eliminating certain notice requirements pertaining to record sealing and blocked motor vehicle registration will result in a savings for courts, as less expensive methods of delivery may be utilized instead or no notice would be required at all. The magnitude of any savings will depend on the number of these types of notices sent annually by a given court.
- **Boards of county commissioners.** The bill makes various changes to the authority of boards of county commissioners to establish and operate community alternative sentencing centers. Most notably, eligibility for the program would be expanded and the potential length of stay extended, resulting in some combination of expenditure savings and cost increases, with net effect uncertain, for the board of county commissioners where a community alternative sentencing center is in existence.
- **Municipal corporations.** The bill's provision authorizing a municipal corporation to establish a community alternative sentencing center may result in additional costs to establish and operate such centers. If a municipal corporation elects to establish and operate a community alternative sentencing center, some long-term savings in correctional expenditures may be realized.
- **Counties and municipalities.** The bill modifies requirements regarding HIV testing which could result in the requirement for additional tests. It is possible that municipalities and counties may experience some increase in costs if the accused is found to be indigent and ordered to undergo additional tests.
- **Juvenile courts.** The bill creates a potential savings effect by broadening a judge's discretion as to who may be placed in an adult detention facility and eliminating the six-month waiting period for making a motion or application for the sealing of a juvenile court record.
- **Court-ordered restitution.** The bill authorizes a court to order restitution for certain motor vehicle offenses where the offender failed to provide proof of financial responsibility. A court may spend some additional time on these cases, making determinations as to whether or not to award restitution and if so, how much to award but that amount of time is not expected to exceed minimal for any given case.

Detailed Fiscal Analysis

For the purposes of this fiscal analysis, the bill has been organized by changes to current law in the following three areas: (1) criminal justice system, (2) juvenile justice system, and (3) motor vehicles.

Criminal justice system

Criminal records

Criminal records checks

The bill permits the Attorney General to authorize the release of information possessed by the Bureau of Criminal Identification and Investigation (BCII) relating to certain arrests and delinquent child adjudications pursuant to a request for a criminal records check. This provision is intended to remedy issues that came to light after the enactment of S.B. 337 of the 129th General Assembly pertaining to collateral sanctions. There may be additional costs for the Attorney General to release this information.

Criminal records sealing

Under current law, a person with not more than one felony conviction, not more than two misdemeanor convictions that are not of the same offense, or not more than one felony conviction and one misdemeanor conviction may be eligible to have their conviction records sealed under the Conviction Record Sealing Law. The bill broadens the definition of "eligible offender" to include a person with not more than two misdemeanor convictions that are of the same offense. As a result, clerks of court may experience some increase in applications for record sealing, as additional people may become eligible to have their records sealed under the bill. The potential magnitude of any increase is uncertain.

Under current law, a person charged with two or more offenses in connection with the same act and resulting in at least one different disposition may not apply to the court to have a record in any of those cases sealed until all of the records in all of the cases are eligible for sealing under the state's record sealing law. The bill creates an exception to this and authorizes a person charged with multiple offenses in connection with the same act to apply for the sealing of the entire record if one, and only one, of the charges resulted in a traffic-related conviction, other than a conviction under R.C. 4511.19 or 4511.194, and the records pertaining to all of the other charges would be eligible for sealing under the Conviction Record Sealing Law in the absence of that conviction.

The practical impact of this provision is that some records will become eligible for sealing that would otherwise not have been under current law due to their association with traffic-related offenses, which are not sealable under the Conviction Record Sealing Law. As a result, applications for sealing received by clerks of court may increase slightly, as new cases would become eligible for sealing. There may also be an

increase in the amount of time and effort expended, as each record that is sealed has multiple documents that need to be modified. In some courts, this can be done electronically but for others, the redaction of information must be done manually. It appears that clerks of courts generally will be able to handle the likely increase in record sealing activity with no more than a minimal annual increase in staff time and related operating costs.

Criminal record sealing applications

The bill permits an applicant to request the sealing of the records of more than one case using a single application. While current law does not prohibit this, common practice is to require a separate application and filing fee for each case to be sealed. Under current law, unchanged by the bill, a filing fee of \$50 is required to accompany each application for record sealing, with \$30 of that being forwarded for deposit in the state treasury to the credit of the GRF, and the remaining \$20 being deposited into the county or municipal general fund, depending on whether the sealed conviction or bail forfeiture was pursuant to a state statute or a municipal ordinance. As a result, common pleas, municipal, and county courts could experience some decrease in the number of applications for record sealing and corresponding revenues from filing fees received, as requests for the sealing of records of multiple cases could be done on a single application. The amount of filing fee revenue that the state, counties, and municipalities could forego annually is uncertain.

Notice of an order to seal official records

Under current law, a court is required to send notice of any order to seal official records, issued pursuant to R.C. 2953.52(B)(3) or (B)(4), to BCII and any public office or agency that has any record of the case by certified mail, return receipt requested. The bill maintains the court's requirement to send the notice but eliminates the requirement that it be sent by certified mail, return receipt requested. As a result, courts would have the option to send these notices via ordinary mail at a cost of \$0.49 each, a savings of \$4.16 or \$5.51 apiece, depending on whether the method of return receipt used by the court is electronic or physical delivery. The magnitude of any savings will depend on the number of notices to seal official records sent annually by a given court.

Divulging confidential information

Under current law, an officer or employee of the state or a political subdivision of the state who releases information concerning records that have been sealed is guilty of divulging confidential information, a misdemeanor of the fourth degree. The bill creates an exception to the violation as long as certain conditions are met. As a result, there might be some slight reduction in the number of charges filed for divulging confidential information. To the extent that this may happen, municipal courts and county courts may experience a negligible annual savings resulting from a decrease in judicial dockets and in the related workload of other court personnel.

Community service block grants

The bill includes language to regulate the confidentiality of personal information related to community service block grants. This language was largely enacted in H.B. 59 of the 130th General Assembly except that this bill (S.B. 143) adds an additional requirement to release information regarding an individual assistance recipient to any appropriate person in compliance with a search warrant, subpoena, or other court order. This provision will have no fiscal impact on the Development Services Agency.

Community alternative sentencing centers

Under current law, any court within a county served by a board of county commissioners that establishes and operates a community alternative sentencing center may sentence eligible misdemeanor offenders pursuant to a community residential sanction or OVI term of confinement to the center for a term of not more than 30 or 60 days, respectively. Under the bill, the 30-day and 60-day limits would be extended to 90 days. As a result, more offenders could be eligible for placement in these facilities, where the costs of confinement are typically less than those of jails. As such, to the extent that these facilities are available and utilized as an alternative to jail, counties with community alternative sentencing centers may realize some long-term savings in correctional expenditures.

Any savings that may be experienced by the possibility of more offenders being eligible for placement in these facilities may be at least partially offset by the fact that these offenders may be serving longer periods of commitment. It is possible that the extended length of stay could result in less frequent turnover of a limited number of beds in these facilities. The turnover of these beds allows for more offenders to cycle through the less expensive community alternative treatment center as opposed to serving time in a more expensive local jail. If fewer offenders are able to cycle through these facilities, it is possible that any savings experienced may be less than it otherwise would have been absent the extended length of stay.

The bill also makes various changes that clarify the authority of boards of county commissioners to establish a community alternative sentencing center, modify sentencing and admission procedures for eligible offenders, and clarify that eligible offenders must successfully complete any term in a center as a condition of a community residential sanction. As these provisions are largely clarifying in nature, they are not expected to have much, if any, fiscal impact.

The bill further authorizes a municipal corporation to establish a community alternative sentencing center for the purpose of confining eligible misdemeanants sentenced directly to the center by a court located in any county pursuant to a community residential sanction of not more than 90 days. The cost that a municipal corporation might incur in order to establish and operate a community alternative sentencing center is uncertain. Also uncertain is whether a municipal corporation would need to undertake capital improvements. That said, to the extent that these

misdemeanant beds replace more expensive full-service jail beds, then a municipal corporation may realize some long-term savings in correctional expenditures.

HIV testing

The bill modifies the requirements regarding HIV testing by: (1) clarifying that the accused shall submit to the test within 48 hours after the indictment, information, or complaint is presented, as opposed to when it is filed or served, (2) specifying that notification of test results be made as soon as practicable to the victim, parent and guardian of the victim, and the defendant, and (3) requiring the court to order follow-up tests as medically appropriate. As a result, the accused may be required to submit to an HIV test sooner than would have otherwise been the case under current law and in some cases, additional testing may be required. Under current law, the accused is required to pay for the costs associated with these tests however, in the case that the accused is found to be indigent, testing is paid for by the municipality or county in which the offense was allegedly committed. As a result, it is possible that municipalities and counties may experience some increase in costs if the accused is found to be indigent and ordered to undergo additional tests.

These provisions are generally intended to comply with federal grant requirements to ensure that the full amount of funding that was allocated is received. The Ohio Attorney General's Office was previously the recipient of a \$174,335 discretionary Arrest Program grant awarded by the U.S. Department of Justice's Office on Violence Against Women. The Department of Justice withheld 5% of that grant, or \$8,717, as a result of certain requirements set forth by the Department not being clearly defined in current Ohio law. While that particular grant ended September 30, 2013, the enactment of these provisions would make it possible for any future Arrest Program grant recipient to receive the full amount allocated.

Prison nursery program

The bill increases the sentence of imprisonment that disqualifies an inmate from participating in the prison nursery program operated by the Department of Rehabilitation and Correction from 18 months to three years. As a result, the bill will expand the number of inmates eligible for participation in the program with the intent to increase the number of inmates who utilize those services. According to the Department, the program is currently underutilized, serving only four or five inmates but having the capacity to serve about 20. As program costs are fixed, increasing the number of participants is expected to make the program more cost effective per participant.

Transitional control

The bill precludes a court from disapproving transitional control of a prisoner who is serving a sentence of more than two years. As a result, there may be an increase in the number of offenders transferred from prison and into transitional control. The transitional control costs associated with such an offender would be \$3.26 more per day

than what the Department of Rehabilitation and Correction would otherwise have incurred to keep that offender in prison, however, that increase may be offset to the degree that the length of stay in transitional control is noticeably less than the remainder of the offender's prison time would have been. According to the Department of Rehabilitation and Correction, there were 498 offenders serving sentences of more than two years that were disapproved by the court for transitional control in FY 2013.

The bill also authorizes an additional prison term of up to 12 months for having been found guilty of, or pleading guilty to, a felony level offense that was committed while the offender was on transitional control, and specifies that the additional term, if imposed, is to be served consecutively to any prison term imposed for the new felony. As a result, the bill could increase the amount of prison time served for certain offenders convicted of a felony while on transitional control by as much as 12 months, if a court chooses to impose the additional penalty. The average annual cost per inmate is currently \$22,836, or around \$63 per day. The magnitude of any annual increase in the institutional operating costs of the Department of Rehabilitation and Correction will depend on the number of offenders on transitional control that commit a new felony and are sentenced to serve additional time.

