

# Local Impact Statement Report

## For Bills Enacted in 2020

Ohio Legislative Service Commission  
September 2021



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## Introduction

R.C. 103.143 requires the Legislative Budget Office (LBO) within the Legislative Service Commission 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 and does not change, even if provisions originally causing the LIS requirement are removed in subsequent or the enacted versions of the bill. Under the statute, LBO is also required to annually compile the final local impact statements completed for laws enacted in the preceding calendar year. The 2021 Report lists the 93 bills enacted in calendar year 2020 and contains the fiscal notes for the 13 House bills and two Senate bills which required an LIS.

The LIS requirement is met through the detailed analysis of local fiscal effects included in LBO'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, some bills enacted in 2020 may have fiscal effects on local government in addition to the 15 bills that required an LIS. For those who are interested in the local fiscal effects of all legislation enacted in 2020, please see the LBO fiscal notes for those laws, which are available on the General Assembly's website ([www.legislature.ohio.gov](http://www.legislature.ohio.gov)) by clicking on *Legislation/Search Legislation*.

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. LBO is required to circulate the draft Report to these associations for comment and to include their responses in the final Report. The final section of the Report is an appendix listing all 62 House bills and 31 Senate bills enacted in 2020.

This Report may be viewed online at [www.lsc.ohio.gov](http://www.lsc.ohio.gov) by clicking on *Publications*, and then *Local Impact Statement Report* under the *Publications by Title* heading.

**LOCAL GOVERNMENT ASSOCIATION  
COMMENTS**



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Cheryl Subler, Executive Director

The County Commissioners Association of Ohio (CCAO) thanks the staff of the Ohio Legislative Service Commission (LSC) for the opportunity to provide comments regarding the 2021 Local Impact Statement Report. This report is an important tool for state lawmakers and local government officials to track the impact of enacted legislation on local communities.

As noted in the report, not all bills are subject to the LIS requirement, thus the Local Impact Statement Report does not entirely capture the impact of state policy decisions on local governments. Primary among those exceptions is the state's biennial budget bill which, in addition to serving as an appropriation vehicle for state operations, also contains tax and other policy changes that significantly impact county revenues and expenditures. CCAO encourages the General Assembly to review all enacted legislation for its impact upon Ohio's local government through the LIS process. Only then will the General Assembly and the public receive the true picture of the impacts that tax and other policy changes have upon counties and other local governments.

Counties are closely tied to the state as the provider of state services at the local level on the state's behalf. Counties operate as local branches of state government, with most state programs and services being delegated to county government for implementation.

Counties rely upon a combination of of permissive sales taxes, property taxes, charges for fees and services, intergovernmental revenue (including the Local Government Fund) and investment income to pay for these services. Because all of these revenue sources are governed by statutory provisions, enacted legislation can significantly impact the counties' receipt of funds from these resources.

CCAO stresses the importance of reviewing local impacts on county operations and revenue streams. As counties work in partnership with the state to provide critical services to all Ohioans, a strong emphasis on limiting negative fiscal impacts to county government is critical.

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.





Ohio Municipal League  
175 S Third St., Ste. 510  
Columbus, OH 43215

September 7, 2021

To Whom It May Concern;

The Ohio Municipal League has reviewed the draft of the Local Impact Statement Report for Bills Enacted in 2020 and would like to make the following comments:

The report provides helpful information to organizations representing local governments, their respective members and the public. This information would have otherwise been difficult to access or compile.

This document traditionally gives both lawmakers and administration leadership insight into how best to invest in our state's cities and villages and the impact of the actions taken by the legislature, both intentionally and any unintentional consequences.

As state budget bills are not included in the Local Impact Statement Report, the League respectfully requests that the legislature revise the policy requirements to include state budget bills in the report. This inclusion would demonstrate the impact that state legislation has on local governments.

We look forward to continuing to strengthen the partnership between Ohio's municipalities and the state in order to ensure a safe and prosperous future for our state and our citizens.

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

Respectfully,

Kent Scarrett  
Executive Director  
Ohio Municipal League



## 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 *2021 Local Impact Statement (LIS) Report*. The LIS Report is an important educational resource for our members and the members of the General Assembly, as it highlights the effect certain legislation passed the previous year may have on townships' budgets. It also keeps legislators and local officials aware of any unfunded mandates created in legislation.

While its often difficult to estimate the exact fiscal impact that legislation will have on townships, LSC does a wonderful job of recognizing the impacts. A total of fifteen bills enacted in 2020 have a fiscal impact on local governments, according to the LIS Report. Of those fifteen bills, nine have a direct impact to townships: HB 18, HB 150, HB 308, HB 340, HB 388, HB 450, HB 665, SB 39, and SB 252.

House Bill 18, House Bill 150, and Senate Bill 39 all have varying levels of impact on the Local Government Fund. HB 18 exempts military disability severance pay from the personal income tax, with LSC estimating losses between \$1.0 and \$1.5 million during the FY 2020-FY 2021 biennium and minimal (if any) fiscal effects in prospective years. The state's GRF would bear most of this loss, while the LGF will bear 1.68 percent. HB 150 eliminates the first \$1 million of tax liability, for purposes of the financial institutions tax (FIT), of new banks for three years and creates a new commercial activity tax (CAT) exclusion for the amount of the principal balance of a mortgage loan in case of gross receipts from the sale or transfer of a mortgage-backed security or mortgage loan by a registered mortgage lender. Both of these provisions have uncertain fiscal impacts, but potential losses will impact the LGF and/or the Local Government Tangible Property Tax Replacement Fund. Finally, SB 39 authorizes a transformational mixed-use development tax credit and a campaign contribution tax credit, both of which would reduce the state's GRF and the LGF. The transformational mixed-use development tax credit is capped at \$100 million per year, while the campaign contribution tax credit is expected to reduce the GRF by \$3.2 million per year and the LGF and PLF by a combined \$0.1 million per year. While the known losses of these changes are relatively modest, the LGF is the second highest source of revenue behind property tax collection for most townships. Any decrease in LGF support increases the strain on township revenues as levies are increasingly difficult to pass.

House Bill 308 creates the State Post-Traumatic Stress Fund to pay for compensation and benefits to a public safety officer disabled by post-traumatic stress disorder (PTSD) in the course of their employment but without an accompanying physical injury. The bill has no immediate cost, as the parameters of a potential program are still under consideration. However, the OTA remains concerned with potential cost implications should local governments be mandated to absorb the costs of new coverage.

House Bill 340 makes numerous changes to laws governing water and drainage improvements undertaken by soil and water conservation districts (SWCDs) and counties. The most significant fiscal effect is the potential loss of property tax revenue stemming from a provision increasing from 4 feet to 10 feet the width of sod or seeded strips used for an improvement's erosion and sediment control which is removed from the property's taxable value. LSC notes that the magnitude of such losses appears indeterminate. However, since townships are heavily reliant on property taxes, losses may be significant for certain jurisdictions. Similarly, one provision of House Bill 665 amends a property tax exemption for county fairgrounds owned by an agricultural society by extending the tax exemption to other property owned by such an agricultural society and used in furtherance of the agricultural society's purposes. This change may result in the tax exemption of real property that is currently taxable, resulting in a revenue loss for applicable townships.

House Bill 388 makes changes to prohibit "surprise billing" for healthcare costs. As LSC states, the additional requirements imposed on health insurers, especially the required payments and the prohibition against increasing cost sharing by covered individuals, are likely to increase health insurers' costs and, by extension,

health insurance premiums. As an employer, townships are likely to experience higher costs to provide healthcare to their employees. As a provider, increased costs for certain health-related services, such as EMS, may also be realized. LSC notes that the magnitude of the impact to health insurance premiums is not known due to lack of information on health benefit arrangements. Similarly, SB 252 prohibits a health plan issuer that covers the treatment of stage four advanced metastatic cancer from making coverage of a drug that is prescribed to treat such cancer or associated conditions dependent upon a covered person demonstrating a failure to successfully respond to a different drug, or “fail first” drug coverage. The provision is likely to increase the utilization of more expensive prescription drugs and increase the cost of providing health benefits, but the extent of this is unknown.

House Bill 450 requires fiscal officers to provide a certificate of transition when leaving office. LSC states that the cost to prepare the certificates are unknown, but there may be some administrative costs in fulfilling this task. The bill also provides greater discretion to the Auditor of State to perform agreed-upon procedure audits for political subdivisions, which may result in cost savings. LSC notes that agreed-upon procedure audits cost up to 50 percent less than traditional financial audits.

While the LIS Report is a helpful review of legislation passed in the previous year and its impact to local governments, it does not give the full picture, as budget bills are not required to have a LIS and are not included in the report. The OTA encourages the General Assembly to consider including budget bills in these processes to give a more comprehensive look at local impact.

Although the true impact of these new laws will not be known until they are implemented, the fiscal analyses provide a base for which townships can determine how a new law may affect their budgets. The OTA appreciates the opportunity to comment and thanks LSC for all their hard work in compiling this data, as it is truly beneficial to legislators and local government groups.





Ohio School Boards  
Association

TO: Terry Steele, Senior Budget Analyst

FROM: Richard Lewis, Chief Executive Officer  
Jennifer Hogue, Director of Legislative Services

DATE: August 31, 2021

RE: **2021 LOCAL IMPACT STATEMENT REPORT**

The Ohio School Boards Association (OSBA) is pleased to take advantage of the opportunity to review the 2021 Local Impact Statement Report on bills enacted in 2020. The Legislative Services Commission (LSC) report to the Ohio General Assembly and to the general public on the fiscal impact of certain specific bills is a valuable service.

The 2021 Local Impact Statement Report highlights 15 bills enacted during 2020 that require local impact statements. Six of the 15 bills have potentially negative fiscal impact on the level of revenues available to support public school districts. These three bills are House Bill (HB) 123, HB 150, HB 340, HB 436, HB 665 and Senate Bill (SB) 39.

OSBA strongly believes and reiterates its longstanding desire to see even more bills subject to having fiscal impact statements prepared. This is particularly true for omnibus bills, such as the biennial budget bill. We do, however, appreciate the opportunity to review and comment on these specific bills.

HB 123 makes changes to the law regarding school security and suicide awareness and prevention education. Districts will have additional costs to meet the bill's requirements related to threat assessment teams and plans as well as school curriculum and reporting programs. If a district does not currently have a threat assessment team, districts and schools will see new costs for administrative support for the team as well as potential collective bargaining issues for personnel serving on those teams. There will also be minimal costs for districts to update their curriculum to meet the new requirement to add at least one hour, or one standard class period, each of evidence-based suicide awareness and prevention, safety training and violence prevention and social inclusion instruction.

HB 150 eliminates for three years the first \$1 million of the financial institutions tax liability of new banks. Should this change occur, Ohio will see a reduction in the General Revenue Fund (GRF). It is difficult to estimate the extent of the impact this change will have because it is unknown how many institutions might be created and use this incentive.

The bill also creates a new commercial activities tax (CAT) exclusion in the case of receipts from the sale or transfer of a mortgage-backed security or a mortgage loan by a mortgage lender that holds a valid certificate of registration, or by a member of the mortgage lender's consolidated elected taxpayer group. This change will decrease annual CAT revenues. The amount of that decrease is not known but is estimated to be several millions of dollars per year.

*OSBA leads the way to educational excellence by serving Ohio's public school board members and the diverse districts they represent through superior service, unwavering advocacy and creative solutions.*

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While funding for school districts is not directly impacted by these changes, any reduction in the CAT or GRF will have real implications for the total dollars available for state support of public education.

HB 340 makes changes to the laws that govern the process for proposing and approving water and drainage improvements undertaken by soil and water conservation districts and counties. A provision in the bill increases from four feet to ten feet the width of sod or seeded strips used for an improvement's erosion and sediment control which is removed from a property's taxable value. This change could result in a loss of property tax revenue to school districts as well as other local government entities. The local impact statement on the bill notes that, "the magnitude of such losses appears indeterminate in the absence of additional information."

