



OHIO LEGISLATIVE SERVICE COMMISSION

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Fiscal Note & Local Impact Statement

Bill: H.B. 69 of the 132nd G.A.

Status: As Enacted

Sponsor: Rep. Cupp

Local Impact Statement Procedure Required: Yes

Subject: Requires reimbursement of certain township fire and EMS levy revenue, provides up to \$80 million in supplemental funding for counties and transit authorities to mitigate the loss of sales tax revenue from Medicaid health insuring corporations, and makes other changes to current law

State Fiscal Highlights

- The bill provides for transfer to the Medicaid Local Sales Tax Transition Fund (Fund 7104) of up to \$30 million from the GRF in July 2018 if there is an unobligated balance in the GRF at the end of FY 2018. It also provides for expenditure of \$50 million from Fund 7104 in FY 2018, and expenditure of up to \$30 million from the fund in FY 2019.

Local Fiscal Highlights

- Municipalities that create new tax increment financing (TIF) districts would be required to reimburse townships for fire and emergency medical service (EMS) levy revenue foregone due to the districts, if the townships provide the services.
- Subdivisions would be authorized to remove territory from existing joint economic development zones (JEDZs), resulting in reduced revenue to the JEDZs, municipal corporations, and townships.
- Counties and transit authorities would receive up to an additional \$80 million to replace sales tax revenue lost because Medicaid health insuring corporations are no longer paying the sales tax. Such payments would be made from Fund 7104.

Detailed Fiscal Analysis

The bill makes numerous changes to current law, as detailed in the following sections. Some of the changes are related to law that was enacted in Am. Sub. H.B. 49 of the 132nd General Assembly, which is referred to throughout as H.B. 49.

Reimbursement for foregone fire and EMS levy revenue

H.B. 69 would require a municipal corporation receiving service payments in lieu of taxes from a tax increment financing (TIF) incentive district created on or after the effective date of the bill to reimburse levy revenue of a township forgone because of the

TIF district, for levies to provide fire, emergency medical, and ambulance services. The requirement would apply only if the township provides these services in the incentive district. The change would be applicable in tax year 2018 and thereafter. Because real property taxes are paid a year in arrears, the change would affect revenues of municipal corporations and townships starting in FY 2019.

In current law, such reimbursement is required for various enumerated services. The reimbursements are to be paid from the revenue generated by the service payments. The bill would extend reimbursement to fire protection, emergency medical, and ambulance services, that are funded by taxes levied under R.C. 505.39 or division (I) of R.C. 5705.19. In addition, a combined levy of a township under R.C. 5705.19(JJ) would be subject to service payment reimbursement, but only to the extent that the proceeds are used for the purposes described in that section's division (I). More precisely, this reimbursement is required for the increase in the rate levied, for renewal, replacement, or additional levies for the specified services approved on or after January 1, 2006, in TIF districts created on or after that date.

The bill allows a board of township trustees to waive this reimbursement requirement or to negotiate with the municipal corporation that created the TIF district for a lesser amount of reimbursement.

Owners of property in a TIF district make service payments in lieu of, and equal in amount to, taxes that would otherwise be due on a portion of the value of improvements to that property for a specified period of years. The service payments are used to finance public infrastructure improvements in the district by the local government that granted the tax exemption. The taxes due on the portion of the value not exempted from taxation, and distributed to the various units of local government that levy taxes in the tax district where the parcel is located, are unaffected by the TIF.

Current law provides for two types of TIFs, parcel or project TIFs and TIF districts. The parcel or project TIFs include specified parcels. The TIF districts include all parcels within a specified area. The changes made by the bill would apply only to TIF districts.

Levies for township fire, ambulance, and EMS accounted for at least \$482 million of total property tax revenues in tax year 2015, of which the largest share was fire levies, in some cases including EMS. The portion of this accounted for by payments in lieu of taxes in TIF districts, or the reimbursements that would be required by the bill, appears uncertain but could be sizable. Limiting the reimbursement requirement to TIF districts created by an ordinance adopted on or after the effective date of the bill implies that the bill would have no fiscal effect initially, but the cost could become sizable with the passage of time.

Removal of territory from joint economic development zone

The bill changes the definition of "substantial amendment" of a joint economic development zone (JEDZ) contract in R.C. 715.691. Substantial amendment of any JEDZ

contract was prohibited after December 31, 2014, by H.B. 289 of the 130th General Assembly. No new JEDZs have been permitted to be formed since then. By altering one of the criteria in the definition of substantial amendment from "changes the area or areas included in" the zone to "adds new territory to" the zone, the bill by implication allows JEDZ contracts to be altered to remove territory from a JEDZ.