Juvenile justice system

The bill includes the best interests of the person as a reason for which an alleged or adjudicated delinquent child who is at least 18 but younger than 21 may be held in an adult detention facility and specifies that the admission and confinement of such a child is generally confidential. This provision essentially broadens a judge's discretion as to who may be placed in an adult detention facility. If the bill's provisions result in a youth's placement in such a facility, it is possible that some savings effect may be experienced, as adult detention facilities generally cost less per person per day than facilities designed specifically for juveniles.

The bill also eliminates the six-month waiting period for making a motion or application for the sealing of a juvenile court record if the person requesting the sealing is 18 years of age or older and otherwise eligible. As a result, some juvenile court records are able to be sealed earlier under the bill than they are under current law. This may cause some shift in workload for juvenile courts as it is possible that the court, upon its own motion, or that some individuals, upon application, may seek to have a juvenile court record sealed as much as six months earlier than would be allowed under current law. As such, the bill is not expected to result in any additional cases or increased workload for juvenile courts.

Department of Youth Services

Current law states that a delinquent child may be committed to the Department of Youth Services (DYS) for a supervised release violation for a minimum period of 30 days. The bill increases this period of confinement to a minimum of 90 days. In calendar year 2013, the average length of stay for such a violation was 114 days, with

17 (20%) of the 84 admissions in that year serving the current 30-day minimum sentence. As a result, additional costs could be incurred, as some delinquent children may be required to serve as many as 60 additional days in the care and custody of DYS for a supervised release violation. Had the bill been in effect in 2013, the total number of bed days used would have increased by 1,020.²⁴ The magnitude of any increase experienced in the future would depend on the number of youth who would have served fewer than 90 days under current law. Given the average length of stay in 2013, it is likely that the majority of youth are currently exceeding the bill's 90-day minimum.

Furthermore, under the bill, the juvenile court would explicitly have the authority to reinstate the delinquent child's original order of commitment for a supervised release revocation. It is unclear as to whether this change might result in longer periods of confinement or additional costs for DYS, as there has been some confusion as to the authority of the juvenile court with respect to length of commitment for a supervised release violation under current law. It is possible that some juvenile courts may impose longer sentences for such violations under the bill than they otherwise would have under current law, which could result in an increase in care and custody costs for DYS. Any additional DYS costs will be minimal annually, as only a few juveniles statewide are expected to be sentenced to a longer term of confinement.

Motor vehicle law

The bill authorizes a court to order restitution of up to \$5,000 for any economic loss arising from an accident or collision that occurred before, during, or after an offense for which the offender was convicted of driving under suspension or driving under financial-responsibility-law suspension or cancellation and failed to provide proof of financial responsibility. The bill specifies that restitution may be ordered in addition to any other penalties as provided by law. The decision of a municipal, county, or juvenile court to order restitution is not likely to significantly impact the workload of the ordering court. It is possible that a court may spend some additional time on these cases, making determinations as to whether or not to award restitution and if so, how much to award but that amount of time is not expected to exceed minimal for any given case.

The bill also eliminates the requirement that a court send a warning notice by ordinary mail to an individual whose motor vehicle registration may be blocked for failure to appear in court or pay a fine. The bill will result in a savings of \$0.49 for each warning notice that a court does not have to send by ordinary mail that would otherwise have to be sent under current law. The magnitude of any savings will depend on the number of such letters that are sent by a given court annually.

SB0143EN.docx/jc

²⁴ The average annual cost of incarcerating a juvenile in a Department of Youth Services facility is currently around \$202,502 (or \$554.80 per day), with the marginal annual cost of adding a juvenile estimated at \$10,000.



Ohio Legislative Service Commission

Jean J. Botomogno

Fiscal Note & Local Impact Statement

Bill: Am. Sub. S.B. 243 of the 130th G.A.

Date: December 11, 2014

Status: As Enacted

Sponsor: Sen. Bacon

Local Impact Statement Procedure Required: Yes

Contents: Creates a three-day sales tax holiday in August 2015 for sales of specified clothing and school supplies, and makes various other changes, including appropriations increases for FY 2015

State Fiscal Highlights

STATE FUND	FY 2015	FY 2016	Future fiscal years
General Revenue Fund			
Revenues	- 0 -	Loss up to \$13.5 million from the sales tax holiday	Potential losses from other tax changes
Expenditures	Increase of \$7.2 million	- 0 -	- 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2014 is July 1, 2013 – June 30, 2014.

- The bill exempts from the sales tax sales occurring on August 7, 8, and 9 in 2015 of clothing (up to \$75), school supplies (up to \$20 per item), and school instructional materials (up to \$20).
- The sales tax holiday is estimated to decrease state sales tax receipts by up to \$14 million in FY 2016. Sales tax revenue is distributed to the state GRF, the Local Government Fund (LGF), and the Public Library Fund (PLF). Thus, the bill would reduce the amounts distributed to all three funds, and the reduction to the GRF may be up to \$13.5 million.
- Other tax changes in the bill may add to the GRF, LGF, and PLF revenue losses.
- The Department of Education's Lake County incubator project will increase GRF expenditures by \$200,000 in FY 2015.
- The bill appropriates an additional \$3.0 million from the GRF in FY 2015 within the Department of Job and Family Services' budget and earmarks those funds for specific purposes.
- The bill creates the Economic Gardening Technical Assistance Pilot Program in the Development Services Agency and appropriates \$500,000 from the GRF in FY 2015 to operate the program. The program expires two years after the effective date of the bill.

- In addition, the bill appropriates another \$3,518,821 from the GRF in FY 2015 within the Development Services Agency's budget and earmarks those funds for other specific purposes.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2015	FY 2016	FUTURE YEARS
Counties, municipalities, townships, and libraries (LGF and PLF)			
Revenues	Loss of up to \$0.5 million from the sales tax holiday	Potential losses from other tax changes	Potential losses from other tax changes
Expenditures	- 0 -	- 0 -	- 0 -
Counties and transit authorities			
Revenues	Loss of up \$3.2 million from the sales tax holiday	- 0 -	- 0 -
Expenditures	- 0 -	- 0 -	- 0 -
Townships			
Revenues	Gain of \$10 million from Fund 5KN0	- 0 -	- 0 -
Expenditures	- 0 -	- 0 -	- 0 -

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- The sales tax holiday will reduce revenue from county permissive and transit authority sales taxes by up to \$3.2 million in August 2015. Those local permissive taxes share the state sales and use tax base.
- A share of GRF tax revenues is distributed under permanent law to the LGF and the PLF. LGF revenues are distributed to counties, municipalities, and townships, while PLF revenues are distributed to libraries. Thus, any reduction to GRF sales tax receipts would also reduce the amount distributed to the LGF and PLF.
- The bill appropriates \$10 million in cash from the Local Government Innovation Fund (Fund 5KN0) in FY 2015 for distribution to townships. Half of the \$10 million is to be divided among the counties so that each township in the state receives the same amount, and half is to be apportioned to townships based on road miles.

Detailed Fiscal Analysis

One-time sales tax holiday

S.B. 243 exempts from the sales tax sales occurring on August 7, 8, and 9 in calendar year 2015 of the following items: clothing (up to \$75), school supplies (up to \$20 per item), and school instructional materials (up to \$20). The bill is estimated to reduce state revenue from the sales and use tax by up to \$14 million in FY 2016. Under permanent law, the GRF receives 96.68% of the revenue from the sales and use tax, while 1.66% of the receipts are transferred each to the Local Government Fund (LGF, Fund 7069) and the Public Library Fund (PLF, Fund 7065) for distribution to counties,

municipalities, townships, and libraries. Thus, sales tax revenue to the GRF would decline by up to \$13.5 million in FY 2016, and distributions to the LGF and PLF would be reduced by a total of about \$0.5 million in FY 2016.

The bill will also reduce the tax base for county permissive and transit authority sales taxes. Those local permissive taxes share the state sales and use tax base. The potential revenue loss to local governments from local sales taxes, at approximately 23% of state sales tax revenues, would roughly be up to \$3.2 million in August 2015. Thus, total revenue reductions for local governments, including reduced LGF and PLF distributions, may be up to \$3.7 million.

The estimates are based on data primarily from surveys from the National Retail Federation (NRF) on back-to-school shopping, and also on personal consumption expenditures from the U.S. Bureau of Economic Analysis. Estimated Ohio spending was obtained by adjusting national data using an index of Midwest spending patterns (relative to national average spending) from the U.S. Bureau of Labor Statistics (Consumer Expenditure Survey for 2012). Though this Fiscal Note utilizes school enrollment data for 2010 by age from the U.S. Census (American Community Survey) both for K-12 and college age students, please note that the sale of tax-free items is not limited to households with school age or college age children.

Consumers are expected to shift their purchases by delaying or accelerating their purchases into the tax holiday period. The estimates include temporal substitution effects of up to two weeks (based on previous NRF surveys on the timing of back-to-school purchases). If the temporal substitution is less, then the revenue loss from the bill would be less than estimated. If these effects are larger than presumed, the revenue loss could be greater.

The Department of Taxation will incur additional expenses associated with the implementation of this tax exemption. These expenses will be informational bulletins explaining the exemption. There may also be an increase in auditing costs, as more information will need to be verified. Costs associated with the implementation of the bill may be absorbed as part of the normal operations of the Department of Taxation. Businesses, in particular small retailers, may experience additional costs due to the need to reprogram cash registers and train staff to deal with the tax exemption.

As noted above, most additional sales during the tax holiday weekend will be delayed or accelerated purchases to take advantage of the exemption. However, other economic factors are at play. They include price and income substitution effects, cross-border sales effects and a shift of some sales from remote to store sales during the holiday weekend. The lack of precise empirical data regarding the magnitude of such factors makes this fiscal analysis more complex, and revenue loss estimates may be somewhat overstated.

Price and substitution effects

The temporary sales tax exemption would effectively decrease prices of the tax-exempt items by a percentage equal to the combined state and local sales tax rates. A share of those savings will result in added purchases. Also, lower prices enhance consumer "real" income or purchasing power. This additional income from the sales tax exemption is likely to be spent on both taxable and nontaxable items, and some additional tax revenues may be collected. Also, demand for certain goods would rise during the sales tax holiday weekend, and some research had found evidence that retailers may respond by raising prices, and curtailing their customary "sales prices."²⁵

Cross-border sales

Two cross-border effects are likely to take place with this bill. It is probable that some Ohioans already purchase clothing in other states and most do not pay Ohio use tax on those purchases. Such cross-border sales may remain in Ohio during the sales tax holiday. Also, Ohio stores may increase sales to residents of neighboring states that do not provide a similar tax holiday. Therefore, cross-border effects are present, although impossible to quantify. However, the total cross-border effect on tax revenues is expected to be minimal.