HB 436 makes changes regarding screening and intervention for students with dyslexia as well as professional development and certification requirements for teachers. The bill requires, beginning with the 2022-2023 school year, that each district establish a multi-sensory structured literacy certification process for certain teachers and implement an annual dyslexia screening process for certain students.

Districts are likely to see costs increase beginning in FY 2023 to cover the cost of structured literacy certifications for teachers. The costs will vary depending upon guidelines developed by the Ohio Dyslexia Committee, the certification programs selected and the fees charged by providers. The annual dyslexia screenings will also increase costs to schools in the hundreds of thousands of dollars annually statewide and could reach into the millions of dollars, depending on the screening measures identified by the Ohio Department of Education. Districts will also see additional costs to provide intervention or special education services for students with dyslexia identified by the screening tool.

HB 665 amends the property tax exemption for county fairgrounds owned by an agricultural society, extending the exemption to other property owned by the agricultural society and used to further the society's purpose. This could result in property tax revenue losses for local government entities including school districts.

SB 39 specifies that the owner of one or more parcels of land in Ohio where a transformational mixed-use development is planned, or an insurance company that contributes capital to be used in the planning or construction of such a development, may apply to the Tax Credit Authority for certification and preliminary approval of a transformational mixed-use development project tax credit. The nonrefundable tax credits authorized by the bill will reduce receipts from the state foreign and domestic insurance premium taxes, which are deposited into the GRF.

Senate Bill 39 also allows taxpayers to claim a nonrefundable credit for contributions of money made to the campaign committee of a candidate for statewide public office and the General Assembly against the state personal income tax. The reinstatement of this credit will reduce GRF receipts by approximately \$3.2 million per year, starting in FY 2021.

Taken together, the tax exemptions and credits made available through individual bills continue the trend of lower and lower state revenues available to support common and public purposes, including the education of Ohio's children. Appropriate funding for the education of Ohio's children is an ongoing concern for boards of education and should be shared by all of Ohio's citizens.

Once again, OSBA wishes to express appreciation to the Legislative Service Commission for its hard work and diligence on this important task. We look forward to working with you now and in the future.

**FISCAL NOTES FOR BILLS ENACTED  
IN 2020 REQUIRING  
LOCAL IMPACT STATEMENTS**



# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

H.B. 1  
133<sup>rd</sup> General Assembly

## Fiscal Note & Local Impact Statement

[Click here for H.B. 1's Bill Analysis](#)

**Version:** As Enacted

**Primary Sponsors:** Reps. Plummer and Hicks-Hudson

**Local Impact Statement Procedure Required:** Yes

Robert Meeker, Budget Analyst

### Highlights

- The bill's general broadening of intervention in lieu of conviction (ILC) will increase the workload and related annual operating expenses of county and municipal criminal justice systems, including courts, prosecutors, and if applicable, indigent defense counsel, the magnitude of which is indeterminate.
- The bill potentially makes thousands of additional offenders eligible for conviction record sealing. The associated costs for clerks of courts, sentencing courts, prosecutors, and probation departments could be significant, in particular for the state's more populous urban areas. The state, counties, and municipalities generally are likely to gain, at most, minimal annual application revenue.
- Medicaid costs for treatment services are likely to increase under the bill, the magnitude of which will depend on the number of individuals receiving treatment, as well as its type and duration. In addition, any treatment costs not covered under Medicaid or other health insurance may instead be paid for by local alcohol, drug addiction, and mental health services boards, courts, or hospitals.
- The bill's restraint prohibition appears unlikely to affect the state or local courts, but will affect to some degree the operations of secure, county-operated facilities. There is likely to be some cost to develop and implement an appropriate policy, including employee training and health care professional contact protocols, but presumably should not be fiscally problematic to maintain once established.

- It appears that the filing of criminal and/or civil actions for violating the bill's restraint prohibition will be relatively infrequent and that there will be no discernible ongoing costs to the state and local governments.
- The one-time cost for the Attorney General to develop and distribute the required training materials on restraining or confining a pregnant child or woman to state and local officials is likely to be no more than minimal and potentially absorbed using existing personnel and appropriated resources.
- Given the potential number of additional sealing or expungement orders to be processed by the Bureau of Criminal Identification, the Attorney General may need to hire more fingerprint examiners. The payroll cost of a fingerprint examiner is between \$50,000 and \$83,000 annually, including salary and benefits.
- The bill requires that \$15 of the fee for application for the sealing of a record of conviction be credited to the Attorney General Reimbursement Fund (Fund 1060) rather than the GRF. The result is that up to \$390,000 or more that otherwise would have been credited to the GRF will be redirected to Fund 1060.
- The work and related annual operating costs of the Ohio Criminal Sentencing Commission's expanded duties under the bill can be absorbed utilizing its existing staff and appropriated resources.

## **Detailed Analysis**

### **Intervention in lieu of conviction**

The bill grants a presumption of eligibility for intervention in lieu of conviction (ILC) to offenders alleging that drug or alcohol abuse was a factor in the commission of a crime. If an offender alleges that drug or alcohol usage was a factor leading to the offense, then the court must hold a hearing to determine if the offender is eligible for ILC. The bill requires the court to grant the request for ILC unless the court finds specific reasons why it would be inappropriate, and, if the court denies the request, the court is required to state the reasons in a written entry. Under current law, a court must require the offender to abstain from the use of illegal drugs and alcohol for at least one year. The bill places an upper limit of five years on this requirement.

This ILC broadening will increase the workload and related annual operating expenses of county and municipal criminal justice systems, including the courts, prosecutors, and if applicable, indigent defense counsel. The magnitude of that increase is indeterminate because of three unknowns: (1) the number of additional offenders that will request ILC, (2) the number of related hearings that will be required, and (3) whether, in the case of any given offender, it will cost more or less to allow them to participate in ILC rather than to find the offender guilty and impose an appropriate sanction.

The bill also narrows the scope of ILC by making an offender charged with a felony sex offense ineligible for ILC. Continuing law already prohibits an offender charged with a first, second, or third degree felony or an offense of violence from being eligible. The ILC narrowing

may offset, to some degree, the increased workload and related annual operating expenses of county and municipal criminal justice systems noted in the immediately preceding paragraph.

## **Record sealing**

### **Sealing of a record of conviction**

The bill expands the law that allows an offender to have records sealed by: (1) eliminating a cap on the number of fourth and fifth degree felonies that an offender is eligible to seal, (2) raising the number of misdemeanor or felony offenses an offender can have been found guilty of and still be eligible for sealing, and (3) shortening the time at which an offender convicted of a third, fourth, or fifth degree felony is first eligible to apply for sealing.

The expansion potentially makes thousands of additional offenders eligible for conviction record sealing, and, at least in the near term, makes more offenders eligible to apply sooner than otherwise would have been the case under current law.

When an application to seal a record is filed, the court sets a hearing date and notifies the prosecutor's office. The prosecutor may object to the application by filing a formal objection with the court prior to the hearing date. The court also directs the relevant probation department providing services to that particular county to investigate and submit reports concerning the applicant.

The combined annual cost for the clerks of courts, sentencing courts, prosecutors, and probation departments to perform the required work generated by this provision is indeterminate. For the state's more populous urban areas, that cost could be significant.

Upon filing an application with a court, the applicant, unless deemed to be indigent, pays a \$50 fee, of which \$30 is forwarded to the state treasury, and \$20 is paid to the county or municipal general fund as appropriate. Thus, under the bill, the state, counties, and municipalities generally are likely to gain, at most, minimal annual revenue.

### **Sealing of an ILC record**

Under current law, a court may order the sealing of records related to an offense for which a person has successfully completed ILC based on statutes related to records of conviction.<sup>1</sup> The bill modifies the statutes on which record sealing for ILC is based to statutes related to dismissals and nonconvictions.<sup>2</sup> As a result, a person whose records are so sealed is not subject to sanctions for which sealed records of conviction may be eligible under continuing law, such as certain employment and licensing sanctions including automatic license suspension, denial, or revocation for certain professions. This may reduce the workload of certain licensing boards.

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<sup>1</sup> R.C. 2953.31 to 2953.36.

<sup>2</sup> R.C. 2953.51 to 2953.56.



## **Attorney General**

### **Record sealing costs**

The Bureau of Criminal Investigation's (BCI) Fingerprint Unit processes record sealing and expungement requests. An increase in record sealing requests will lead to additional work for BCI and the possibility that additional staff may be needed. A job listing for the Fingerprint Examiner position from February 2020 lists the hourly pay range as between \$19.97 and \$26.05, or between \$41,538 and \$54,184 annually based on 40 hours per week. Including retirement contributions (14%) and state contributions to employee health insurance for bargaining unit employees for FY 2019 (\$8,247 single, or \$20,898 family), the range for payroll costs for a single fingerprint examiner is between \$50,600 and \$82,688 annually. These costs may be offset somewhat by the bill's requirement for a portion of sealing fees to be used by BCI for expenses related to sealing or expungement as described below.

### **Attorney General Reimbursement Fund**

The bill requires that, when a person pays the required \$50 fee to apply for the sealing of a record of conviction, \$15 of the \$30 deposited into the state treasury be credited to the Attorney General Reimbursement Fund (Fund 1060), and the remaining \$15 will continue to be credited to the GRF as under continuing law.

BCI reports an average of 26,000 sealing and expungement orders processed annually for calendar years 2016-2019. Depositing \$15 of the fee paid upon application related to each of those orders would result in revenues of up to \$390,000 each year.<sup>3</sup>

The bill requires the \$15 portion of the application fee credited to Fund 1060 to be used by BCI for expenses related to the sealing or expungement of records. Under existing law, all other moneys in Fund 1060 are required to be used for the expenses of the Office of the Attorney General in providing legal and other services on behalf of the state.

## **Involuntary treatment**

The bill modifies the criteria governing applications for, granting of, and treatment under a mechanism providing for a probate court order requiring involuntary treatment for a person suffering from alcohol or other drug abuse. These modifications are likely to increase the number of petitions and subsequent hearings in probate courts to initiate orders for involuntary treatment, while at the same time reducing the courts' revenue from filing fees.

It is possible that these involuntary treatment provisions could increase the number of people who will receive treatment, which would increase treatment costs. The amount of any increase is uncertain, but will depend on the following factors: the number of individuals affected, whether the individual has health insurance, and whether the services rendered are reimbursable by the individual's health insurance. If an individual is enrolled in Medicaid, it is

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<sup>3</sup> It is important to note the following when considering these numbers: (1) indigent applicants are not required to pay a fee, (2) the court is not required to assess a fee for sealing the record of a juvenile, and certain sealed records are expunged without application to the court, and (3) fees may be collected for applicants who are denied by the court and, therefore, not included in BCI's statistics.

possible that Medicaid will realize an increase in treatment costs. If the individual is uninsured, it is possible that costs could increase for local alcohol, drug addiction, and mental health services boards, courts, or hospitals.

## **Community control violations**

With respect to the prison term that a court may impose for a violation of a community control sanction or for a violation of a law or leaving the state without the permission of the court or the offender's probation officer, the bill specifies that:

- If the remaining period of the offender's community control, or the remaining period of the offender's suspended prison sentence, is less than 90 or 180 days, the prison term may not exceed the length of the remaining period of community control or the remaining period of the offender's suspended prison sentence; and
- The time the offender spends in prison under the term must be credited against the offender's community control sanction or the offender's suspended prison sentence that was being served at the time of the violation.

Under the bill, a court is not limited in the number of times it may sentence an offender to a prison term under existing law and the bill for a violation of the conditions of a community control sanction or for a violation of a law or leaving the state without the permission of the court or the offender's probation officer.

## **Prohibition against restraints**

The bill: (1) generally prohibits a law enforcement, court, or corrections official from knowingly restraining or confining a pregnant charged or adjudicated child or pregnant criminal offender during the child's or woman's pregnancy, hospital transport, labor, delivery, or postpartum recovery (up to six weeks), and (2) subjects the use of restraints to contacting, or being notified by, certain specified health care professionals. If an emergency circumstance exists, the official may contact a health care professional once the child or woman has been restrained and let them know the type of restraint and expected duration. In all other cases, the notification must occur prior to restraining the child or woman.