Formation of a JEDZ provided a means for municipal income taxes to be imposed in areas of a township included in the zone, with the proceeds from the income taxes to be used for the purposes of the zone as well as the purposes of the contracting parties, the one or more municipal corporations, and one or more townships that formed the JEDZ.¹ A township cannot impose an income tax on its own. Purposes of the zone included facilitating new or expanded growth for commercial or economic development.

If township territory is removed from a JEDZ, tax revenue to the JEDZ from income earned in parts of the township previously in the JEDZ would decline. The magnitude of such revenue losses to JEDZs, municipal corporations, and townships would depend on how widely territory is removed from JEDZs, on how much income is earned in that territory, and on tax rates on that income. LSC's understanding is that the change made by the bill is intended to alleviate a situation in which a township is being annexed by a municipal corporation that imposes an income tax, the township is a contracting party to a JEDZ, and the annexation is expected to result in taxation of income earned in the township by both the municipal corporation and the JEDZ.

Supplement to Medicaid Local Sales Tax Transition Fund

The bill amends Sections 387.10 and 387.20 of H.B. 49 to add up to \$80 million in payments to counties and transit authorities to replace sales tax revenue they lost due to exempting Medicaid health insuring corporations (MHICs) from the state's sales tax base. Those sections of H.B. 49 required approximately \$207 million in payments to counties and transit authorities already, but new amounts for each county and transit authority specified in the new division (F) of Section 387.20 added by H.B. 69 are shares based on average annual amounts received in the past from the sales tax.

Specifically, H.B. 69 requires that a total of \$50 million be paid from the Medicaid Local Sales Tax Transition Fund (Fund 7104) between January 1, 2018 and February 1, 2018. Transfers totaling up to \$407 million into Fund 7104 were authorized by Sections 512.27 and 512.40 of H.B. 49, more than enough to make the payments already required by H.B. 49. H.B. 69 also requires that up to \$30 million from a possible FY 2018 GRF ending balance be transferred into Fund 7104, and that payments proportional to the January 2018 payments be made from the amount transferred to counties and transit authorities between August 1, 2018 and September 1, 2018.

¹ Two or more municipal corporations were also able to form a JEDZ under this Revised Code section.

Property tax levy certification procedure

H.B. 49 changed requirements pertaining to a resolution or ordinance stating that a taxing authority will proceed to seek voter approval for a property tax levy. It required the taxing authority to certify the resolution or ordinance to the county auditor, in addition to the county board of elections as required in prior law. H.B. 69 removes the requirement for this certification to the county auditor. The requirement for certification to the county board of elections remains unchanged by the bill. Elimination of this certification to the county auditor may reduce costs to units of local government, likely by a minimal amount.

Enterprise zones retail facilities exclusion

The bill makes changes to law on enterprise zones, through which property tax exemptions may be extended to businesses in the zone. Within these zones, the retail facilities exclusion generally precludes places of business engaged primarily in making retail sales from inclusion in enterprise zones, unless located in an impacted city or the affected school district waives the exclusion. The bill specifies that the waiver by the school district applies facility by facility, i.e., that a school district may waive the exclusion for one retail facility and not another.

Also, the bill explicitly allows a township to enter into an enterprise zone agreement with retail businesses with approval of the affected school district. The township must have been delegated authority by the county to exercise powers and duties with regard to that enterprise zone. Under current law, only counties and municipal corporations may create enterprise zones.

This change increases the flexibility that school districts and townships have with respect to enterprise zones and retail facilities. It has no other fiscal effect.

Sales tax rate multiple of 0.1% or 0.25%

The bill specifies that the rate of any sales and use tax levied by counties or transit authorities must be a multiple of one-fourth of one percent (0.25%) or one-tenth of one percent (0.1%). Under current law as enacted in H.B. 49, the rate of any local sales tax that is levied can be levied only in a multiple of 0.1%. This provision in H.B. 49 was to be effective beginning July 2018. Prior to the enactment of H.B. 49, an increase to a local sales and use tax levy was permitted only in increments of 0.25%. Therefore, H.B. 69 provides additional flexibility to these local governments if they want to change their sales tax rates in the increment available prior to changes made by H.B. 49.

Continuing law limits the tax rate of an existing piggyback tax to no more than 1% for a county sales and use tax for county general revenue, plus an additional levy of up to 0.5% for county general revenue for specific purposes (for a maximum county sales and use tax of 1.5%). The limit in continuing law for transit authorities' sales taxes is also 1.5%. This provision leaves these limits unchanged. Thus, the bill has no direct fiscal effect on counties or transit authorities.