Shift from remote sales to store sales

A number of consumers purchase clothing and footwear through mail order and the Internet, in part as a tax avoidance strategy. Therefore, the bill would reduce the appeal of such remote purchases, and thus transfer some of the remote sales to store sales in Ohio. This effect is assumed to be small and would probably have a negligible impact on sales tax revenue.

All the factors enumerated above, although important, are difficult to quantify and may slightly reduce the fiscal cost of the sales tax holiday.

Computer data center sales and use tax exemption

The bill modifies the requirements for a computer data center²⁶ to be eligible for sales and use tax exemption under current law. Existing law requires that one or more taxpayers operating a computer data center business at a project site will, in the aggregate, make payments for a capital investment project of at least \$100 million at the project site during a period of three consecutive calendar years. The bill modifies this requirement and specifies one of the following cumulative periods: for projects beginning in 2013, five consecutive calendar years; for projects beginning in 2014, four consecutive calendar years; for projects beginning in or after 2015, three consecutive

²⁵ Richard Harper, and al. (2003): *Price Effects Around a Sales Tax Holiday: An Exploratory Study*, 23 Public Budgeting and Finance, 108-113.

²⁶ "Computer data center" means a facility used or to be used primarily to house computer data center equipment used or to be used in conducting one or more computer data center businesses, as determined by the Ohio Tax Credit Authority.

calendar years. This modification is likely to increase the sales and use tax revenue loss from this exemption, though the amount is indeterminate.

Financial institutions tax

Current law prescribes a tax rate adjustment mechanism if revenue from the financial institutions tax (FIT) for tax year (TY) 2014 reports is more than 110% or less than 90% of \$200 million (first target amount). If revenue exceeded 110% of the first target tax amount or \$220 million, the Tax Commissioner would decrease the tax rates for 2015 and subsequent years to the rates that would have provided \$200 million in receipts for TY 2014 reports; alternatively, if FIT revenue were 110% above the first target tax amount, rates for the subsequent years would be decreased. The financial institution tax produced \$197.8 million in FY 2014 (generally for reports for TY 2014).²⁷ Separately, existing law also provides for another test period in TY 2016, a second target tax amount of \$212 million (106% of the TY 2014 target amount), with an adjustment mechanism similar to the one for TY 2014, if the revenue for TY 2016 reports deviated from the 2016 target tax amounts. If revenue exceeded 110% of the second target tax amount, the Tax Commissioner would decrease the tax rates for 2017 and subsequent years to the rates that would have provided the second target tax amount; alternatively, if FIT revenue were 110% above that tax amount, rates for the subsequent years would be decreased.

The bill modifies the definition of "amount of taxes collected" for purposes of rate adjustments for the FIT and specifies that those collections should include the total amount of the tax credit authorized by section 5726.57 of the Revised Code. This nonrefundable tax credit is available for TY 2014 only to a qualifying dealer in intangibles that is a member of a qualifying controlled group of which a financial institution is also a member. As of this writing, LSC does not have the amount of the tax credits referenced above and does not know whether any of the credits were claimed on tax year reports for 2014. It is however possible that those credits would reduce FIT collections in FY 2015, though the initial tax filings for TY 2014 report occurred earlier in 2014. The bill also specifies how the potential adjusted new rates for FIT would be calculated by the Tax Commissioner. The fiscal effects of these changes to FIT are uncertain.

The bill also changes the definition of exempted financial institutions for purposes of the FIT. It specifies that the following entities are not included for purposes of this tax: a bank organization owned directly or indirectly by an entity that was a grandfathered unitary savings and loan holding company on January 1, 2012; any entity that was a grandfathered unitary savings and loan holding company on January 1, 2012; and any entity that is not a bank organization or owned by a bank organization and that

²⁷ Tax filings for TY 2014 were due January 31, March 31, and May 31, 2014, with possible extensions to October 2015. Adjustments to earlier tax filings for a tax year may be made in later months under the financial institutions tax. These adjustments for a prior tax year may result in additional taxes paid or refunds in the following fiscal years.

is owned directly or indirectly by an entity that was a grandfathered unitary savings and loan holding company on January 1, 2012. The effect of this provision is uncertain, though it is possible it could have a limited fiscal impact.

Development Services Agency

Technology Programs and Grants

The bill appropriates an additional \$2,290,500 in FY 2015 to GRF appropriation item 195532, Technology Programs and Grants, and earmarks the entirety of the added appropriation for two commitments:

- (1) \$1,510,000 to Connect Ohio to support the Digital Works initiative; and
- (2) \$780,500 to Connect Ohio to provide broadband mapping and economic development consultation services.

Am. Sub. H.B. 59 of the 130th General Assembly, the main operating budget for the FY 2014-FY 2015 biennium, appropriated \$13,547,321 in each fiscal year under line item 195532. Consequently, when adding the appropriations in this bill, the total FY 2015 appropriation for line item 195532 is \$15,837,821.

According to Connect Ohio's website, the nonprofit is a subsidiary of Connected Nation, and works to provide universal broadband access to all parts of the state. The website describes the Digital Works initiative as a digital skills training program that provides mentoring and training to workers seeking employment and places them in quality teleworking jobs.

Travel and Tourism appropriation increase and earmarks

The bill appropriates \$1,228,321 in FY 2015 under GRF appropriation item 195407, Travel and Tourism, and earmarks that entire amount for three purposes:

- (1) \$500,000 for the 2015 Major League Baseball All-Star Game in Cincinnati;
- (2) \$428,321 for the Chagrin Valley Little Theater; and
- (3) \$300,000 for the James Kilbourne Memorial Library Building in Worthington.

These additional GRF earmarks will not reduce DSA's funding for tourism promotion. Under a funding arrangement currently in place and running from FY 2014 through FY 2018, funding for tourism promotion comes from a portion of sales tax revenue that can be attributed to tourism-related businesses. That funding is appropriated under Fund 5MJ0 line item 195683, TourismOhio Administration.

Economic Gardening Technical Assistance Pilot Program

The bill creates the Economic Gardening Technical Assistance Pilot Program. Under the two-year program, DSA may provide technical assistance to eligible businesses, including assistance in market research, marketing, and the development of connections with trade associations, academic institutions, business advocacy groups, peer-based learning sessions, mentoring programs, and other businesses. Eligible

businesses must have between six and 99 employees and follow other requirements, described in more detail in the LSC Bill Analysis.

The bill appropriates \$500,000 in FY 2015 from the GRF to operate the pilot program, under line item 195530, Economic Gardening Pilot Program. The bill also requires that DSA produce a report one year after the effective date of the bill which assesses the program and recommends any changes to be made to the program. Additionally, DSA may contract or coordinate with outside agencies or business to administer and operate the program.

Economic gardening is an economic development strategy generally recognized as first being initiated by the city of Littleton, Colorado, in the early 1990's. Economic gardening programs are aimed at providing business assistance to small businesses ready to grow to the "second stage" of the business level. At least two multi-county regional organizations operate economic gardening programs in Ohio: the Northwest Ohio Economic Gardening Network Program in Ottawa County and Sandusky County, and the Rural Ohio Economic Gardening Initiative, which assists businesses in rural counties across the state.

Ohio Healthier Buckeye Advisory Council recommendations extension

Currently, the Ohio Healthier Buckeye Advisory Council may, among other things, submit to the Director of Job and Family Services by December 1, 2014, recommendations for the following: coordinating services across all public assistance programs to help individuals find employment, succeed at work, and stay out of poverty; revising incentives for public assistance programs to foster person-centered case management; standardizing and automating eligibility determination policies and processes for public assistance programs. The bill changes the date that the recommendations are to be submitted to December 1, 2015. There should be no fiscal impact associated with this change.

University Hospital capital appropriation transfer

The bill amends H.B. 497 of the 130th General Assembly to transfer capital appropriation item C230H5, University Hospital Seidman Center Proton Therapy Center, under Facilities Construction Commission, for \$500,000 to C26071, under Cleveland State University.

Lake County incubator project

The bill appropriates \$200,000 in FY 2015 under the Department of Education's GRF appropriation item, STEM Initiatives, for building and equipment costs associated with a Lake County incubator project designed to increase the number of students participating in STEM fields of study.

Department of Job and Family Services' appropriations

The bill appropriates an additional \$3.0 million in fiscal year 2015 within the Department of Job and Family Services' budget. Of this amount, \$1.8 million is

appropriated to GRF line item 600521, Family Assistance – Local, and is earmarked in the following manner: \$1.5 million to the Putnam County YMCA in the city of Ottawa and \$300,000 to the Jewish Federation of Cincinnati to provide operating funds for the Mayerson Jewish Community Center, Jewish Family Service of Cincinnati, and Dream Homes, Inc. The remaining \$1.2 million is appropriated in GRF line item 600523, Family and Children Services, and is earmarked for the Child Placement Level of Care Tool Pilot Program.

Distributions from the Local Government Innovation Fund to townships in FY 2015

The bill appropriates \$10 million from the Local Government Innovation Fund (Fund 5KN0) for distribution to townships in FY 2015. The Tax Commissioner, on behalf of the Director of Development Services, is to determine amounts to be distributed to each county undivided local government fund for this purpose. The bill specifies that half of the \$10 million is to be divided among the counties so that each township receives the same amount, and half is to be apportioned to townships based on township road miles. The Tax Commissioner is to transfer these amounts, and separately identify to each county treasurer the amount to be divided equally among townships in the county and the amount to be divided among the townships based on road miles. The bill requires each appropriate county officer to transfer cash from the county undivided local government fund to townships in the county based on this division of funds. This provision thus reduces the balance in Fund 5KN0 by the amount of the transfer to townships.

Tax exemption for real property

The bill would change the requirements for qualifying for a tax exemption for historic structures used for charitable purposes. Under current law, an otherwise qualifying property, used for a charitable, educational, or other public purpose, may continue to be tax exempt even if conveyed to an entity that is not a charitable or educational institution or the state or a political subdivision, provided that the property has been listed as exempt for ten years, and meets other requirements. The bill changes this time period to one year. The change is expected to allow a CAPA theater to qualify for the Federal Historic Preservation Tax Credit. Other properties in the state could be affected. The change will reduce revenue to units of local government.

Expansion of permitted uses of credit cards by counties

The bill expands the work-related expenses that may be paid for by use of a credit card held by a board of county commissioners or the office of another county appointing authority. It adds to the expenses that may be paid in this manner webinar expenses and the purchase of automatic or electronic data processing equipment, software, or services. The bill also allows a county law library resources board to accept payment of fees for services, and allows for the receipt of gifts to the county law library resources board, by financial transaction devices including credit cards and certain

other electronic forms of payment, under certain circumstances. This change appears to facilitate transactions but otherwise have no fiscal effect.

SB0243EN.docx/dp



Ohio Legislative Service Commission

Russ Keller and other LSC staff

Fiscal Note & Local Impact Statement

Bill: Sub. S.B. 250 of the 130th G.A.