The bill will not likely have a discernible impact on the departments of Rehabilitation and Correction or Youth Services, as both departments currently have policies in place dealing with the use of restraints on a child or woman as described above. The bill is also unlikely to have a discernible impact on courts, as the Ohio Judicial Conference reports that it is extremely uncommon for judges to order a child or woman as described above be restrained.

The prohibition is likely to affect to some degree local, mostly county, law enforcement and corrections agencies operating residential facilities. This includes jails, juvenile detention centers, community-based correctional facilities (CBCFs), and community corrections facilities (CCFs).

County sheriffs are responsible for transporting persons being held in a county jail to court. Some counties are able to use video conferencing, but for those that do not have those capabilities, the county sheriff's office would be responsible for contacting a health care

professional who is treating a child or woman as described above prior to the use of restraints, should the need arise.

According to the Buckeye State Sheriffs' Association, leg shackles, handcuffs, and waist belts are common everyday restraints used when transporting anyone under arrest or those who are incarcerated and are exiting the security perimeter of the jail, regardless of pregnancy status. A pregnant child or woman may require frequent trips to a physician outside of the facility for prenatal care.

It is possible that the bill will result in delays for both court proceedings and medical attention if the county sheriff first needs to contact the appropriate health care professional before using restraints. The potential cost of such delays is not readily quantifiable. Presumably, a policy will be implemented that prospectively addresses the potential for delays and minimizes any related costs.

### **Penalty and civil remedy**

The bill provides that a violation of the restraint prohibition is a violation of the existing offense of "interfering with civil rights." A violation is a first degree misdemeanor, which is punishable by a jail stay of no more than 180 days, a fine of up to \$1,000, or both. As state and local officials are expected to incorporate the bill's requirements into their daily operations, including ensuring that employees are trained, it is likely that violations will be infrequent. This suggests that, for county and municipal criminal justice systems that process misdemeanor cases and sanction violators, there will be no discernible ongoing costs, and occasional revenue (court costs and fees, and fines) generated for distribution between local governments and the state, as applicable.

The bill also permits a child or woman as described above to file a civil action for damages against the official who committed the violation, the official's employing agency or court, or both. Depending on the circumstances of the violation, the action would be filed in one of the following: a common pleas, municipal, or county court, or the state's Court of Claims. If, as described in the immediately preceding paragraph, violations are infrequent, then it is likely that the filing of civil actions will be relatively infrequent as well. The state and local governments may incur occasional costs to defend and adjudicate such matters. The timing and magnitude of any damage payments that the state or a local government may incur is indeterminate.

### **Attorney General training materials**

The bill requires the Attorney General to provide training materials to law enforcement, court, and corrections officials to train employees on the proper implementation of the requirements regarding restraining or confining a child or woman as described above. The one-time cost for the Attorney General to develop and distribute the required training materials to state and local officials is likely to be no more than minimal and potentially absorbed using existing personnel and appropriated resources.

## Ohio Criminal Sentencing Commission

According to staff of the Ohio Criminal Sentencing Commission, the work and related annual operating costs of its expanded duties under the bill can be absorbed utilizing existing staff and appropriated resources.<sup>4</sup> Those expanded duties include:

- Designating the Commission a criminal justice agency and specifies that it is authorized to apply for access to the computerized databases of the National Crime Information Center or the Law Enforcement Automated Data System (LEADS) in Ohio, and to certain other computerized criminal justice information databases; and
- Requiring the Commission to study the impact of sections relevant to the bill on an ongoing basis and to make biennial reports, commencing not later than December 31, 2020, to the General Assembly and the Governor regarding the results of the study described above and recommendations.

HB0001EN/zg

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<sup>4</sup> The Ohio Criminal Sentencing Commission is an affiliated office of the Supreme Court of Ohio that, among other things, studies Ohio's criminal laws, sentencing patterns, and juvenile offender dispositions, and recommends comprehensive plans to the General Assembly that encourage public safety, proportionality, uniformity, certainty, judicial discretion, deterrence, fairness, simplification, additional sentencing options, victims' rights, and other reasonable goals.



# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
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Legislative Budget  
Office

H.B. 18  
133<sup>rd</sup> General Assembly

## Fiscal Note & Local Impact Statement

[Click here for H.B. 18's Bill Analysis](#)

**Version:** As Enacted

**Primary Sponsors:** Reps. Vitale and Crawley

**Local Impact Statement Procedure Required:** Yes

Russ Keller, Senior Economist

### Highlights

- The bill unequivocally exempts military disability severance pay from the personal income tax. The bill's fiscal effect on disability severance pay received on or after the effective date of the bill is minimal, if any.
- The bill authorizes a taxpayer to file a refund application with the Tax Commissioner on or before December 31, 2020, for an amount equal to state income tax erroneously paid by the taxpayer on income received as a disability severance payment. The provision applies only to those taxpayers whose federal tax liability or federal adjusted gross income was altered prior to January 1, 2019. In practice, this provision applies to veterans affected by recent federal legislation that corrects for a multi-year Department of Defense error originating in 1991.
- If one assumes that Ohio income tax was paid on this income source when it was earned, this provision could reduce income tax receipts by between \$1.0 million and \$1.5 million during the FY 2020-FY 2021 biennium. If fewer veterans than estimated in this analysis claim a credit, the revenue loss would be close to or below the lower end of this range.
- Under current law, the GRF would bear 96.62% of any revenue loss under the income tax during the current biennium, while the Local Government Fund (LGF) would bear 1.68% and the Public Library Fund (PLF) would bear 1.70% of any such revenue loss.

## Detailed Analysis

H.B. 18 permits taxpayers to deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, amounts received by the taxpayer as a disability severance payment, computed under 10 United States Code (U.S.C.) 1212, following discharge or release under honorable conditions from the armed forces.

The bill also authorizes a personal income tax (PIT) refund for an amount equal to taxes erroneously paid under that section on an amount received as a disability severance payment prior to January 1, 2019. Affected taxpayers must file an application with the Tax Commissioner on or before December 31, 2020. Applications must demonstrate that the taxpayer's federal adjusted gross income (FAGI) or federal income tax liability was "altered" for a year prior to tax year (TY) 2019.

The U.S. military makes disability severance payments to service members who are discharged because of physical disability and who have less than 20 years of service and less than a 30% disability rating. The income is not taxable at the federal level, but amounts were erroneously withheld by the Secretary of Defense from 1991 to 2016. H.B. 18 allows affected taxpayers to gain a retroactive state tax benefit by filing a refund application with the Tax Commissioner on or before December 31, 2020.

### Background – disability severance pay

Members who separate from the military before they are eligible for retirement may receive separation or severance pay. Disability severance pay is a one-time lump sum payment. The amount equals two months of basic pay for each year of service, which includes active service and inactive duty points, but the total service years cannot exceed 19 years. Additionally, the minimum number of years required for computation purposes is six years for a disability incurred in the line of duty in a combat zone, or three years in the case of any other member.<sup>1</sup>

A qualifying military member must meet all of the following requirements to be eligible:

- Be found unfit for duty;
- Have less than 20 years of service; and
- Have a disability rating of less than 30%.

Disability severance pay for personal injury or sickness resulting from active service in the armed forces is largely exempt from federal taxation under Section 104(a)(4) of the Internal Revenue Code. However, it is theoretically possible that disability severance pay is taxable if unique circumstances prevent the veteran from qualifying under the exemption's broad-based criteria. Since federal income serves as the starting point for determining taxable income in Ohio, income exempt from federal taxation would generally be exempt from state income taxation.

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<sup>1</sup> <https://www.dfas.mil/retiredmilitary/plan/separation-payments/disability-severance-pay.html>.



## **State exemption for Ohio military retirement pay**

Beginning with TY 2008, Ohio's personal income tax exempts "amounts received by the taxpayer as retired personnel pay for service in the uniformed services or reserve components thereof, or the national guard."<sup>2</sup> LSC is uncertain about the extent to which military disability severance pay was included in the personal income tax base, but it will unequivocally be exempt under H.B. 18. Potentially, taxpayers regarded their disability severance pay as retired personnel pay and either did not remit taxes on this income or claimed refunds for taxes withheld against this income. This sort of taxpayer behavior, and any associated audits that may have been completed by the Ohio Department of Taxation, are confidential in nature and unavailable to LSC.

## **The Combat-Injured Veterans Tax Fairness Act of 2016**

Since 1991, the Secretary of Defense has improperly withheld taxes from severance pay for wounded veterans, thus denying them their due compensation and a significant benefit intended by Congress.<sup>3</sup>

On December 16, 2016, the President of the United States signed into law the Combat-Injured Veterans Tax Fairness Act of 2016, which provides eligible veterans the right to seek a refund of taxes they may have paid on disability severance pay. The Defense Finance and Accounting Service (DFAS) and the Internal Revenue Service (IRS) are jointly responsible for ensuring that affected separated members receive notification of their rights under this new law.<sup>4</sup> During July 2018, DFAS and the IRS sent letters to approximately 130,000 separated military members who had received disability severance pay as income and with federal tax withholding applied.<sup>5</sup>

For veterans who received a lump sum disability severance payment after January 17, 1991, the Combat-Injured Veterans Tax Fairness Act of 2016 may provide additional time to claim a credit or refund for the overpayment attributable to the disability severance payment.

The amount of time for claiming these federal tax refunds is limited. However, the law grants veterans an alternative time frame – one year from the date of the letter from the Department of Defense (DOD). Veterans making these claims have the normal limitations period for claiming a refund or one year from the date of their letter from DOD, whichever expires later. As taxpayers can usually only claim tax refunds within three years from the due date of the return, this alternative time frame is especially important since some of the claims may be for refunds of taxes paid as far back as 1991.

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<sup>2</sup> Division (A)(26) of section 5747.01 of the Revised Code.

<sup>3</sup> Public Law 114-292 of 114<sup>th</sup> Congress.

<sup>4</sup> [https://www.dfas.mil/dsp\\_irs](https://www.dfas.mil/dsp_irs).

<sup>5</sup> <https://www.irs.gov/individuals/military/combat-injured-veterans-tax-fairness-act-claim-information-available>.

LBO economists contacted both DFAS and the Congressional Appropriations Liaison for the Office of the Under Secretary of Defense (Comptroller) about potential information regarding Ohio veterans impacted by this federal legislation. Neither party responded with statistics.

## Fiscal effect

The revenue loss incurred due to H.B. 18 would be concentrated on those veterans with qualifying incomes between TY 1991 and TY 2016, which is the last year the Department of Defense erroneously withheld taxes on disability service payments. Affected veterans filing applications with the Tax Commissioner would subsequently be claiming PIT refunds in FY 2020 and FY 2021.

Current statistics from DOD Defense Manpower Data Center, as cited by Governing Magazine,<sup>6</sup> show that 6,793 active duty service members were stationed in Ohio as of September 2017, and a majority (5,358, or 79%) of these were serving in the Air Force. In total, there were approximately 184,000 Air Force active duty personnel stationed either domestically or overseas, so Ohio's share was approximately 2.9% of the Air Force. The state has an even smaller share of active duty personnel for the entire military. The nearly 6,800 service members stationed in Ohio comprise less than 1% of the total serving worldwide. Given the concentration of Air Force members among those currently serving in Ohio, this analysis will focus on that branch of the military.

The table below contains 22 years<sup>7</sup> of Air Force statistics about the number and average amount of disability severance payments awarded to its personnel. The total number of payments for a given year is the sum of those received by both enlisted and officers. The count and average values are presented separately for these two groups because of the significant differences between the two classifications.

Disability Severance Payments for Active Duty Air Force Personnel, FFY 1995 to FFY 2016				
Federal Fiscal Year	Enlisted, Number	Enlisted, Average Payment	Officers, Number	Officers, Average Payment
2016	874	\$44,851	28	\$88,536
2015	694	\$43,934	33	\$86,485
2014	816	\$45,056	39	\$66,718
2013	948	\$39,093	35	\$66,486

<sup>6</sup> <https://www.governing.com/gov-data/public-workforce-salaries/military-civilian-active-duty-employee-workforce-numbers-by-state.html>.