Date: December 17, 2014

Status: As Enacted

Sponsor: Sens. Jones and LaRose

Local Impact Statement Procedure Required: Yes

Contents: Modifies adoption laws

State Fiscal Highlights

- The bill modifies the amount a taxpayer can claim as a nonrefundable credit against the personal income tax if the taxpayer adopted a minor child during the taxable year, increasing it from \$1,500 per child adopted to one that is equal to the greater of (1) \$1,500 or (2) the adoption expenses incurred by the taxpayer and the taxpayer's spouse, not to exceed \$10,000 per child. The annual General Revenue Fund (GRF) revenue loss starting in FY 2015 would be between \$6 million and \$9 million.
- The bill requires ODJFS to provide a written notice to a putative father when the Department provides the putative father's registration form to a requestor. There would be a minimal increase in administrative costs to ODJFS to provide these additional notices.

Local Fiscal Highlights

- Increasing the nonrefundable adoption tax credit will reduce revenue to the Local Government Fund (LGF) and Public Library Fund (PLF) by at least \$100,000 each starting in tax year 2014, for a combined total of at least \$200,000. The amounts would increase in future years as Ohio taxable income grows.
- The bill permits an adoption agency or an attorney representing either a person seeking to adopt a child or the child's mother to provide actual notice to each of the child's putative fathers that the mother is considering putting the child up for adoption prior to the child's birth. There could be an increase in costs to public adoption agencies to serve additional notices and record when notice was served if public adoption agencies elect to serve notice under this provision.
- For a father to preserve his right to consent to the placement for adoption of the child after being served actual notice, the bill requires a putative father to file an action to determine the existence or nonexistence of the father and child relationship. There would be an increase in filing actions received by local courts,

resulting in an increase in administrative costs to the courts. According to the Ohio Judicial Conference, these administrative costs would be offset by fees charged to the putative father. Filing fees for this action are approximately \$100 to \$200.

- The bill permits a government entity to advertise about its role in the placement of children for adoption or any other information that would be relevant to qualified adoptive parents. There would be an increase in costs if a government entity elects to advertise.
-

Detailed Fiscal Analysis

Credit for adoption-related expenses

Currently, Ohio taxpayers can claim a nonrefundable credit against their personal income tax if the taxpayer adopted a minor child (under 18 years of age) during the taxable year. The amount of the credit is \$1,500 per child adopted, and this is a one-time credit per child. Any unused amounts can be carried forward for up to two years. The adoption must be final and recognizable under Ohio law in the year for which the taxpayer first claims the credit.²⁸ The bill changes this credit to one that is equal to the greater of (1) \$1,500 or (2) the adoption expenses incurred by the taxpayer and the taxpayer's spouse, not to exceed \$10,000 per child.

The Tax Expenditure Report, prepared by the Ohio Department of Taxation and submitted as a supplement to the Governor's biennial budget, estimates that this tax credit reduces General Revenue Fund (GRF) revenues by \$2 million per year. If the amount of the credit is increased by \$8,500 to up to \$10,000 per child adopted, the tax expenditure may increase by an amount up to \$11.5 million for a given year, but the revenue loss for a given year would potentially be spread over six taxable years. The GRF revenue loss in FY 2015 would be between \$6 million and \$9 million.

In addition, the personal income tax is a GRF tax, and the Local Government Fund (LGF) and Public Library Fund (PLF) each receive 1.66% of GRF receipts. Increasing the nonrefundable tax credit will reduce revenue to the LGF and PLF by at least \$100,000 annually each, starting in tax year 2014, for a combined total of at least \$200,000. The amounts would increase in future years as Ohio taxable income grows.

Presently, the nonrefundable credit may be carried forward for up to two years if the taxpayer cannot fully realize the credit on the tax return for the year the adoption occurs, but the bill extends the carryforward provision to five years, which makes it more likely that most taxpayers will exhaust the credit before it expires.

²⁸ The Revised Code stipulates that "legally adopt" does not include the adoption of a minor child by the child's stepparent.

Putative father registry

The bill shortens, from 30 to 15 days, the time after the birth of a minor a putative father is able to register as a putative father to preserve the requirement for his consent to an adoption. According to the Ohio Department of Job and Family Services (ODJFS), this provision would have no fiscal effect regarding the putative father registry. However, according to the Ohio Judicial Conference, the provision could have the potential indirect effect of increased litigation filed on behalf of fathers, which could result in increased local court caseload and costs.

Current law requires ODJFS to provide a certified copy of the putative father's registration form when an attorney arranging a minor's adoption, a mother, a public children services agency, a private noncustodial agency, or a private child placing agency requests a search of the putative father registry. The bill requires ODJFS to provide a written notice to a putative father when the Department provides the putative father's registration form to the requestor. The notice must be provided to the putative father within ten business days after the date the certified copy of the registration form is provided to the requestor. There would be a minimal increase in administrative costs to ODJFS to provide these additional notices.

Adoption during pregnancy

The bill permits an adoption agency or an attorney representing either a person seeking to adopt a child or the child's mother, and with the mother's written consent, to provide actual notice to each of the child's putative fathers that the mother is considering putting the child up for adoption prior to the child's birth. Under the bill, an affidavit stating the time, date, and manner in which a notice was served must be submitted when filing a petition for adoption prior to the child's birth. There could be an increase in costs to public adoption agencies to serve additional notices and record when notice was served if public adoption agencies elect to serve notice under this provision.

For a father to preserve his right to consent to the placement for adoption of the child, the bill requires a putative father to file an action to determine the existence or nonexistence of the father and child relationship. There would be an increase in filing actions received by local courts, resulting in an increase in administrative costs to the courts. According to the Ohio Judicial Conference, these administrative costs would be offset by fees charged to the putative father. Filing fees for this action are approximately \$100 to \$200. DNA testing can be required as part of the proceedings for filing this action.

Advertising adoption service

The bill permits a government entity to advertise about its role in the placement of children for adoption or any other information that would be relevant to qualified adoptive parents. There would be an increase in costs if a government entity elects to advertise.

Other provisions

The bill also contains other provisions that have no direct fiscal effect on the state or local subdivisions. These provisions include the following: specifies that rental or mortgage payments, payments for utilities, and payments for products required for the birth mother or minor's sustenance or safety incurred by a birth mother are "living expenses" that may be paid to a birth mother on behalf of a petitioner by an attorney or private agency arranging the mother's adoption; reducing the amount of time an adoption decree can be appealed from one year to six months with certain exceptions; and requiring a birth mother who decides, during pregnancy, to place the minor up for adoption, or an attorney or representative working on her behalf, to give written notice of the decision to each putative father whom she identifies as the minor's putative father.

SB0250EN.docx/dp



Ohio Legislative Service Commission

Philip A. Cummins

Fiscal Note & Local Impact Statement

Bill: Am. Sub. S.B. 263 of the 130th G.A.

Date: June 4, 2014

Status: As Enacted

Sponsor: Sens. Peterson and Beagle

Local Impact Statement Procedure Required: Yes

Contents: Requires the Tax Commissioner to notify taxpayers of tax or fee overpayments, and permits the Commissioner to credit the excess against future obligations or issue refunds

State Fiscal Highlights

STATE FUND	FY 2015	FY 2016	FUTURE YEARS
General Revenue Fund			
Revenues	Possible loss	Possible loss	Possible loss
Expenditures	Increase of \$682,000	Possible increase	Possible increase
Local Government Fund (Fund 7069), Public Library Fund (Fund 7065)			
Revenues	Possible loss	Possible loss	Possible loss
Expenditures	Decrease equal to revenue loss	Decrease equal to revenue loss	Decrease equal to revenue loss

Note: The state fiscal year is July 1 through June 30. For example, FY 2014 is July 1, 2013 – June 30, 2014.

- The bill requires the Tax Commissioner to review taxpayers' accounts and notify taxpayers of credit balances identified.
- Refunds or credits against future taxes or fees owed would reduce net revenues to the GRF and other funds to less than would have been retained under prior Department of Taxation policy.
- The Department has implemented reviews and notifications of overpayments administratively; hence the bill appears not to entail loss of revenue relative to current policy.
- The bill increases the amount appropriated for Department operating expenses by \$682,000 in FY 2015 to cover one-time costs of the bill, and the Department would incur ongoing costs for reviews and notifications.
- Any loss of GRF revenue would reduce transfers to the Local Government Fund (LGF) and Public Library Fund (PLF), distributed to local governments and libraries in the month received.

Local Fiscal Highlights

- Any reduction in LGF and PLF revenue would reduce revenues to counties and municipal governments from those funds. Counties further distribute revenues from the LGF to other units of local government and revenues from the PLF mainly to libraries.
-

Detailed Fiscal Analysis

S.B. 263 requires the Tax Commissioner to review taxpayers' accounts and notify taxpayers of any overpayments of taxes or fees. The review and notification are to be done at least 60 days before each deadline for a taxpayer to file a refund application for the tax or fee. The Tax Commissioner may either apply the amount of any credit balance owed to the taxpayer's liability in the next reporting period for that tax or fee, or issue a refund, net of any tax debt of that taxpayer certified to the Attorney General for collection or any other outstanding tax or fee liability.

The Department of Taxation will incur costs for these reviews and notifications. The bill includes a supplemental appropriation to GRF line item 110321, Operating Expenses, of \$682,000 in FY 2015, to allow one-time outlays on computer systems. Costs for reviews and notifications would continue in future years.

Reviews required by the bill would identify overpayments for which taxpayers had not filed refund applications or amended returns, and might not timely file to recover these overpayments in the absence of such reviews. The Department administers numerous taxes and fees. Revenues are deposited into a number of funds, with the largest share paid into the GRF.

The Tax Commissioner testified on February 11 in Senate Finance Committee that the Department began informing business taxpayers more than a year ago of credit balances in their accounts. Prior policy had generally been not to inform business taxpayers of credit balances in their accounts but to require them to file for a refund on the proper form within the statute of limitations for doing so, or forfeit the overpayment to the state. The Commissioner said that this former policy applied to business taxpayers, and that individual taxpayers received their refunds expeditiously. The Department changed the policy for business taxpayers, and has since refunded more than \$11 million of overpayments on commercial activity tax obligations, out of a total of \$13 million owed to the taxpayers. It has refunded more than \$8 million of overpayments on corporate franchise, sales and use, and employer and school district withholding taxes, out of a total of \$34 million.

Refunding overpayments has been slowed by low response rates of taxpayers who are sent notices of their overpayments. The bill gives the Tax Commissioner authority to issue a refund unilaterally and to apply overpayments in one tax period to the next period. The administrative change in Department policy on tax overpayments

by business implies the bill may not result in loss of revenue relative to the net revenues retained under the current policy.

A November 2013 Report of Investigation from the Office of the Inspector General indicates overpayment balances totaled over \$234 million, on taxpayer accounts that each had an overpayment of more than \$5,000, as of July 2012. Overpayment balances regardless of the amount of the overpayment on the individual account totaled over \$294 million, though in many of the individual accounts the overpayment was less than \$1. The Department indicated that these amounts include credit balances back to the 1990s for which the statute of limitations for requesting refunds has expired, and includes credit balances for a payment period, such as a month, that are not netted against underpayments by the same taxpayers in other payment periods.

The Inspector General's report notes that accounts may show overpayments because of advance payments by taxpayers, or because of mathematical or data entry errors by the taxpayer or the Department that are later corrected. That report indicates that a review of overpayments conducted by the Department found, for four types of taxes (corporate franchise, employer withholding, school district withholding, and sales and use) with overpayments totaling about \$74 million, that overpayments of \$31 million were refundable, overpayments of \$19 million were nonrefundable, and more information would be needed to determine the status of overpayments totaling \$24 million. Taxpayers must request refunds within a three- or four-year statute of limitations, depending on the tax, or the state retains the money.

Each month, 1.66% of total tax revenue credited to the GRF in the previous month is credited to each of the Local Government Fund (LGF, Fund 7069) and Public Library Fund (PLF, Fund 7065). All amounts credited to these funds are paid in the month received to counties and municipal corporations. Counties further distribute part of revenues from the LGF to other units of local government, primarily municipalities and townships, and retain part. Counties distribute the vast majority of revenue from the PLF to public libraries, and pay the rest to municipal corporations in a few counties. Thus any reduction in GRF revenues resulting from the bill would reduce funding to units of local government and to public libraries.

In addition, the Department administers the school district income tax. Only a small amount of school district withholding was overpaid, based on the figures in the Inspector General's report.

SB0263EN.docx/jc



Ohio Legislative Service Commission

Jacquelyn Schroeder

Fiscal Note & Local Impact Statement

Bill: Am. Sub. S.B. 276 of the 130th G.A. **Date:** December 11, 2014
Status: As Enacted **Sponsor:** Sens. Jones and Tavares

Local Impact Statement Procedure Required: Yes

Contents: Creates the Commission on Infant Mortality and requires the establishment of infant safe sleep procedures and policies; modifies the offense of "corrupting another with drugs"; retains certain laws regarding nursing facilities' admission policies and exclusions of parts of nursing facilities from Medicaid provider agreements; declares an emergency, etc.

State Fiscal Highlights

- **Department of Health.** The Ohio Department of Health (ODH) estimates that it could experience a minimal increase in costs associated with establishing the Safe Sleep Education Program. Costs include staff time to make the required educational materials available on ODH's website, annual evaluations of the effectiveness of the program, and developing questions for screening procedures.
- **Commission on Infant Mortality.** Participating state agencies could experience a minimal increase in administrative costs to carry out the duties of the Commission on Infant Mortality, which the bill creates, and develop the required report.
- **Department of Health.** ODH may experience an increase in administrative costs to adopt rules regarding radiologic license reinstatement, to prescribe and provide an application form, and to review applications for reinstatement. However, the bill allows ODH to establish a reinstatement fee, which would help to offset these costs.
- **State Board of Pharmacy.** The State Board of Pharmacy would experience an increase in costs to develop the required report regarding prescriptions for controlled substances containing opioids and to make the report available on its website.
- **State Board of Pharmacy.** The State Board of Pharmacy may experience a minimal increase in costs to investigate and take disciplinary action if it discovers that a pharmacist has not been granted access to OARRS after the pharmacist has certified that he or she has been granted access. Additionally, the Board may realize a minimal decrease in administrative or monitoring costs since pharmacy interns are excluded from the requirement to have OARRS access.
- **Department of Medicaid.** The bill retains certain laws regarding nursing facilities' admission policies and exclusion of parts of nursing facilities from Medicaid

provider agreements. If this law expired, this could increase the number of potential facilities available to an individual who is or may become a Medicaid recipient. Thus, the bill might affect in which nursing facility these individuals end up receiving care. As a result, state and federal Medicaid costs could increase or decrease depending on the amount of the Medicaid payments made to the facility that ends up providing the care.

- **Departments of Rehabilitation and Correction and Youth Services.** There could be a small number of additional offenders/juveniles sentenced to a state prison/juvenile correctional facility each year, or sentenced to a longer stay due to the bill's prohibition against knowingly furnishing or causing a pregnant woman to use a controlled substance. Either outcome may result in a no more than minimal annual increase in the institutional operating expenses of the departments of Rehabilitation and Correction and Youth Services.

Local Fiscal Highlights

- **Public hospitals.** Public hospitals that meet certain criteria are required to make a good faith effort to arrange for a parent to obtain a safe crib free of charge, if prior to an infant's discharge, it is determined that an infant is unlikely to have a safe crib at the infant's residence. Public hospitals may obtain cribs using their own resources, collaborate with or obtain assistance from persons or government entities, or refer parents to certain entities that can provide a crib free of charge. As a result, public hospitals could experience an increase in costs to provide a safe crib if the public hospital does so by using its own resources. Public hospitals would also experience administrative costs to adopt safe sleep policies and screening procedures.
- **Distributing educational material.** Public hospitals that meet certain criteria and public children services agencies would likely experience an increase in administrative costs, including printing costs, to distribute educational material on safe sleep practices to parents or guardians of a newborn.
- **Public hospitals and clinics.** Public hospitals and public clinics that employ dentists, advanced practice registered nurses, physician assistants, or physicians and conduct Lyme disease testing may experience a minimal decrease in administrative and printing costs as a result of the elimination of requirements regarding patient notice of the limits of Lyme disease testing when a test is ordered for the presence of Lyme disease in a patient.
- **Public hospitals.** Public hospitals may experience a decrease in administrative costs related to the provision that excludes emergency facilities from having to obtain parental consent when providing treatment to a minor with an opioid analgesic.
- **County criminal courts.** County criminal courts could realize a minimal increase in costs to process and adjudicate certain felony cases due to the prohibition against knowingly furnishing or causing a pregnant woman to use a controlled substance.

Detailed Fiscal Analysis

Safe Sleep Education Program

The bill requires ODH to establish the Safe Sleep Education Program by developing educational materials that present information on safe sleeping practices and possible causes of sudden unexpected infant death. This educational information will be made available on the Department's website. These educational materials must be distributed to parents, guardians, or other individuals responsible for an infant by staff members of obstetricians' offices, pediatric physicians' offices, hospitals and freestanding birthing centers when an infant is discharged to the infant's residence following birth, public children services agencies, and ODH's Help Me Grow Program during home-visiting services. Materials must also be distributed by each child care facility operating in the state to each of its employees. ODH does not expect any additional costs to develop these educational materials, as they are already being developed and are nearly completed.

The bill also expands the ways in which educational materials on shaken baby syndrome must be distributed. Educational materials on shaken baby syndrome and safe sleeping practices are to be distributed in the same way, as outlined above. Each entity or person required to disseminate this information is immune from any civil or criminal liability for injury, death, or loss resulting from an act or omission associated with disseminating the educational materials, unless the act or omission constitutes willful or wanton misconduct.

ODH estimates that there will be a minimal increase in costs to post the information on its website. Public hospitals, public children services agencies, and ODH's Help Me Grow Program may experience an increase in administrative costs to distribute the educational material to parents or guardians when receiving services from these entities.

Additionally, beginning in 2015, the bill requires ODH to conduct annual evaluations of the reports submitted by child fatality review boards to assess the effectiveness of the Safe Sleep Education Program. ODH may realize an increase in costs to collect the reports (sudden unexplained infant death investigation reporting forms) submitted from the child fatality review boards and to perform the required annual evaluations of the program.

Infant safe sleep screening procedures

The bill requires hospitals and freestanding birthing centers to implement an infant safe sleep screening procedure to determine whether there will be a safe crib at the infant's residence once the infant is discharged from the facility. The procedure must consist of questions for the parents, guardians, or other individuals responsible for the infant regarding the infant's intended sleeping environment. Hospitals subject to the bill's requirements include those that have maternity units or those that receive for care infants who have been transferred to it from other facilities and who have never been discharged to their residences following birth. The Director of Health is required to develop questions which these facilities may use when implementing safe sleep screening procedures. ODH estimates that there may be a minimal increase in costs to develop the screening questions and make them available on ODH's website. There also may be administrative costs involved for public hospitals that meet criteria to develop their screening procedures.

If a facility determines that the infant does not have a suitable safe sleeping place, the bill requires that the facility make a good faith effort to arrange for the parents to leave the facility with a safe crib or portable play yard at no charge to the parents. Hospitals and freestanding birthing centers may obtain cribs using their own resources, collaborate with or obtain assistance from persons or government entities that are able to procure suitable sleeping places or provide money to purchase those items, or refer parents to those government entities. If funds are available, hospitals may also refer the parent, guardian, or other person responsible for the infant to a site, designated by ODH for purposes of the Cribs for Kids program or a successor program the Department administers, at which a suitable sleeping place may be obtained at no charge. The bill exempts critical access hospitals and other hospitals which the ODH Director shall identify that are not critical access hospitals and are not served by a Cribs for Kids site from having to comply with the bill's safe sleep screening procedure provisions. ODH has recently entered into a contract with Cribs for Kids which will provide approximately \$180,400 in fiscal year (FY) 2014 and \$300,200 in FY 2015 for the organization, which provides safe sleep education and resources to parents.

The bill requires hospitals and freestanding birthing centers, when renewing registration or licenses, to report to ODH the number of cribs that the facility distributed using its own resources, the number distributed that were obtained by collaborating with other entities, the number of referrals made to Cribs for Kids sites or other persons or government entities, demographic information regarding the individuals to whom cribs were provided or a referral was provided, and any other information the Director deems appropriate. Critical access hospitals and other exempt hospitals must submit demographic information regarding parents and guardians determined to be unlikely to have a safe crib or play yard. Public hospitals could experience an increase in administrative costs to submit the required information to ODH.

The bill requires the ODH Director to prepare a report which summarizes the collected information not later than July 1 of each year beginning in 2015. The report shall be submitted to the Governor and the General Assembly. ODH may experience a minimal increase in costs to collect the information and prepare the required report.

The bill provides that a facility, and any employee, contractor, or volunteer of a facility which implements safe sleep screening procedures are not liable for damages in a civil action or subject to criminal prosecution or professional disciplinary action related to an act or omission associated with implementation of the safe sleep procedures, unless the act or omission constitutes willful or wanton misconduct. The bill also grants absolute immunity from civil liability and criminal prosecution to a facility, and any employee, contractor, or volunteer of the facility for injury, death, or loss to person or property that arises from a crib obtained by a parent as a result of the provisions of the bill. This immunity reduces the possibility that civil action or criminal prosecution related to the provisions of the bill may take place, or, if filed, such actions may be more promptly adjudicated.