<sup>7</sup> Budget appropriations documentation for prior years is not posted to the U.S. Air Force website, so the table does not contain values for federal fiscal year (FFY) 1991 through FFY 1994. However, values were extrapolated for this analysis.

Disability Severance Payments for Active Duty Air Force Personnel, FFY 1995 to FFY 2016				
Federal Fiscal Year	Enlisted, Number	Enlisted, Average Payment	Officers, Number	Officers, Average Payment
2012	972	\$38,451	34	\$64,706
2011	979	\$32,618	33	\$57,394
2010	962	\$28,061	30	\$59,967
2009	875	\$24,855	27	\$57,222
2008	924	\$24,851	15	\$54,867
2007	867	\$27,775	37	\$50,146
2006	1,737	\$23,693	48	\$38,799
2005	1,045	\$24,013	38	\$46,630
2004	832	\$23,171	24	\$45,458
2003	598	\$19,615	32	\$35,694
2002	534	\$16,066	17	\$42,151
2001	603	\$16,088	25	\$50,512
2000	816	\$17,141	54	\$39,710
1999	798	\$17,799	45	\$34,889
1998	664	\$16,842	32	\$38,000
1997	575	\$14,538	20	\$42,867
1996	521	\$12,758	36	\$32,556
1995	491	\$12,070	23	\$28,909

Source: "Detail of Military Personnel Entitlements" tables within annual executive budget submission, <https://www.asafm.army.mil/offices/bu/content.aspx?what=BudgetMaterials>.

Based on historical information in the above table, the median disability service payment for enlisted Air Force members was about \$24,000 and the median for officers was about \$45,000. Marginal state tax rates applicable from TY 1991 to TY 2016 would likely be about 4.8% for enlisted and 5.7% for officers. Under these parameters, it may be reasonable to expect that H.B. 18 enables taxpayers formerly serving as enlisted members to claim about \$1,150 in

refundable PIT credits while former officers claim closer to \$2,565. Since enlisted members outnumber officers in the above table by a factor of 25 to 1, a weighted average would make the typical taxpayer savings for an Ohio-based military member to be around \$1,200. Based on a sum total of figures in the table above, Air Force members likely represent about 22,000 of the 130,000 veterans contacted by DFAS. If Ohio has 3% of the 22,000 affected Air Force members, then 660 Ohioans could claim this credit and save a combined \$792,000. Personnel from other military branches must also be considered for this analysis; after making allowance for them, H.B. 18 would likely reduce PIT receipts between \$1.0 million and \$1.5 million over the FY 2020-FY 2021 biennium as credits are claimed.

Prospectively, H.B. 18 has a minimal fiscal effect, if any, for income earned in taxable years on or after the bill's effective date. The GRF would bear 96.62% of any revenue loss under the income tax during the current biennium under an uncodified provision of H.B. 166 of the 133<sup>rd</sup> General Assembly, while the LGF would bear 1.68% and the PLF would bear 1.70% of any such revenue loss.<sup>8</sup>

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<sup>8</sup> Under current law, the GRF share would revert to 96.68% of the revenue loss beginning July 1, 2021, and the LGF and PLF shares would each revert to 1.66%; these shares are specified in codified law.



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# OHIO LEGISLATIVE SERVICE COMMISSION

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**H.B. 123**  
**133<sup>rd</sup> General Assembly**

## Fiscal Note & Local Impact Statement

[Click here for H.B. 123's Bill Analysis](#)

**Version:** As Enacted

**Primary Sponsors:** Rep. Manning

**Local Impact Statement Procedure Required:** Yes

Dan Redmond, Budget Analyst

### Highlights

- The bill earmarks \$2.5 million in FY 2021 from the GRF foundation funding line item (but does not increase the item's appropriation) to provide additional payments to eligible internet or computer based dropout prevention and recovery community schools participating in a pilot program created by the bill.
- Public districts and schools may also incur some additional administrative costs to carry out various requirements of the bill with respect to threat assessment teams and plans, the anonymous reporting program, and school curriculum.
- Mandatory school district participation in an anonymous reporting program of the district's choosing may increase the workload of the Department of Public Safety (DPS), which currently operates such a program for districts free of charge. Local law enforcement agencies will also likely see an increased workload to respond to reported information.
- The bill shifts administrative and rulemaking responsibilities, and potentially some associated costs, related to school emergency management plans from the Ohio Department of Education (ODE) to DPS.
- ODE, DPS, the Attorney General's Office (AGO), and the Department of Mental Health and Addiction Services' (OhioMHAS) administrative responsibilities may increase to develop and maintain various lists of approved training programs and, for all but OhioMHAS, a model threat assessment plan for public schools.

- School district and other public school costs may increase by \$1,000 to \$1,500 annually for each faculty advisor if districts and schools opt to create the student-led violence prevention clubs authorized by the bill.

## **Detailed Analysis**

The bill makes various changes to the law regarding school security and youth suicide awareness education and training, and creates a new pilot program to provide additional funding for certain internet and computer based dropout prevention and recovery community schools in FY 2021. Provisions with potential fiscal effects are discussed below.

### **Dropout prevention and recovery e-school funding pilot program**

The bill creates a pilot program to provide additional funding to certain internet or computer based dropout prevention and recovery community schools (“DOPR e-schools”) for FY 2021. The bill funds the program through an earmark of \$2.5 million in FY 2021 from GRF line item 200550, Foundation Funding (but does not increase item 200550’s appropriation). Thus, the additional funding will be directly paid by the state rather than funded through the deduct-and-transfer method typically used to support e-schools. If the additional payments total greater than \$2.5 million, the Ohio Department of Education (ODE) must prorate the payments so that the earmarked amount is not exceeded.

In addition to being a DOPR e-school, e-schools must meet two additional criteria to participate in the pilot program: (1) the e-school must not be operated by a for-profit operator and (2) the e-school must have received a rating of “Exceeds standards” for the combined graduation component on its most recent report card. It appears six schools meet the amendment’s criteria: Auglaize County Educational Academy, Fairborn Digital Academy, Findlay Digital Academy, Goal Digital Academy, Greater Ohio Virtual School, and Quaker Digital Academy. An eligible e-school must opt in to participate in the program. Those that do so are required to implement programming or protocols to document enrollment and participation in learning activities, which may lead to additional administrative costs for participating schools.

For the participating schools, the program will fund students enrolled in grades 8-12. Payments for individual students are calculated first by determining the lesser of \$6,020 multiplied by the student’s maximum full-time equivalent amount for the portion of the school year the students are enrolled in the school and the sum of the following:

- A one-time payment of \$1,750 intended to support initial student enrollment costs;
- $\$6,020 \times \frac{1}{920} \times$  the lesser of the number of hours the student participates in learning opportunities in FY 2021 or 920;
- The lesser of \$2,500 or  $\$500 \times$  either the number of courses the student completed (if the student is in eighth grade) or the number of credits earned by the student (if the student is in grades 9-12).

Next, the e-school’s additional payment is calculated as an amount equal to the calculation above less the amount the e-school receives for students in grades 8-12 through the opportunity grant component of the current law funding formula.



ODE may incur costs to administer the program. The bill requires the Department to complete a review of each participating e-school's attendance and, if any are determined to have been overpaid, requires the school to repay the amount overpaid. Additionally, ODE must issue a report on the program by December 31, 2021. ODE may, if determined appropriate, require any participating e-school to create a debt reduction plan approved by the school's sponsor

## **School threat assessment teams**

The bill requires public districts and schools, within two years of the effective date of the bill, to create a threat assessment team for each school building that serves grades 6-12. The team may consist of school administrators, mental health professionals, school resource officers, and other necessary personnel. Each member of the team must complete an approved training program every three years and the district must report on completion of the training through submission of its emergency management plan to the Department of Public Safety (DPS). If a school has a similarly constituted safety team, that team may serve as the threat assessment team required by the bill, provided it and the team members meet the bill's requirements. Existing teams that have completed a training in the year preceding the implementation date of the provision do not need to complete the training again for two years after the provision's implementation date, on the condition the program is ultimately approved by DPS. To assist public schools in meeting the threat assessment team requirement, the bill requires DPS, in consultation with ODE and the Attorney General's Office (AGO), to develop, no later than two years after the bill's effective date, and maintain a list of approved training programs for completion by school threat assessment team members, one of which must be free or of no cost to schools.

Public districts and schools may incur some minimal costs to provide administrative support to the teams if they do not currently have a similar team. Further, the workload of the personnel serving on the teams will increase, which could become a collective bargaining issue. However, there is likely little, if any, cost to obtain the required training, as no-cost training options are currently available. For example, the nonprofit Sandy Hook Promise organization provides an evidence-based Safety Assessment and Intervention Program to school districts at no cost.<sup>1</sup> The organization provides a day-long workshop to identify existing gaps in current safety policy and code of conduct and help schools learn how to respond to reported threats, get to the root cause of threatening behavior, and keep the school community safe. Following the training program, the organization provides ongoing support and resources to the teams. The organization is partnering with ODE to scale the program statewide through a federal Student, Teachers, and Officers Preventing (STOP) School Violence Act grant from the U.S. Department of Justice.

The bill also grants immunity from damages in a civil action to a school, school district, member of a district board of education or governing authority, or school employee (including a member of a threat assessment team) for injury, death, or loss to person or property that arises from duties related to school safety (unless such an act or omission is willful or wanton misconduct). It is possible the bill's granting of immunity results in fewer civil action filings or, if

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<sup>1</sup> [https://www.sandyhookpromise.org/prevention\\_programs](https://www.sandyhookpromise.org/prevention_programs).

filed, such civil actions might be more promptly adjudicated. Either outcome may generate some operational savings to the various involved courts due to a decrease in judicial dockets or related workload of court personnel. However, if the number of civil actions filed were reduced or curtailed, any savings may be offset by less revenue from local court costs and fees. It appears that any fiscal effect on courts will likely be minimal.

## **Oversight of emergency management plans; model threat assessment plan**

The bill generally shifts the administrative responsibility for oversight and rulemaking of school emergency management plans from ODE to DPS, which may lead to a decrease in expenses for ODE and an increase in expenses for DPS. However, the bill requires DPS to develop the rules in consultation with members of the education community. The two departments already work collaboratively in this area, so any fiscal effect resulting from this change is likely to be limited. Under current practice, Ohio Homeland Security officials within DPS review the emergency management plans submitted by schools and provide feedback regarding best practices and plan improvement.

The bill also increases the administrative responsibilities of DPS, ODE, and AGO to develop a model threat assessment plan meeting certain requirements that may be included in each school building's emergency management plan required under continuing law. The model plan must be developed no later than two years after the bill's effective date using evidence-based threat assessment processes or best practice guidelines created by the National Threat Assessment Center (NATC) as a resource. NATC is an arm of the U.S. Secret Service created in 1998 to "provide guidance and training on threat assessment both within the U.S. Secret Service and to others with criminal justice and public safety responsibilities." Such evidence-based threat assessment processes, guidelines, and reports on campus safety and school-based violence are readily available at the National Threat Assessment Center's website.<sup>2</sup> There also may be some additional administrative workload for public schools that opt to develop and administer their own threat assessment plans.

## **Anonymous reporting program**

The bill requires school districts and community and STEM schools to register with the SaferOH tip line operated by DPS or enter into an agreement with an anonymous reporting program of the district or school's choosing, so long as the program does the following:

- Operates 24 hours per day, seven days per week ("24/7");
- Forwards reported information to and coordinates with school threat assessment teams and law enforcement agencies;

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<sup>2</sup> U.S. Department of Homeland Security, U.S. Secret Service. "NATC Research and Publications." <https://www.secretservice.gov/protection/ntac/research/>.

- Submits annual reports to ODE and DPS regarding the number of reports made through the reporting program and the method by which they were received, disaggregated by school.

The bill requires districts and schools to annually submit to ODE and DPS the following data resulting from anonymous reports: the number and type of disciplinary actions and mental wellness referrals, and the race and gender of the students subject to disciplinary actions and mental wellness referrals.