The Ohio Hospital Association (OHA) estimates the bill could cost hospitals that meet criteria between \$3 million and \$5 million statewide, a portion of which would be incurred by public hospitals, if their own resources are used to provide a safe sleeping place before discharging an infant if it is determined that the infant does not have a safe crib, portable play yard, or other suitable sleeping place at the infant's residence. Of the 219 member hospitals of OHA, 18 are public hospitals. However, the bill does allow a hospital to collaborate with or obtain assistance with the procurement of a safe crib from persons or government entities and also allows the hospital to refer a parent or guardian to these entities or a Cribs for Kids site.

Internal infant safe sleep policies

The bill requires the Director of Health to adopt a model internal infant safe sleep policy for use by entities required to distribute safe sleep educational materials and have infants regularly sleeping at a facility under the entity's control. The policy must specify safe sleep practices, include images depicting safe sleep practices, and specify sample content for an infant safe sleep education program that entities and individuals may use when conducting new staff orientation programs. ODH does not estimate any additional costs related to this provision.

Entities that are required to disseminate the safe sleep educational material and have infants regularly sleeping at a facility under the entity's control must adopt their own internal infant safe sleep policies. These policies must specify when and to whom educational materials on infant safe sleep practices are to be distributed to employees or volunteers of the facility and must be consistent with ODH's model internal infant safe sleep policy. Administrative costs may be involved for public hospitals to adopt an internal infant safe sleep policy.

Commission on Infant Mortality

The bill also creates the Commission on Infant Mortality, which shall be required to conduct a complete inventory of services provided or administered by the state that are available to address the infant mortality rate in Ohio, as well as the sources of funds used to pay for the services and whether a service and its funding have a connection with programs provided by community-based entities and, to the extent they do not, whether they should. With assistance from academic medical centers, the Commission will also track and analyze infant mortality rates by county in order to determine the impact of state and local initiatives to reduce those rates.

The Commission will be comprised of certain members of the General Assembly and executive directors or a director's designee from the departments of Medicaid and Health, the Office of Health Transformation, the Commission on Minority Health, and the Attorney General or the Attorney General's designee. The Governor will appoint a health commissioner of a city or general health district, a coroner, and two individuals who represent community-based programs that serve pregnant women or new mothers whose infants tend to be at a higher risk for infant mortality. An individual from the Ohio Hospital Association and an individual from the Ohio Children's Hospital Association will also serve on the Commission. A member of the Commission will serve without compensation, except to the extent that serving is considered part of the member's regular duties of employment. The Commission may also request assistance from staff of the Legislative Service Commission.

Additionally, the bill requires the state registrar to provide access to any electronic system of vital records that the registrar or ODH maintains. Not later than six months after the effective date, the Commission shall prepare a written report of its findings and recommendations and submit the report to the Governor and General Assembly. The abovementioned state and local public entities may experience a minimal increase in administrative costs related to Commission participation and the development of the required report.

Nursing facility admission policies and exclusion of parts from provider agreements

Current law permits a nursing facility to do both of the following until January 1, 2015: (1) exclude one or more parts from its Medicaid provider agreement, even though those parts meet federal and state standards for Medicaid certification, under certain conditions, and (2) refuse to admit an individual who is or may become a Medicaid recipient if at least 25% of its Medicaid-certified beds are occupied by Medicaid recipients at the time the individual would otherwise be admitted. Beginning January 1, 2015, a nursing facility will no longer have statutory authority to exclude any of its parts from its Medicaid provider agreement and will be allowed to refuse to admit an individual who is or may become a Medicaid recipient if at least 80% (rather than 25%) of its Medicaid-certified beds are occupied by Medicaid recipients at the time of

admission. The bill adds an emergency clause and provides the provisions of law that expire on January 1, 2015, to remain in effect.

When current law expires, a nursing facility would no longer be statutorily authorized to exclude any of its parts from its Medicaid provider agreement. Furthermore, a nursing facility would be unable to refuse to admit an individual who is or may become a Medicaid recipient unless at least 80% of its Medicaid-certified beds are occupied. This could increase the number of potential facilities available to an individual who is or may become a Medicaid recipient. Therefore, the bill might affect in which nursing facility these individuals end up receiving care. As a result, state and federal Medicaid costs could increase or decrease depending on the amount of the Medicaid payments made to the facility that ends up providing the care.

Reinstatement of radiologic licenses

The bill permits a license to practice as a general x-ray machine operator, radiographer, radiation therapy technologist, or nuclear medicine technologist to be reinstated if it has lapsed or otherwise become inactive. The bill requires the Ohio Department of Health (ODH) to prescribe and provide an application form and to establish rules that specify a reinstatement fee that does not exceed the cost incurred in reinstating the license.

The bill specifies that an applicant must continue to meet the conditions for receiving an initial license, but provides that the length of time that has elapsed since the required examination was passed is not a consideration in determining whether the applicant is eligible for reinstatement. The bill also specifies that the applicant must complete the continuing education requirements for reinstatement, which also shall be established in rules by ODH. Additionally, the bill specifies that an individual may apply for reinstatement, even if the individual had applied prior to the effective date of the bill for a new license and the application was denied.

ODH may experience an increase in administrative costs to adopt rules regarding license reinstatement, to prescribe and provide an application form, and to review applications for reinstatement. However, the bill allows ODH to establish a reinstatement fee, which would help to offset these costs. These provisions are declared an emergency by the bill; thus, any related costs may begin to incur immediately after the bill's passage.

Lyme disease testing

The bill eliminates requirements regarding patient notice of the limits of Lyme disease testing when a dentist, advanced practice registered nurse, physician assistant, or physician orders a test for the presence of Lyme disease in a patient. These health care professionals are currently required to obtain a signature from the patient or patient's representative indicating receipt of the written notice, which is to be kept in the patient's record. Public hospitals and public clinics that employ these professionals

and conduct Lyme disease testing may experience a minimal decrease in administrative and printing costs as a result of this elimination.

Semiannual report for controlled substances containing opioids

The bill requires the Ohio State Board of Pharmacy, if a drug database is established and maintained,²⁹ to submit a semiannual report to various state agencies and legislative bodies and to make the report available on the Board's website. The bill also requires the report to provide an aggregate of the information submitted to the Board regarding prescriptions for controlled substances containing opioids, including the number of prescribers who issued prescriptions, the number of patients to whom controlled substances were dispensed, the average quantity, and the average daily morphine equivalent dose of the controlled substances dispensed per prescription. The Board would experience an increase in costs to develop the required report and make the report available on its website.

Various changes related to Ohio Automated Rx Reporting System

The bill modifies a current law provision that requires the State Board of Pharmacy to monitor whether applicants for renewal of their identification cards have been granted access to the Board's drug database known as the Ohio Automated Rx Reporting System (OARRS). The bill excludes pharmacy interns from the requirement to have access to OARRS as a condition of renewal, and thereby applies the requirement only to pharmacists. Further, the bill specifies that the requirement to have access to OARRS applies only to pharmacists who dispense or plan to dispense controlled substances in Ohio. The bill specifies that if the pharmacist applying for renewal certifies to the Board that the applicant has been granted access to OARRS and the Board finds through an audit or other means that the applicant has not been granted access, the Board may take disciplinary action. The bill also modifies a provision of existing law that imposes criminal penalties and permits the Board to restrict further access to OARRS if a person who receives OARRS information subsequently releases that information. Under the bill, these sanctions do not apply in the following circumstances: (1) when a prescriber or pharmacist provides the information to a patient or patient's personal representative or (2) when a prescriber or pharmacist includes the information in a patient's medical record.

The State Board of Pharmacy may experience a minimal increase in costs to investigate and take disciplinary action if it discovers that a pharmacist has not been granted access to OARRS after the pharmacist has certified that he or she has been granted access as part of the identification card renewal application process. Additionally, the Board may realize a minimal decrease in administrative or monitoring costs since pharmacy interns are excluded from the requirement to have OARRS access.

²⁹ The Ohio State Board of Pharmacy has established and maintained a drug database. The drug database is the Ohio Automated Rx Reporting System or OARRS.

The bill provides an exemption for licensees (dentists, nurses, optometrists, physician assistants, and physicians) seeking registration who prescribe or personally furnish opioid analgesics or benzodiazepines from having to certify to their respective boards whether the licensee has been granted access to the State Board of Pharmacy's OARRS if the licensees practice in another state. The bill allows, rather than requires, the State Dental Board, the boards of Nursing and Pharmacy, and the State Medical Board, to adopt rules that establish standards and procedures to be followed regarding the review of patient information available through OARRS. This may result in a negligible decrease in costs related to the adoption of rules for these boards.

Parental consent for minor relating to opioid analgesic

The bill excludes emergency facilities from having to obtain parental consent when providing treatment to a minor with an opioid analgesic. Public hospitals may experience a decrease in administrative costs related to this exemption. However, there is currently an exemption for treatment associated with or incident to a medical emergency, so any decrease is expected to be minimal.

Controlled substances offenses

The bill includes within the offense of "corrupting another with drugs" a prohibition against knowingly furnishing or administering, or inducing or causing a pregnant woman to use, a controlled substance. Under the bill, a violation is a felony of the first, second, or third degree depending upon the type of drug.

As a result of the bill's criminal prohibition, there could be a small number of additional offenders/juveniles sentenced to a state prison/juvenile correctional facility each year, or sentenced to a longer stay than might otherwise have been the case under current law. Either outcome may result in a no more than minimal annual increase in the institutional operating expenses of the departments of Rehabilitation and Correction and Youth Services.

The bill's criminal penalty enhancement may result in minimal additional costs for a county criminal justice system to process and adjudicate certain felony cases. This is because: (1) it appears likely to create a relatively small number of new felony cases to be prosecuted and adjudicated, and (2) it may involve circumstances where an individual can already be charged with one or more drug offense violations.



Ohio Legislative Service Commission

Joseph Rogers

Fiscal Note & Local Impact Statement

Bill: Sub. S.B. 316 of the 130th G.A.

Date: December 17, 2014

Status: As Enacted

Sponsor: Sen. Cafaro

Local Impact Statement Procedure Required: Yes

Contents: Law enforcement records and sexual assault examination kits pertaining to specified homicide and sex offenses

State Fiscal Highlights

- The Office of the Attorney General's Bureau of Criminal Investigation (BCI) may experience an increase in annual workload and costs related to establishing procedures for the forwarding of DNA specimens collected pursuant to the bill and for returning the contents of sexual assault examination kits to law enforcement agencies, the total costs of which are uncertain.

Local Fiscal Highlights

- Local law enforcement agencies could experience an increase in workload associated with reviewing all records and reports related to investigations of specified homicide and sex offenses. Such costs would likely be minimal.

Detailed Fiscal Analysis

The bill requires a law enforcement agency to do the following:

- Review all records and reports pertaining to its investigations of specified homicide³⁰ and sex³¹ offenses as soon as possible after the effective date of the bill and if after the review, the agency determines that one or more persons may have committed or participated in one of the offenses previously mentioned, the agency is to forward any sexual assault

³⁰ These homicide offenses include: all cases of aggravated murder, murder, voluntary manslaughter, and all cases of reckless homicide, and aggravated vehicular homicide that are a felony of the first or second degree.