SaferOH is a statewide, anonymous, “24/7” school safety tip line.<sup>3</sup> It was launched by ODE and DPS, and is free of charge to every school in the state. Schools need only to register online to allow individuals to anonymously share information with school officials and law enforcement about threats to student safety. DPS’ Ohio Homeland Security Threat Assessment and Prevention Unit processes any tips, when necessary, forwards them to local school and law enforcement officials, and tracks their disposition. The bill may result in some additional administrative costs for districts and schools and DPS, if chosen, to enter into agreements and to compile the required annual reports. Greater participation in the DPS tip line or other reporting programs will likely increase the workload of all involved entities to administer the system and respond to reported information.

## **Curriculum-related provisions**

ODE’s administrative costs may increase to develop and maintain a list of approved training programs for instruction in (1) suicide awareness and prevention and violence prevention and (2) social inclusion. Each list of training programs must include one option which is free or of no cost for schools. In addition, there may be some additional administrative costs for the Ohio Department of Mental Health and Addiction Services (OhioMHAS) and DPS to consult with ODE on the training programs.

The bill may minimally increase costs for school districts to update their curriculum to add at least one hour, or one standard class period, each of evidence-based suicide awareness and prevention, safety training and violence prevention, and social inclusion instruction. Some districts may already offer such instruction, and the bill also specifically permits schools to use assemblies, digital learning, or homework to satisfy the requirements. However, the bill requires districts to use one of the training programs approved by ODE.

## **Violence prevention clubs**

The bill permits school districts and other public schools to designate a student-led violence prevention club for each building that serves grades 6-12. If designated, these student-led clubs must implement and sustain training and awareness activities related to social inclusion and suicide and violence prevention, be open to the entire student body, foster opportunities for leadership and development, and have at least one adult advisor. Typically, faculty members are paid to serve in advisory roles. Subject to collective bargaining agreements, this provision could

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<sup>3</sup> [https://saferschools.ohio.gov/content/tip\\_line\\_information](https://saferschools.ohio.gov/content/tip_line_information).

cost anywhere from \$1,000 to \$1,500 per building per year to pay the additional amounts to the advisor for any new clubs school districts and other public schools opt to create under the bill.

### **Educational service center eligibility for school safety training grants**

The School Safety Training Grants Program supports school safety and school climate programs and training for public and chartered nonpublic schools, local law enforcement agencies, and schools operated by county developmental disabilities boards administering special education services programs. The program is funded using GRF line item 055502, School Safety Training Grants, in AGO's budget. H.B. 166 appropriates \$12.0 million for the grants in FY 2021.

The bill adds educational service centers to the list of eligible grant recipients, which may increase expenditures for the grants. For FY 2021, schools are eligible to receive the greater of \$2,500 or an amount equal to \$5.22 per student, \$500 per completed training, and \$300 per building for vulnerability assessment.



# OHIO LEGISLATIVE SERVICE COMMISSION

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**H.B. 136**  
**133<sup>rd</sup> General Assembly**

## **Fiscal Note & Local Impact Statement**

[Click here for H.B. 136's Bill Analysis](#)

**Version:** As Enacted

**Primary Sponsor:** Rep. Hillyer

**Local Impact Statement Procedure Required:** Yes

Maggie West, Senior Budget Analyst

### **Highlights**

- The Office of the State Public Defender may incur additional expenditures in order to reimburse counties for the provision of legal representation to indigent defendants in death penalty cases and death row inmates asserting claims of serious mental illness at the time of committing their offense.
- The State Public Defender and the Office of the Ohio Attorney General, both of which are involved in, and incur costs related to, the death penalty appeals process may realize a longer term savings effect for each case that results in life imprisonment without parole instead of the death penalty, as capital cases and their related appeals process are considerably more expensive than noncapital cases.
- The Department of Rehabilitation and Correction may experience an increase in annual incarceration expenditures, as offenders sentenced to life imprisonment without parole that otherwise might have received a death sentence and been executed will serve longer prison stays.
- In the trial phase of certain cases, county criminal justice systems (prosecutors, indigent defense counsel, and courts of common pleas) will experience a potentially significant increase in costs and workload related to proving, or challenging, a finding of serious mental illness at the time the offense was committed.

- The resentencing provision as it relates to current death row inmates may generate significant one-time costs for certain counties, including the sheriff who may have to handle any necessary inmate transportation and security matters.
- A longer-term expenditure savings effect may be created for the county criminal justice system where the offense was committed, specifically the county prosecutor, as capital cases and their related appeals process are considerably more expensive than noncapital cases.

## **Detailed Analysis**

The bill:

- Prohibits a person convicted of aggravated murder who shows that they had a “serious mental illness” at the time of the offense from being sentenced to death for that offense and instead requires them to be sentenced to life imprisonment without parole;
- Requires the resentencing of a person previously sentenced to death who proves that they had a “serious mental illness” at the time of the offense to life imprisonment without parole (and provides a mechanism for resentencing); and
- Defines “serious mental illness” for purposes of the bill’s provisions.

These changes derived from one of the 56 recommendations made by the Joint Task Force to Review the Administration of Ohio’s Death Penalty in their final report issued in May 2014. The Task Force was commissioned by the Chief Justice of the Ohio Supreme Court to review Ohio’s policies concerning the death penalty in order to address continuing concerns of fairness and reliability.

A county is responsible for the trial and sentencing of defendants in aggravated murder cases regardless of whether there is a death specification. This includes both the costs for the prosecution and defense counsel, as many defendants in murder cases are indigent. Any aggravated murder trial, regardless of the presence of a death specification, will likely generate costs for expert witness consultation and testimony, psychologists, and investigators. Those costs are not likely to differ significantly based solely on the presence or absence of a death specification, however, death penalty cases are bifurcated, meaning there are two phases: a guilt phase and a penalty phase. Some of the work performed and information collected as part of the trial’s guilt phase tends to be repeated as part of the penalty phase, thereby increasing the overall costs to conduct a death penalty trial. Other costs, such as jury compensation, defense mitigation and prosecution experts, the number of defense attorneys required, and defense counsel compensation vary by case and by county.

A mix of quantitative and qualitative studies of other states have found that the cost of a case in which a death penalty has been sought and imposed is higher than a murder case in which life imprisonment has been imposed. These studies generally support the following conclusions:

- In some states, capital cases exceed the cost of life imprisonment cases in the range of up to between \$1 million and \$3 million per case.



- The total amount expended in a capital case is between two and a half and five times as much as a noncapital case.

## **Prohibition against sentencing to death**

The bill expands beyond current Supreme Court rulings and prevents execution in more cases by prohibiting a person convicted of aggravated murder who shows that they had a serious mental illness at the time of committing the offense from receiving a death sentence. Instead, the bill requires the court or panel of three judges to sentence the offender to life imprisonment without parole in a case where: (1) the matter of the offender's serious mental illness was raised at the time of the commission of the offense and the offender was found to be ineligible for a death sentence due to serious mental illness, and (2) the offender was convicted of aggravated murder and one or more death penalty specifications.

### **Trial cost increase**

This provision likely means an increase in workload on certain death penalty eligible aggravated murder cases to prove, or challenge, a finding of serious mental illness at the time the offense was committed. Specifically, additional costs may be incurred by the prosecution and defense to pay for expert witnesses, which can be significant and cost in the thousands of dollars, and for the Office of the State Public Defender to reimburse counties for all or a portion of their costs incurred in the provision of legal representation to indigent defendants in death penalty cases.

### **Appellate cost savings**

If a case results in life imprisonment instead of the death penalty, a longer term expenditure savings effect may be created for the county where the offense was committed, specifically the county prosecutor, and for the state, specifically the State Public Defender and the Office of the Ohio Attorney General. All three of these public authorities are involved in, and incur costs related to, the death penalty appeals process. This longer term savings effect may greatly exceed any additional trial costs incurred prior to the imposition of the death penalty.

### **State incarceration cost increase**

The Department of Rehabilitation and Correction would likely experience an increase in annual incarceration expenditures for each offender sentenced to life imprisonment without parole under the bill instead of the death penalty, as offenders that otherwise would have been executed under current law will end up serving longer prison stays. The average stay on death row is just over 17 years at a total estimated cost of around \$473,000, while the average length of stay for life without parole is about 27 years at a total estimated cost of around \$751,000.

## **Resentencing of person previously sentenced to death**

Under the bill, a person convicted of aggravated murder and sentenced to death prior to the bill's effective date is permitted to file a petition with the court claiming that they had a serious mental illness at the time of committing their offense. If the court finds that the person did have a serious mental illness at the time of committing the offense, the court is required to resentence that person to life imprisonment without parole. The bill specifies that in filing such

a petition, a person sentenced to death waives any right to be re-sentenced under the law, as it existed at the time that the offense was committed and instead consents to a sentence of life imprisonment without the possibility of parole.

As of December 31, 2019, there were 143 individuals in Ohio with active death sentences. The number of these inmates that may choose to file such a petition is uncertain. As previously mentioned, these kinds of proceedings can be time consuming for the court, and costly to both the prosecution and defense. A petition alleging serious mental illness by a death row inmate must be filed within 365 days of the bill's effective date.

Of Ohio's 88 counties, 36 had one or more offenders with an active death sentence awaiting execution. Because of motions filed, work is created for the sentencing court, the county prosecutor, public defenders or appointed counsel, and possibly the county sheriff. The extent to which a given county is affected depends largely on the number of offenders filing motions and any related hearings. The table below shows the affected counties along with their corresponding number of offenders on death row (as of December 31, 2019).

Number of Active Death Sentences by County* (Total 143)					
County	Number	County	Number	County	Number
Cuyahoga	21	Warren	3	Clermont	1
Hamilton	21	Allen	2	Clinton	1
Franklin	13	Greene	2	Delaware	1
Lucas	9	Guernsey	2	Erie	1
Trumbull	8	Lawrence	2	Fulton	1
Butler	7	Licking	2	Jefferson	1
Summit	7	Lorain	2	Madison	1
Montgomery	6	Medina	2	Noble	1
Stark	6	Ashland	1	Richland	1
Mahoning	5	Ashtabula	1	Ross	1
Clark	4	Belmont	1	Vinton	1
Portage	3	Brown	1	Wood	1

\*Based on the Ohio Attorney General's 2019 Capital Crimes Report.

According to the Buckeye State Sheriffs' Association, due to the security risk, offenders with a death sentence would be transported separately, meaning multiple trips for some counties, and would require the accompaniment of at least one deputy, if not two. In many cases, this could involve overtime pay depending upon the number of deputies required and the amount of time necessary to transport the offender to and from the sentencing court, which in some cases could be up to several hours each way. For some counties, such as Cuyahoga and Hamilton (21 death row offenders), the one-time costs incurred to transport and secure death row offenders could be significant. If these hearings could be held using video conferencing

technology, the costs to the sheriff would be eliminated. The one-time cost to the court, prosecutor, and public defender for their participation in handling these motions and related hearings is uncertain.

### **Definition of “serious mental illness”**

The bill defines “serious mental illness” to include a diagnosis of at least one of four specified serious mental illness conditions that led to the impairment of a person’s conduct at the time of the offense. The bill also states that a disorder manifested primarily by repeated criminal conduct or attributable primarily to the effects of any alcohol use or drug abuse does not constitute a serious mental illness. Whether all or some of the 143 death row inmates will fit this definition is uncertain. However, it is possible that many, if not all, of these inmates will file a petition with the sentencing court claiming that they had a serious mental illness at the time of the offense.