³¹ These sex offenses include: rape (including attempted rape), sexual battery, and certain cases of gross sexual imposition.

examination kits that are still in their possession to the Bureau of Criminal Investigation (BCI) or another crime laboratory as soon as possible but not later than within one year after the bill's effective date.

- After the initial review is complete, the agency is to routinely forward the contents of a sexual assault examination kit to BCI or another crime laboratory for DNA analysis if an analysis has not previously been performed within 30 days after the agency determines that one or more persons may have committed or participated in a specified homicide or sex offense.

The bill also requires BCI or a contract laboratory to perform a DNA analysis of the biological material contained in a sexual assault examination kit received pursuant to the provisions described above, and to enter the resulting DNA record into a DNA database. BCI is required to establish procedures for the forwarding of DNA specimens collected pursuant to the provisions described above.

Fiscal effects

Representatives of the Buckeye State Sheriffs' Association and the Ohio Association of Chiefs of Police have indicated that there would be some costs associated with reviewing all records and reports related to investigations of specified homicide and sex offenses. However, such costs would likely be minimal.

As to the testing costs, under current practice, local law enforcement agencies are already encouraged to submit the contents of a sexual assault examination kit to BCI or another crime laboratory for DNA analysis in a timely manner. As such, BCI or other crime laboratories operated by local governmental jurisdictions would not likely experience an increase in workload. The Office of the Attorney General has recently taken steps to help alleviate any testing backlogs that have existed and has worked with local law enforcement to assist in identifying any potential evidence that could be eligible for testing.

SB0316EN.docx/th



Ohio Legislative Service Commission

Garrett Crane

Fiscal Note & Local Impact Statement

Bill: Am. Sub. S.B. 342 of the 130th G.A.

Date: December 11, 2014

Status: As Enacted

Sponsor: Sen. Seitz

Local Impact Statement Procedure Required: Yes

Contents: Traffic law photo-monitoring devices

State Fiscal Highlights

- No direct fiscal effect on the state.

Local Fiscal Highlights

- If new officers are hired and posted at each of the approximately 250 traffic law photo-monitoring devices currently in use, then staffing these devices 24/7 will cost about \$73.0 million statewide per year. Given this cost, municipalities may decrease their use of the devices to a level supported by existing resources.
- If municipalities choose to decrease or eliminate their use of the devices, they will see a reduction in fine revenue generated. Approximately \$12.0 million to \$15.0 million per year in fine revenue is currently being generated statewide.

Detailed Fiscal Analysis

Stationing an officer at each device

The bill establishes several conditions for the use of traffic law photo-monitoring devices by local authorities to detect certain traffic law violations.³² Most significantly, the bill requires a law enforcement officer to be present at the site of the device at all times during its operation.

According to the Insurance Institute for Highway Safety and various media reports, as of December 2014 there are approximately 250 traffic law photo-monitoring devices being used by 15 Ohio municipalities. The table below summarizes the municipalities using photo-monitoring devices and whether their purpose is to enforce red light and/or speed violations.

³² Currently, the devices are used to detect instances of running a red light or violating the speed limit.

Ohio Municipalities Using Red Light and/or Speed Cameras		
Municipality	County	Type of Enforcement
Akron	Summit	Speed
Ashtabula	Ashtabula	Red Light, Speed
Columbus	Franklin	Red Light, Speed
Dayton	Montgomery	Red Light, Speed
East Cleveland	Cuyahoga	Red Light, Speed
Hamilton	Butler	Speed
Middletown	Butler/Warren	Red Light
Newburgh Heights	Cuyahoga	Speed
Northwood	Wood	Red Light, Speed
Parma	Cuyahoga	Speed
Springfield	Clark	Red Light
Toledo	Lucas	Red Light, Speed
Trotwood	Montgomery	Red Light, Speed
Village of Lucas	Richland	Speed
West Carrollton	Montgomery	Red Light, Speed

The bill's requirement that a law enforcement officer be present at the site of a device may have a significant fiscal impact on these municipalities. Operating the devices for 24 hours per day and seven days per week will require at least four officers for each device – a total of approximately 1,000 officers for all 250 devices statewide. If these jurisdictions hire 1,000 new officers to be posted at each device location, and the average annual salary and benefits of a police patrol officer in Ohio is about \$73,000, then the maximum annual cost of stationing an officer at each device is approximately \$73.0 million (1,000 officers x \$73,000 per officer) statewide.

In Ohio, red-light violations range in fines from roughly \$100 to \$200 per offense. Since municipalities tend to utilize private vendors to provide the equipment used to enforce the violations, the vendors receive a percentage of the fine revenue, ranging from 30% to 60% of the ticket value. Factoring in the \$73,000 per year an officer receives, between one and four citations will need to be issued per camera location in order to off-set the cost of stationing an officer at a given traffic camera location per shift. If a camera location is to be staffed for a 24-hour period, between four and 16 citations will need to be issued to completely off-set the cost of stationing an officer at any given location.³³

It is also possible that municipalities will find that hiring the number of new officers necessary to continuously operate the current number of devices is cost prohibitive, and, instead, will decrease the use of the devices to a level at which they

³³ These figures were calculated by dividing \$73,000 by the amount of a ticket fine, then accounting for the cost of a vendor's percentage. Actual figures ranged between 1.3 tickets and 3.2 tickets per shift.

can utilize existing resources. For example, a municipality may operate fewer devices or only operate them at peak traffic times at locations yielding the greatest revenue.

Alternatively, municipalities may completely eliminate the use of the devices. A reduction in the use of the devices will result in a reduction in fine revenue. In the last few years, annual fine revenue has ranged from tens of thousands of dollars to more than \$5.0 million per municipality, depending on the number of devices in that municipality. Statewide, annual fine revenue may be from \$12.0 million to \$15.0 million.³⁴

Other conditions for use of devices

The other conditions for use of the devices that are imposed by the bill include requiring local authorities to: (1) conduct a safety study of each location that is being considered for a device, (2) conduct a public information campaign, (3) publish notice of the intent to use the devices (including where the devices will be used and the date on which the devices will become operational), (4) refrain from imposing fines for violations detected by a device for at least 30 days after deployment of the device, and (5) erect signs leading up to each intersection where a device is located. These requirements may also increase costs for municipalities choosing to use the devices. It is probable, however, that many of the municipalities currently using the devices already meet many of these requirements.

Department of Public Safety annual report

The bill requires the Department of Public Safety to issue a report to the General Assembly that specifies the number of citations issued for texting while driving violations during the previous calendar year. The Department will incur no discernible cost to produce the required report each year as the Bureau of Motor Vehicles (BMV) already collects the necessary citation data.

SB0342EN.docx/th

³⁴ There is no official record of fine revenues statewide. This estimate is based on media reports and contacts with municipalities currently using the devices.

Appendix

All House Bills Enacted in 2014

House Bill	LIS Required?	Subject
5	Yes	Revises the laws governing income taxes imposed by municipal corporations
9	No	Modifies the Receivership Law
10	Yes	Creates alternative removal from office procedures for local fiscal officers and makes other related changes
19	No	Designates various memorial highways
27	No	Designates the last day of February as "Rare Disease Day"
36	No	Designates the Southern Ohio Veterans Memorial Highway, the Specialist 4 Samuel Johnson Memorial Highway, and the Oakley C. Collins Memorial Bridge
44	No	Develops protocols regarding the authority to administer, deliver, distribute, or dispense drugs during certain public health emergencies
45	No	Creates the "Military Sacrifice" license plate
85	No	Increases from \$25,000 to \$50,000, the amount of the Homestead Exemption available to veterans who are permanently and totally disabled
95	No	Certifies recognizing stillborn infants and certified nurse-midwives provision of birth certificate information
105	No	Designates the calendar week including July 17 as "Congenital Diaphragmatic Hernia Week"
107	No	Creates the Career Exploration Internship Program within the Development Services Agency, and makes an appropriation
109	No	Specifies individuals who are permitted to recommend and fit hearing aids and prohibits sales of hearing aids via mail
117	No	Provides for the operation of captive insurance companies in Ohio
123	No	Modifies the law pertaining to Medicaid coverage of telehealth services
129	No	Modifies the law pertaining to protection orders and criminal prohibitions in stalking cases
130	Yes	Modifies court procedures and criminal offenses associated with human trafficking, enhances the penalty for soliciting, and declares an emergency
131	No	Prohibits tanning facilities from allowing the use of sun lamps by individuals under 18 without parental consent and regulates chemical tanning
139	No	Permits certain advanced practice registered nurses and physician assistants to admit patients to hospitals
144	No	Expands restrictions involving alternative nicotine products
165	No	Exempts certain hyperbaric technologists from the laws governing the practice of respiratory care
170	No	Allows an individual to administer naloxone to a person who is experiencing an opioid-related overdose without being subject to criminal prosecution, ensures English proficiency in licensed practitioners of Oriental medicine and acupuncture, permits nurses seeking prescriptive authority to complete a portion of their study through Internet-based study, and declares an emergency
171	No	Permits public school students to attend and receive credit for released time courses in religious instruction conducted off school property during regular school hours
178	No	Makes changes to the laws surrounding school safety drills; seclusion, restraint, and positive behavior intervention; and the Cleveland Scholarship Program

House Bill	LIS Required?	Subject
201	No	Revises requirements for entities of mortgage satisfaction, clarifies the status of volunteer firefighters for purposes of the Patient Protection and Affordable Care Act, makes changes regarding coverage for a dependent child under a parent's health insurance plan, and makes other insurance-related changes
202	No	Modifies licensing laws applying to professional engineers and surveyors
206	No	Creates certain special license plates
213	Yes	Makes changes to child custody and other related laws
218	No	Requires the LeanOhio office in the Department of Administrative Services to establish an entrepreneur in residence pilot program
232	No	Modifies laws governing professional counselors, social workers, and marriage and family therapists
234	No	Makes changes to noise suppressed hunting firearms and changes to the concealed handgun license law
247	No	Makes clear that any individual may perform external defibrillation, extends qualified immunity from civil liability to certain individuals, modifies the affidavit form used to initiate proceedings for court-ordered treatment for mentally ill persons, and allows proceedings for such individuals to be in a probate court in any county
258	No	Allows a licensed spectacle dispensing optician to dispense prepackaged soft contact lenses if the only action necessary is to match the description of the packaging with the written prescription and revises continuing education requirements for certain licensees
261	No	Makes changes to Court of Claims operations, disqualification of judges procedures, reimbursement and per diem compensation of acting and assigned municipal court and county court judges
264	Yes	Establishes care for students with diabetes in schools
270	No	Designates October 16 as "Dravet Syndrome Awareness Day"
286	No	Authorizes the Ohio Developmental Disabilities Council to meet via interactive video conference or teleconference
289	No	Makes various changes to law governing joint economic development zones and declares an emergency
290	No	Modifies the use of school facilities by members of the public and civil immunity in various instances
292	No	Creates the Ohio Aerospace and Aviation Technology Committee
296	No	Authorizes schools and residential and child day camps to procure epinephrine auto injectors, exempts them from certain licensing requirements related to the possession of epinephrine auto injectors, and declares an emergency
309	No	Makes changes to the procedures for charging and collecting fees in connection with protection orders and interpreters
314	No	Requires a prescriber to obtain written informed consent from a parent, guardian, or another adult authorized to consent to the minor's medical treatment before issuing for the minor a prescription for a controlled substance containing an opioid, makes changes regarding the disclosure of medical and confidential information to child fatality review boards and fetal and infant mortality review teams, and makes changes regarding methadone clinic licenses
315	No	Requires reports to the Department of Health regarding newborns diagnosed as opioid dependent, updates the chemical name of a type of controlled substance, and specifies that boards of health may grant variances from and waivers of the rules for maternity homes
318	No	Makes changes to the law governing the retail sale of utility and other trailers, makes changes to procedures for governing motor vehicle shows, and permits new motor vehicle dealers to display vehicles for civic or charitable purposes
319	Yes	Permits a natural gas company to apply for an infrastructure development rider to cover costs of certain economic development projects