# OHIO LEGISLATIVE SERVICE COMMISSION

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**H.B. 150**  
**133<sup>rd</sup> General Assembly**

## **Fiscal Note & Local Impact Statement**

[Click here for H.B. 150's Bill Analysis](#)

**Version:** As Enacted

**Primary Sponsor:** Rep. Merrin

**Local Impact Statement Procedure Required:** Yes

Jean J. Botomogno, Principal Economist

### **Highlights**

- For purposes of the financial institutions tax (FIT), the bill eliminates the first \$1 million of tax liability of new banks for three years. The revenue loss from this provision is dependent on bank creation and their total Ohio equity capital (TOEC) which is the tax base for the FIT. Any revenue decrease would affect the GRF, the Local Government Fund (LGF), and the Public Library Fund (PLF). During the FY 2020-FY 2021 biennium, state GRF tax revenue is distributed to the Local Government Fund (1.68%) and Public Library Fund (1.70%), while the GRF retains 96.62% of the revenue.
- The bill creates a new commercial activity tax (CAT) exclusion for the amount of the principal balance of a mortgage loan in case of gross receipts from the sale or transfer of a mortgage-backed security or mortgage loan by a registered mortgage lender. This provision will decrease CAT revenue by several millions of dollars, but LBO is unable to provide a more precise estimate due to a lack of data. CAT revenue is deposited primarily (85%) into the GRF; the remaining 15% is split between two tangible personal property tax replacement funds.

### **Detailed Analysis**

#### **Financial institutions tax**

Continuing law levies the FIT on the basis of a financial institution's "total Ohio equity capital" (TOEC), defined to be the institution's total equity capital multiplied by the ratio of the institution's gross receipts attributed to doing business in Ohio to gross receipts generated

anywhere; the gross receipts ratio described here is called the “apportionment ratio.” TOEC is taxed under a three-tier rate structure: a rate of 0.8% (8 mills) applies to the first \$200 million of a taxpayer’s TOEC – Tier 3, a rate of 0.4% (4 mills) applies to total equity capital greater than \$200 million but less than \$1.3 billion – Tier 2, and a rate of 0.25% (2.5 mills) applies to TOEC greater than or equal to \$1.3 billion – Tier 1. The minimum FIT is \$1,000. In FY 2020, the FIT provided \$214.9 million to the GRF. FIT returns for a tax year are filed in October of the tax year. However, financial institutions are required to make estimated payments in January, March, and May of the tax year, generally in one-third payments, with adjustments and other reconciliations by October of the tax year.

## **Taxation of new banks under the bill**

The bill eliminates for three years the first \$1 million of the FIT tax liability of “de novo bank organizations.” These are bank organizations that first began operations in the taxable year preceding the current tax year or in either of the two immediately preceding taxable years. For these purposes, a bank “began operating” on the day the bank was issued a charter, a certificate of authority, or equivalent document. The bill also specifies that a “de novo bank” does not include any bank that was formed by, acquired by, merged with, or converted by another entity that is or was already subject to the state’s FIT. The fiscal impact of this provision is dependent on the creation of new banks and the size of their TOEC. Any loss in GRF tax revenue would be borne in part by the Local Government Fund (LGF) and Public Library Fund (PLF). The LGF receives 1.68% of GRF tax revenue during the current biennium while the PLF receives 1.70%, and the GRF retains 96.62% under uncoded provisions of H.B. 166, the operating budget act. Under current law, each fund will receive 1.66% of GRF tax revenue, the percentage in codified law, beginning July 1, 2021, while the GRF share will increase to 96.68%.

Data from the Federal Deposit Insurance Corporation indicate that the number of commercial banks in Ohio has decreased in the last ten years. Similarly, data from the Ohio Department of Commerce show a general trend decline for the total number of state-chartered banks. The declines were due to bank closures or sales having exceeded the creation of new financial institutions.<sup>1</sup> In addition, it is probable that any new bank would have a relatively low equity capital for purposes of the FIT. The bill specifies that “de novo banks” are not commercial activity tax (CAT) taxpayers and they would not become taxpayers merely by virtue of not paying the FIT for their first three years if the \$1 million exemption reduces their tax liability to \$0. The table below provides the number of FIT taxpayers and their reported tax liability, by tax year. (Reported tax liability by taxpayers is before any potential future refunds, so actual FIT net payments may differ from total tax liability reported in the table.) Data are from the Ohio Department of Taxation.

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<sup>1</sup> An official at the Ohio Department of Commerce stated that one new bank opened in 2018, three banks opened in 2019, and two applications were pending in 2020.

Number of Taxpayers and Tax Liability		
Tax Year	Number of Filers	Tax Liability (millions)
2014	501	\$174
2015	482	\$198
2016	453	\$173
2017	479	\$196
2018	472	\$212
2019	451	\$208

## Exclusion of CAT receipts for certain mortgage companies

The CAT is a business privilege tax measured by taxable gross receipts of a business and is generally paid by persons with more than \$150,000 in taxable gross receipts in a calendar year. The CAT is not levied on excluded persons as that term is defined under R.C. 5751.01(E).<sup>2</sup> Also, not all revenue of firms is taxable and R.C. 5751.01(F) provides the list of exclusions to arrive at the taxable base for a variety of CAT taxpayers. Continuing law already has a CAT exclusion for mortgage brokers, which are distinct from mortgage lenders under Chapter 1322 of the Revised Code.<sup>3</sup> CAT revenue is deposited into the GRF (85%), the School District Tangible Property Tax Replacement Fund (13%), and the Local Government Tangible Property Tax Replacement Fund (2%).

The bill creates a new CAT exclusion in case of receipts from the sale or transfer of a mortgage-backed security or a mortgage loan by a mortgage lender holding a valid certificate of registration issued under Chapter 1322 of the Revised Code or by a person that is a member of the mortgage lender's consolidated elected taxpayer group.<sup>4</sup> In such sale or transfer, an amount equal to the principal balance of the mortgage loan would be excluded from the taxable base.

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<sup>2</sup> Excluded persons, as that term is defined under R.C. 5751.01(E), includes any person with not more than \$150,000 in taxable gross receipts during the calendar year, except for a person that is a member of a consolidated elected taxpayer, and generally individuals or entities in industries that are subject to another state tax.

<sup>3</sup> For example, a real estate broker's gross receipts include only the portion of any fee for the service of a real estate broker that is retained by the broker and not paid to an associated real estate salesperson or another real estate broker.

<sup>4</sup> A consolidated elected taxpayer group is a taxpayer that has elected to file as a group including all entities that have either 50% or more common ownership or 80% or more common ownership. A major benefit of making this election is that receipts received between members of the group may be excluded from the taxable gross receipts of the group.

This provision will decrease annual CAT revenues by an uncertain amount, but the revenue loss will be several millions of dollars per year.

Data reported by the Ohio Department of Taxation indicate that companies in the finance and insurance sector of the economy had an aggregate tax liability under the CAT of about \$40.7 million in FY 2020. This sector would include mortgage companies, but also companies in some other lines of business; depository institutions (e.g., banks) would not be included because they pay the FIT, while insurance carriers would not be included because they pay the domestic or foreign insurance tax. But CAT payments by all mortgage companies that year, though likely less, could amount to as much as \$25 million; CAT payments for mortgage bankers selling mortgage-backed securities or loans are probably below that amount. However, LBO is unable to provide an estimate of the revenue loss due to the lack of data on the number of taxpayers or taxable gross receipts that may be excluded by the bill's provision.



# OHIO LEGISLATIVE SERVICE COMMISSION

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H.B. 242  
133<sup>rd</sup> General Assembly

## Fiscal Note & Local Impact Statement

[Click here for H.B. 242's Bill Analysis](#)

**Version:** As Enacted

**Primary Sponsors:** Reps. Lang and Jones

**Local Impact Statement Procedure Required:** Yes

Jamie Dorskocil, Fiscal Supervisor

### Highlights

- Cuyahoga County, the village of Orange (Cuyahoga County), and the cities of Bexley (Franklin County) and Cincinnati (Hamilton County) all have enacted plastic use restrictions potentially affected for a 12-month period beginning from the bill's effective date. The effect on their respective enforcement costs and related revenue generation is uncertain.
- The bill has no direct fiscal effect on the state.

### Detailed Analysis

The bill: (1) prohibits a municipal corporation, charter county, or limited home-rule township from imposing a tax, fee, assessment, or other charge on auxiliary containers, the sale, use, or consumption of such containers, or on the basis of receipts received from the sale of such containers, (2) authorizes a person to use an auxiliary container for purposes of commerce or otherwise, (3) sunsets the preceding provisions (1) and (2) 12 months from the bill's effective date, and (4) clarifies that existing anti-littering laws apply to auxiliary containers.

LBO is aware of four local governments that have enacted ordinances (described below) potentially affected by the bill.

1. The village of Orange (Cuyahoga County) passed an ordinance<sup>1</sup> (effective April 1, 2019) requiring retailers to offer only either a reusable carryout bag or a permitted paper bag

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<sup>1</sup> Ordinance 2018-43.



to a customer at the point of sale for the purpose of transporting goods. The ordinance also prohibits plastic bags to be used, retail or wholesale, within the village limits by any business. A violation by a business in the village of Orange is an unclassified misdemeanor punishable by a written warning for the first offense, a fine of up to \$100 for a second offense, and up to a \$500 fine for each subsequent offense. A separate violation is deemed committed each day during or on which a violation or noncompliance occurs or continues.

2. Cuyahoga County passed an ordinance (effective January 1, 2020),<sup>2</sup> prohibiting disposable plastic bags or nonpermitted paper bags from being used within the county by any retail establishment, and requiring such establishments to offer only a reusable bag or permitted paper bag to a customer at the point of sale for transporting goods. A retail establishment found to be in violation is subject to a written warning for the first violation, a civil fine of up to \$100 for a second violation, and a civil fine of up to \$500 for each subsequent violation. A separate violation is deemed committed each day during or on which a violation or noncompliance occurs or continues. Enforcement of the ordinance was delayed until July 1, 2020, in order to give retailers time to prepare. A number of municipalities in the county have opted out of the ban, citing home rule authority.
3. The city of Bexley (Franklin County) passed an ordinance (effective January 1, 2020),<sup>3</sup> generally prohibiting a store from providing a single-use carryout bag to a customer for the purpose of transporting food or merchandise out of the store. A violation is a minor misdemeanor with a fine of not more than \$100. A separate violation is deemed committed each day during or on which a violation or noncompliance occurs or continues.
4. The city of Cincinnati passed an ordinance prohibiting restaurants and “food-service establishments” (which could include grocery stores, convenience stores, and any other business that sells food in a permanent location) from providing single-use plastic bags to customers, with certain exceptions.<sup>4</sup> The ordinance is effective January 1, 2021 or the day following the expiration of any legislation passed by the Ohio General Assembly prohibiting local governments from passing or enforcing charges associated with single-use bags if that date is later than January 1, 2021.

The bill’s provisions authorizing the use of auxiliary containers and clarifying the anti-littering laws codify current practice as auxiliary containers are used and considered litter in the absence of the bill.

HB0242EN/zg

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<sup>2</sup> Ordinance 02019-0005 (enacting Chapter 1304 of the Cuyahoga County Code to implement a Disposable Bag Ban).

<sup>3</sup> Amended Ordinance 14 – 19 (an ordinance to add Chapter 888 to the Bexley City Code to restrict single use plastics in the City of Bexley, Ohio).

<sup>4</sup> Municipal Code Chapter 802, enacted September 10, 2020.



# OHIO LEGISLATIVE SERVICE COMMISSION

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H.B. 308  
133<sup>rd</sup> General Assembly

## Fiscal Note & Local Impact Statement

[Click here for H.B. 308's Bill Analysis](#)

**Version:** As Enacted

**Primary Sponsor:** Rep. Patton

**Local Impact Statement Procedure Required:** Yes

Ruhaiza Ridzwan, Senior Economist

### Highlights

- The bill creates a new fund, the State Post-Traumatic Stress Fund, to pay for compensation and benefits to a public safety officer disabled by post-traumatic stress disorder (PTSD) received in the course of, and arising out of, employment as a public safety officer but without an accompanying physical injury.
- The bill has no direct fiscal effect on the state or political subdivisions. However, in future years, it might affect the state and political subdivisions' costs and liabilities related to PTSD compensation and benefits.