House Bill	LIS Required?	Subject
320	No	Extends qualified immunity from civil liability for certain volunteer health care services provided to individuals eligible for or receiving Medicaid; makes changes to the state's physician and dentist loan repayment programs regarding free clinics; creates a volunteer's certificate for retired nurses, and designates December as "Free Clinic Appreciation Month"
326	No	Adds pharmacists to the professional license exception to the Orthotist, Prosthetist, and Pedorthist Licensing Law
341	No	Requires the use of Ohio Automated Rx Reporting System by certain health care professionals
342	No	Permits educational service centers to join education consortia to apply for Straight A grants, modifies grant goals and program operations, and declares an emergency
362	No	Makes changes to the law regarding teacher performance evaluations and authorizes the STEM Committee to grant a designation of STEM school equivalent to a community school or chartered nonpublic school
366	Yes	Requires hospice care programs to establish procedures to prevent diversion of controlled substances that contain opioids
367	No	Modifies laws related to primary and secondary education and establishes requirements regarding controlled substances containing buprenorphine used for the purpose of treating drug dependence or addiction
393	No	Requires the Department of Jobs and Family Services to develop a system for information pertaining to projected salaries and college costs
394	No	Modifies the authority of pharmacists and pharmacy interns to administer immunizations, requires the inclusion of certain information in mammography report summaries, makes various other health-related changes, and declares an emergency
399	No	Designates the first Friday of May as "Prescription Drug Abuse Awareness and Education Day"
404	No	Designates the Portage Lakes area in Summit County the Purple Martin Capital of Ohio
416	No	Provides schools additional calamity day relief in FY 2014, authorizes the Superintendent of Public Instruction to delay the return of student assessment scores in FY 2014, and declares an emergency
430	No	Regulates self-service storage insurance
440	No	Designates various memorial highways and bridges
449	No	Prohibits state institutions of higher education from applying any residency-related quota or restriction to the admission application of a qualified veteran or a veteran's spouse or dependent, authorizes the conveyance of state property, and declares an emergency
463	No	Makes changes to the laws governing dental professionals
465	No	Designates the first week of July as "Neonatal Abstinence Syndrome Awareness Week"
468	No	Makes changes to the law relative to salvage motor vehicles
474	No	Establishes the "Ohio State Beekeepers Association" license plate, "Pediatric Brain Tumor Awareness" license plate, and designates a portion of Interstate Route 75 the "William L. Mallory, Sr. Memorial Highway"
477	No	Authorizes the conveyance of state property and declares an emergency
483*	No	Mid-biennial Appropriations Act
484	No	Makes changes with respect to coordination and administration of various higher education programs
486	No	Makes changes to the coordination of workforce development and economic development programs and provides death benefits to survivors of volunteer police officers killed in the line of duty and disability benefits to disabled volunteer police officers
487	Yes	Modifies law related to primary and secondary education
488	No	Modifies veterans' benefits and services and State Teachers Retirement System membership

House Bill	LIS Required?	Subject
492	Yes	Provides authorization and conditions for the levy and administration of taxes in this state
493	No	Makes various revisions to the Workers' Compensation Law
494	No	Authorizes the use of county regional transportation improvement projects (RTIPs), makes various changes affecting taxes and tax credits, and makes an appropriation
497*	No	Makes capital appropriations and reappropriations for the FY 2015-FY 2016 biennium and other changes
533	No	Modifies the use of tolling on transportation facilities
552	No	Requires the Ohio Department of Health to develop an information sheet regarding Down syndrome, requires health care professionals to distribute the form, and revises language standards for signs containing the international symbol of access
652	No	Modifies the law governing credit union share guaranty corporations
663	No	Modifies certain provisions regarding the death penalty

* Not required for budget bills

All Senate Bills Enacted in 2014

Senate Bill	LIS Required?	Subject
3	No	Revises rule-making and rule-review procedures and requires the Director of Budget and Management to issue a report
42	No	Revises the law governing the state retirement systems, allows a private sector employer to automatically deduct from an employee's compensation contributions to an employee retirement plan or program, changes the optional qualifications to be eligible for the office of sheriff, and authorizes school districts with a safety and security tax levy to report how the district is using funding from that levy to the Ohio Department of Education
43	Yes	Makes changes to the laws governing the civil commitment of and treatment provided to mentally ill persons
69	No	Establishes the Course and Program Sharing Network
78	No	Makes changes to the law regulating specialty construction contractors governed by the Ohio Construction Industry Licensing Board
82	No	Authorizes a corrections commission of a multicounty, municipal-county, or multicounty-municipal correctional center to issue securities of the commission to pay the costs associated with certain improvements of the center; provides that membership on the board of the Ohio Legal Assistance Foundation by a member of the General Assembly does not constitute holding another public office
84	No	Creates the position of Ohio Poet Laureate and designates June as Ohio Community Theatre Month
98	No	Expands the list of entities that can serve as statutory agents
99	Yes	Modifies provisions related to insurance and Medicaid coverage for orally administered cancer medications
106	No	Prohibits the operation of a motor vehicle on or onto any location that is temporarily covered by a rise in water level
140	No	Makes changes to the law governing insurance companies
141	No	Establishes new criminal prohibitions related to casino gaming financial transactions and instant bingo
143	Yes	Makes criminal, juvenile, and motor vehicle law changes
148	No	Designates the Army Pvt. Brandon Sloan Memorial Highway
150	No	Modifies the laws governing fertilizer application and agricultural pollution abatement
155	No	Authorizes joint boards of county commissioners to conduct ditch proceedings via teleconference or videoconference
161	No	Requires motor vehicle headlights to comply with federal standards for headlamp color
172	No	Modifies laws governing land reutilization programs and property tax foreclosures
173	No	Modifies the law governing tasting samples of spirituous liquor, beer, wine, and mixed beverages
177	No	Includes protection of companion animals in protection orders
179	No	Includes recycled water as a private water system for the purposes of regulation by the Department of Health and boards of health
185	No	Designates the Staff Sgt. Sonny Zimmerman Memorial Highway
186	No	Creates the Knights of Columbus license plate
192	No	Grants the Director of Agriculture exclusive authority to regulate invasive plant species
194	No	Permits certain motor-driven cycles and motor scooters to be parked on a sidewalk; revises the purposes for which a historical vehicle may be operated
202	No	Makes changes to the Control Share Acquisition Act

Senate Bill	LIS Required?	Subject
205	No	Revises the law pertaining to the handling of absent voter's ballots
207	No	Modifies parental rights of a person convicted of or pleading guilty to rape or sexual battery
209	No	Designates two new memorial highways
216	No	Revises the law concerning provisional ballots and makes other changes
222	No	Designates the Second Lieutenant David E. Rylander Memorial Highway
226	No	Designates the Sheriff's Sgt. Robert "Bobby" Elliott Memorial Highway
227	No	Designates the second Tuesday of April as "Ohio Internship and Co-Op Appreciation Day"
230	No	Makes changes to provisions related to nonself-injectable cancer drugs and qualification requirements for the Executive Director of State Board of Pharmacy
238	No	Reduces the number of days for absent voting
243	Yes	Creates a three-day sales tax holiday in August 2015 for sales of specified clothing and school supplies, and makes various other changes, including appropriations increases for FY 2015
245	No	Designates five new memorial highways and changes the endpoint of an existing memorial highway
250	Yes	Modifies adoption laws
255	No	Permits a person to present proof of financial responsibility through use of an electronic wireless communications device
258	No	Establishes standards for the performance of pharmacy audits in Ohio and to authorize the continued use of certain analgesics in the practice of optometry
260	No	Prohibits the Registrar of Motor Vehicles from issuing a motor vehicle dealer's license to a motor vehicle manufacturer for the retail sale or lease of new or used motor vehicles under certain circumstances
263	Yes	Requires the Tax Commissioner to notify taxpayers of tax or fee overpayments, and permits the Commissioner to credit the excess against future obligations or issue refunds
272	No	Designates March as "Ohio Maple Syrup Products Month," September as "Parkinson's Disease Awareness Month," and "School Bullying Prevention Awareness Month," and February 21 as "Rascal Flatts Day"
274	No	Makes changes to towing laws and regulations
275	No	Designates March 9 as "Meningitis Awareness Day"
276	Yes	Creates the Commission on Infant Mortality and requires the establishment of infant safe sleep procedures and policies; modifies the offense of "corrupting another with drugs"; retains certain laws regarding nursing facilities' admission policies and exclusions of parts of nursing facilities from Medicaid provider agreements; declares an emergency, etc.
278	No	Requires the completion of a sudden unexplained infant death investigation reporting form whenever a child one year of age or younger dies suddenly and the cause of death is not obvious prior to investigation and requires that the appropriate child fatality review board receive a copy of each completed form
287	No	Modifies authorized investments of interim moneys and inactive moneys under the Uniform Depository Act
294	No	Designates September as "Safe Driving Awareness Month"
300	No	Designates September as "Mitochondrial Disease Awareness Month"
301	No	Designates the week in May that coincides with "Armed Forces Week" as "Ohio Warrior Awareness Week"
310	No	Makes changes to alternative energy, energy efficiency, and peak demand reduction requirements and to create a study committee

Senate Bill	LIS Required?	Subject
316	Yes	Modifies provisions pertaining to law enforcement records and sexual assault examination kits pertaining to specified homicide and sex offenses
342	Yes	Establishes conditions for the use of traffic law photo-monitoring devices
361	No	Modifies provisions related to mental culpability for criminal offenses
378	No	Creates an enforcement process for Ohio's underground-utility-damage-prevention law

2015 LIS Report Final.docx/jc