### Detailed Analysis

#### The State Post-Traumatic Stress Fund

The bill creates a new fund, the State Post-Traumatic Stress Fund, in the state treasury. The bill specifies that the Director of Budget and Management (OBM) would be the trustee of the fund. The bill specifies the purposes of moneys in the fund: (1) paying for compensation for lost wages that result from a public safety officer being disabled by PTSD received in the course of, and arising out of, employment as a public safety officer but without an accompanying physical injury, (2) paying for medical, nurse, therapy, and hospital services and medicines required to treat a public safety officer diagnosed with PTSD received in the course of, and arising out of, employment as a public safety officer but without an accompanying physical injury, and (3) paying for administrative costs incurred in providing the specified compensation and benefits.

The bill prohibits an employer from discharging, demoting, reassigning, or taking any punitive action against any public safety officer because the officer filed a claim or instituted, pursued, or testified in any proceedings related to compensation or benefits paid from the fund as a result of a diagnosis of PTSD received in the course of, and arising out of, employment as a public safety officer but without an accompanying physical injury.

The bill requires the Board of Trustees of the Ohio Police and Fire Pension Fund (OP&F), in consultation with certain entities listed in the bill, to prepare, by a disinterested third-party actuary, an actuarial valuation of the funding requirements of the fund that is created under the bill. The actuary is required to complete the valuation in accordance with actuarial standards of practice promulgated by the actuarial standards board of the American Academy of Actuaries. The bill specifies that the Board would be reimbursed by OBM for up to \$500,000 for the expenses incurred in preparing the study. The bill also specifies certain information that must be included in the report of the actuarial analysis, and specifies that the study and report must be completed not later than October 1, 2021. Copies of the report must be transmitted to the OP&F Board of Trustees, the OBM Director, the Speaker and Minority Leader of the House of Representatives, and the President and Minority Leader of the Senate immediately on its availability.

The bill states that no payments can be made from the fund and no person is eligible for any claims under the bill and no liability must accrue to any state party.

### **Fiscal effect**

The bill does not specify the source of funding for the fund or the source of the \$500,000 transfer by the OBM director to the OP&F Board. The bill has no direct fiscal effect on the state or political subdivisions. But even though the bill states that no payment can be made from the fund, it is possible the bill might in future years affect the state and political subdivisions' costs and liabilities related to PTSD compensation and benefits.



# OHIO LEGISLATIVE SERVICE COMMISSION

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H.B. 340  
133<sup>rd</sup> General Assembly

## Fiscal Note & Local Impact Statement

[Click here for H.B. 340's Bill Analysis](#)

**Version:** As Enacted

**Primary Sponsor:** Rep. Cupp

**Local Impact Statement Procedure Required:** Yes

Shannon Pleiman, Senior Budget Analyst, and other LBO staff

### Highlights

- The bill may result in loss of property tax revenue to school districts and other units of local government. The magnitude of such losses appears indeterminate in the absence of additional information.
- The bill contains other provisions that give the state and political subdivisions flexibility in the way they pay assessments on drainage improvements to publicly owned lands. Currently, the only funds that may be used to pay these assessments are motor vehicle revenues or general fund money.

### Detailed Analysis

#### Overview

The bill makes numerous changes to the laws governing the process for proposing and approving water and drainage improvements undertaken by soil and water conservation districts (SWCDs) and counties. The foremost fiscal effect is a potential loss of property tax revenue to school districts and other units of local government. This stems from a provision of the bill increasing from 4 feet to 10 feet the width of sod or seeded strips used for an improvement's erosion and sediment control which is removed from the property's taxable value. Many of the bill's other provisions appear to have little, if any, fiscal effect on SWCDs and counties that undertake these improvements. Certain provisions may allow for some possible cost savings. For example, the bill could reduce travel costs by removing the requirement that the SWCD board or board of county commissioners meet at a designated location near the proposed improvement

for a view of the current drainage system. The bill instead requires the board or its designee to present an overview of the proposed improvement that adequately informs attendees of the view about the proposed improvement's location and drainage issues that will be addressed by the improvement. Additionally, the bill allows SWCD boards and boards of county commissioners to conduct video conferences and teleconferences. Below is a more detailed discussion on the bill's provisions that have a potential fiscal effect.

## **Erosion and sediment controls**

Changes made by the bill to taxability of real property appear to LBO to apply prospectively to new improvements, and not to land improved by past such projects. The relevant sections of the bill, R.C. 940.24 and 6131.14, change the requirements for erosion and sediment control, and the taxability of sod or seeded strips used for this purpose, on proposed improvements. Past improvements may not conform to the new requirements, and the bill does not explicitly reference applying the change in taxability to past improvements. On this understanding of the bill's meaning, the fiscal effects of these tax changes made by the bill would grow with the passage of time as new projects are undertaken and completed that comply with the requirements of the bill rather than current law. Tax revenue losses would cumulate over time. The amount of these losses would depend on numbers of such projects, the design of these projects both if built under the provisions of the bill and if they had instead been built under current law, the value of property that would be taxable under current law but that would become nontaxable under the bill, and the tax rates applicable to that property.

For an improvement that is a ditch or similar structure for disposal of water, current law (R.C. 940.26 and 6131.14) provides that erosion and sediment control is to be provided by sod or seeded strips that are to be 4 feet to 15 feet wide. Those more than 4 feet wide are to be removed from the taxable value of the property. The bill (R.C. 940.24 and 6131.14) provides that the sod or seeded strips are to be 10 feet to 15 feet wide and removed from the property's taxable value. This change implies the following:

- Sections that would be built 4 feet wide under current law and would be taxable instead would be required by the bill to be built 10 feet to 15 feet wide and would be nontaxable, an increase in nontaxable width of 10 feet to 15 feet.
- Sections that would be built more than 4 feet wide and less than 10 feet wide under current law and would be nontaxable instead would be required by the bill to be built 10 feet to 15 feet wide and would be nontaxable, an increase in nontaxable width ranging up to less than 11 feet.
- Sections that would be built 10 feet to 15 feet wide under current law and would be nontaxable presumably would comply with the same standard under the bill, and would not increase the nontaxable width.

LBO is not aware of data indicating the revenue loss that would result from the bill. However, the revenue loss clearly could become significant with the passage of time. Ohio has more than 16 million acres enrolled in the current agricultural use valuation (CAUV) program, according to Department of Taxation data. If one-tenth of one percent (0.1%) of the taxable value of this land was removed from tax rolls because of the provisions of the bill, the revenue loss to

local governments might exceed \$400,000. The eventual revenue loss might be higher than this. Even if the 0.1% reduction is too high by a factor of four, the revenue loss could exceed \$100,000. Please note that these figures are not LBO estimates of the actual cost of the bill, but are only illustrative. Additional losses could be incurred on land not enrolled in the CAUV program.

### **Flexibility in the way public entities can pay assessments**

The bill provides for some flexibility in the way public entities can pay assessments for particular improvements. It does so by removing a requirement that any part of the assessment benefitting state, county, or township roads, or highways or municipal streets be paid from motor vehicle revenues. It also removes a requirement that part of the assessment benefitting property owned by any public corporation, any political subdivision, or the state be paid from the general fund or motor vehicle revenue of the corporation, political subdivision, or the state. Removing these restrictions on how the cost of water and drainage improvements are assessed gives the entities responsible for paying the assessments more flexibility in paying for them.

### **Assessments on Department of Natural Resources property**

Additionally, the bill removes a provision that states any land owned and managed by the Department of Natural Resources (DNR) for wildlife, recreation, nature preserve, or forestry purposes is exempt from assessments if DNR determines that the land derives no benefit from the improvement. However, according to DNR, the Department has not been exempted from any assessments. In FY 2019, assessments on parks, natural areas and preserves, and canal lands were nearly \$10,000. From FY 2016-FY 2019, assessments on state forestry land totaled a little over \$11,000.

### **Repairs to a drainage improvement dating from before 1957**

The bill increases the amount a board of county commissioners may authorize a county engineer to spend to make repairs on a drainage improvement that was authorized prior to August 23, 1957, from \$4,000 under current law to \$24,000 under the bill. This change is unlikely to have a widespread effect, since most counties would likely have undertaken improvements to existing drainage infrastructure after this time. However, Williams County is an example of a county that does have drainage infrastructure dating from before this time and therefore does use this process. According to Williams County, raising the current threshold could potentially allow projects to be completed within a year, but it would ultimately depend on the total cost of repairs for certain improvements. Lastly, the bill eliminates the authorization to pay for repairs from the county general fund when the drainage repair fund for the improvement is inadequate, thus removing a possible source of funds for making repairs if the drainage fund is inadequate.



# OHIO LEGISLATIVE SERVICE COMMISSION

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**H.B. 388**  
**133<sup>rd</sup> General Assembly**

## Fiscal Note & Local Impact Statement

[Click here for H.B. 388's Bill Analysis](#)

**Version:** As Enacted

**Primary Sponsor:** Rep. Holmes

**Local Impact Statement Procedure Required:** Yes

Ruhaiza Ridzwan, Senior Economist

### Highlights

- The Department of Insurance may have increased administrative costs to monitor and enforce the bill's provisions, including arbitration provisions. Under the bill, a health plan issuer that fails to comply with the bill's requirements is deemed to have engaged in an unfair and deceptive act or practice in the business of insurance, which carries civil penalties. Any revenue from the penalties would depend on health plan issuers' compliance with the requirement. Any revenue from the penalties would be deposited into the Department of Insurance Operating Fund (Fund 5540). Fund 5540 would also be the source of payment for any departmental costs.
- Requirements imposed on health plan issuers are likely to increase health insurance premiums and costs for self-insured health benefit plans subject to those requirements. This would in turn increase costs to the state and local governments to provide health benefits to their employees and beneficiaries. LBO does not have an estimate of the magnitude of any such cost increases.

### Detailed Analysis

The bill defines "unanticipated out-of-network care" as health care services, including clinical laboratory services, that are covered under a health benefit plan and that are provided by an out-of-network provider when either: (1) the covered person did not have the ability to request such services from an in-network provider, or (2) the services provided were emergency services. The bill also defines "emergency services" as all of the following: (1) medical screening examinations undertaken to determine whether an emergency medical condition exists,

(2) treatment necessary to stabilize an emergency medical condition, and (3) appropriate transfers undertaken prior to an emergency medical condition being stabilized. Under the bill, an “emergency facility” means a hospital emergency department or any other facility that provides emergency medical services.

## **Health plan issuers**

The bill requires health plan issuers to reimburse an out-of-network provider for unanticipated out-of-network care when both of the following apply: (1) the services are provided to a covered person at an in-network facility, and (2) the services would be covered if provided by an in-network provider. The bill also requires health plan issuers to reimburse both an out-of-network provider and the emergency facility for emergency services provided to a covered person at an out-of-network emergency facility.<sup>1</sup>

The bill requires health plan issuers to send a provider, facility, emergency facility, or ambulance its intended reimbursement, which is the greatest of the following amounts: (1) the amount negotiated with in-network providers, facilities, emergency facilities, or ambulance for the service in question in that geographic region under that health benefit plan, excluding any in-network cost sharing imposed under the health benefit plan,<sup>2</sup> (2) the amount for the service calculated using the same method the health benefit plan generally uses to determine payments for out-of-network health care services, such as the usual, customary, and reasonable amount, excluding any in-network cost sharing imposed under the health benefit plan, or (3) the amount that would be paid under the Medicare Program, Part A or Part B of Title XVIII of the Social Security Act, 42 United States Code (U.S.C.) 1395, as amended, for the service in question, excluding any in-network cost sharing imposed under the health benefit plan. Within the period of time specified by the Superintendent of Insurance in rule, the provider, emergency facility, and ambulance must either notify the health plan issuer of its acceptance of the reimbursement mentioned above or seek to negotiate the reimbursement with a plan issuer. Upon receipt of such notice, the health plan issuer must attempt a good faith negotiation with the provider, facility, emergency facility, or ambulance.

Health plan issuers are prohibited from requiring cost sharing<sup>3</sup> from a covered person for any unanticipated out-of-network care or emergency services at a rate higher than if the services were provided by an in-network provider.

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<sup>1</sup> Comparable requirements apply to health insurers in the case of emergency services provided by an out-of-network ambulance and to both unanticipated out-of-network and emergency clinical laboratory services.

<sup>2</sup> If there is more than one amount negotiated with in-network providers, facilities, emergency facilities, or ambulance for the service, the relevant amount must be the median of those amounts, excluding any in-network cost sharing imposed under the health benefit plan.

<sup>3</sup> The bill defines “cost sharing” as the cost to a covered person under a health benefit plan according to any copayment, coinsurance, deductible, or other out-of-pocket expense requirements imposed by a health benefit plan.



## **Providers, facilities, emergency facilities, and ambulance**

The bill prohibits a provider who provides unanticipated out-of-network care at an in-network facility in this state from billing a covered person for the difference between the health plan issuer's reimbursement and the provider's charge for the services (generally known as "surprise billing"). The bill also prohibits surprise billing in the case of a provider who provides emergency services at an out-of-network facility.

The bill prohibits an out-of-network provider who provides health care services that are covered under a health benefit plan (that are not unanticipated out-of-network care or emergency services) at an in-network facility in this state from surprise billing the covered person, unless certain conditions are met.

The bill prohibits an out-of-network emergency facility or an out-of-network ambulance from surprise billing a covered person. A similar prohibition applies to clinical laboratories' surprise billing for unanticipated out-of-network or emergency services provided.

The bill requires the provider, facility, emergency facility, or ambulance to include the proper billing code for the service for which reimbursement is requested from a health plan issuer.

## **Arbitration**

The bill specifies eligibility for arbitration. If negotiations mentioned above have not successfully concluded within 30 days, or if both parties agree that they are at an impasse, the provider, facility, emergency facility, or ambulance may send a request for arbitration to the Superintendent of Insurance. That provider must also notify the health plan issuer of the request, and the request must meet certain conditions to be eligible for an arbitration. The bill specifies provisions governing a provider's seeking arbitration to bundle up to 15 claims with respect to the same health benefit plan that involve the same or similar services provided under similar circumstances. Each party in the arbitration must submit its final offer to the arbitrator. The bill provides that arbitration parties are allowed to submit, and the arbitrator may consider, evidence that relates to certain factors specified under the bill if the evidence is in a form that can be verified and authenticated.

The bill specifies that an arbitrator must consider specified factors under the bill in rendering a decision. An arbitrator is required to award either party's final offer that best reflects a fair reimbursement rate based upon the factors specified under the bill. The nonprevailing party is required to pay 70% of the arbitrator's fees and the prevailing party must pay the remaining 30%.

## **Superintendent of Insurance**

The bill requires the Superintendent to contract with a single arbitration entity to perform all arbitrations under the bill. The Superintendent must also ensure that the arbitration entity, any arbitrators the arbitration entity designates to conduct an arbitration, and any officer, director, or employee of the arbitration entity do not have any material, professional, familial, or financial connection with specified parties to the arbitration. The bill specifies requirements related to selection of and contract with an arbitration entity. The bill specifies that the

Superintendent must require the contracted arbitration entity to submit to the Superintendent on an annual basis specified information. The bill also requires the Superintendent to issue an annual report containing such information. The bill requires the Superintendent to adopt rules as necessary to implement the bill's provisions.

## **Other provisions**

The bill specifies that the existing requirements related to prompt payments to health care providers do not apply with respect to a claim during a period of negotiation or arbitration. However, they apply upon the completion of a successful negotiation or upon the rendering of an arbitration decision. The bill allows the Superintendent to adopt rules specifying situations in which the existing requirements related to prompt payments to health care providers apply during periods of negotiation. The bill specifies that a pattern of continuous or repeated violations of its provisions is considered an unfair and deceptive act or practice in the business of insurance, potentially subjecting the violator to penalties including payment of damages, a limitation or suspension of the violator's ability to engage in the business of insurance, and an investigation by the Attorney General. An individual provider who violates the bill's requirements is subject to applicable professional discipline under Title XLVII of the Revised Code.

The bill includes a provision that exempts its requirements from the existing requirement related to mandated health benefits. Under current law, no mandated health benefits legislation enacted by the General Assembly after January 14, 1993, may be applied to sickness and accident or other health 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 or by any agency or instrumentality of the state or any political subdivision of the state.

The bill also specifies the effective date of the requirements.

## **Fiscal effect**

The bill may increase the Department of Insurance's administrative costs to ensure that health plan issuers comply with the bill's requirements, including arbitration provisions. However, LBO staff are uncertain about the magnitude of any such increase. Under the bill, a health plan issuer that fails to comply with the bill's requirements is deemed to have engaged in an unfair and deceptive act or practice in the business of insurance, which carries civil penalties; under continuing law, the Department may impose between \$3,500 and \$10,000 for each unfair or deceptive act or practice in the business of insurance in the state. Any revenue from the penalties would depend on health plan issuers' compliance with the bill's requirements, and could be used to offset the Department's administrative costs. Any revenue from the penalties would be deposited into the Department's Operating Fund (Fund 5540); Fund 5540 also would be the source of funding for any administrative costs.

The requirements imposed on health insurers, especially the required payments and the prohibition against increasing cost sharing by covered individuals, are likely to increase health insurers' costs. In addition, health insurers would likely incur some costs from paying arbitration

fees. These cost increases in turn would likely increase health insurance premiums and the costs to the state and local governments to provide health benefits to their employees and beneficiaries. Currently, the state employee health benefit plans (Ohio Med PPO and Ohio Med HDHP) require different in-network and out-of-network costs associated with annual deductibles, copayments, coinsurance, and maximum out-of-pocket expenses, and covered persons under the two plans may be subject to balance billing. LBO staff could not determine the magnitude of the fiscal impact to local governments due to lack of information related to cost sharing under local governments' employee health benefit plans.

The bill would have little to no fiscal effect on the state or local governments after 2021 because the federal requirements specified under the No Surprises Act, enacted under H.R. 133 of the 116<sup>th</sup> Congress during December of 2020, would take effect beginning in 2022. After 2021 most, or all, of the costs of the bill would have arisen from the federal legislation with or without H.B. 388.



# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
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Legislative Budget  
Office

H.B. 436  
133<sup>rd</sup> General Assembly

## Fiscal Note & Local Impact Statement

[Click here for H.B. 436's Bill Analysis](#)

**Version:** As Enacted

**Primary Sponsor:** Rep. Baldridge

**Local Impact Statement Procedure Required:** Yes

Nick Ciolli, Budget Analyst

### Highlights

- School district and other public school costs are likely to increase beginning in FY 2023 to pay the cost of structured literacy certifications for teachers. These costs will depend on guidelines the newly created Ohio Dyslexia Committee (ODC) issues, the certification programs chosen, and the fees charged by providers, which can vary widely.
- School districts and other public schools are likely to incur additional costs beginning in FY 2023 to conduct annual dyslexia screenings for certain students. Costs for screening measures and training could be at least in the hundreds of thousands of dollars annually statewide but also could reach into the millions of dollars, depending on the screening measures identified by the Ohio Department of Education (ODE) and chosen by districts and schools and the number of students screened.
- School districts and other public schools will likely incur additional costs to provide intervention or special education services if the bill's required screening program increases identification of students with dyslexia. These costs may be partially offset by increased state foundation aid for students requiring special education services.
- However, research suggests that there may be a long-term savings effect of providing students at risk for dyslexia with early screening and intervention services, which were shown to reduce the number of students requiring costlier special education services in certain districts participating in a dyslexia screening pilot project. If so, school district expenditures and state foundation formula revenues may decrease over time.

- ODE costs may increase to provide the bill's required teacher professional development in dyslexia screening and intervention and to carry out various other administrative requirements. Professional development costs will depend, in part, on the number of clock hours the ODC prescribes and implementation decisions made by ODE.

## **Detailed Analysis**

The bill regards screening and intervention for children with dyslexia and related professional development and certification requirements for teachers. Dyslexia is a neurological learning disorder characterized by unexpected difficulties with accurate or fluent word recognition and by poor spelling and decoding abilities not consistent with the person's intelligence, motivation, and sensory capabilities. Specifically, the bill requires, beginning in the 2022-2023 school year, each school district and other public school to establish a multi-sensory structured literacy certification process for certain teachers and to implement an annual dyslexia screening process for certain students. The bill also requires the Ohio Department of Education (ODE) to provide a professional development program for teachers in dyslexia screening and intervention practices and to establish the 11-member Ohio Dyslexia Committee (ODC), which will produce a dyslexia guidebook for public schools to provide best practices and methods for universal dyslexia screening, intervention, and remediation using a multi-sensory structured literacy program.

### **Structured literacy certification**

Beginning in the 2022-2023 school year, the bill requires each school district and other public school to establish a multi-sensory structured literacy certification process for teachers providing instruction for students in grades K-3. According to the International Dyslexia Association (IDA), structured literacy is evidence-based instruction that emphasizes the structure of language, including speech sounds (phonology); writing and spelling (orthography); the meaningful parts of words (morphology); grammar and sentence structure (syntax), the relationship between words, phrases, and sentences (semantics); and the organization of spoken and written language (discourse). The bill requires the process to align with the guidebook developed by ODC. The bill also authorizes ODC to recommend appropriate ratios in school buildings for students to teachers who have received certification in identifying and addressing dyslexia and certification of additional school personnel.

### **Cost of certification**

The overall cost to districts and other public schools will depend on the guidelines that ODC issues. School districts are likely to pay the cost of the certifications for their teachers, according to an official with the Buckeye Association of School Administrators. The cost for the certifications appears to vary depending on the certification program chosen and the fees charged by providers. One option may be the Center for Effective Reading Instruction (CERI), an affiliate of IDA, which offers three types of structured literacy certifications: (1) classroom teacher, (2) dyslexia interventionist, and (3) dyslexia specialist. The latter two carry practicum requirements while the third carries additional training hour and practicum requirements. The fee for these initial certifications is \$265 for classroom teachers, \$290 for interventionists, and

\$315 for specialists. Annualized renewal fees are up to \$90, \$115, and \$140, respectively. Certification renewal requires completion of ten hours of continuing education each year.

Other structured literacy certification programs, such as the Wilson Language Program or Orton-Gillingham, may carry a higher cost per teacher. Training for the Wilson Language Program is provided at only select locations across the country. One district that participated in this program estimated that it cost \$5,200 per teacher to become fully certified, which includes covering accommodations and travel to training sessions. According to Wilson Language training, the organization offers a limited number of comprehensive programs each year for school districts and schools considering certification for a group of educators though it is unclear if there are discounted fees for this option. A credential earned through the Wilson Language Program is valid for five years and may be renewed at a cost of \$150. The Academy of Orton-Gillingham Practitioners and Educators indicates that the cost of training for the Orton-Gillingham approach, including coursework and practicum, varies by provider. Some anecdotal information obtained through an internet search suggests that the cost of Orton-Gillingham certification may be somewhat similar to the cost for the Wilson Language Program.

## **Dyslexia screening**

In the 2022-2023 school year, the bill requires public schools to administer a “tier one” dyslexia screening measure to each student in grades K-3 and to students in grades 4-6 if their parent or guardian requests it or, if approved by the parent or guardian, a classroom teacher requests the student receive a screening. In the 2023-2024 school year and afterwards, schools must annually administer a tier one screening to all kindergarteners and, if requested by the student’s parents or guardians or, if requested by a classroom teacher and approved by the student’s parents or guardians, students in grades 1-6. Districts may also administer a “tier two” screening measure at the same time. Districts must identify each student at risk of dyslexia, notify the student’s parent or guardian that the student has been identified as being at risk, and monitor their progress for six weeks. If the student does not show progress by the end of six weeks, the district must administer a tier two screening measure to the student (this requirement does not apply to districts that administer a tier two measure at the same time as a tier one measure). If the screener determines the student has markers for dyslexia, the district must provide his or her parents or guardian with information both about dyslexia’s risk factors and evidence-based interventions as well as the district’s structured literacy program.

School district and other public school expenditures are likely to increase to administer the screenings, report results and information to parents and guardians, and report data to ODE. In FY 2020, there were approximately 125,000 public school students enrolled in kindergarten by headcount, approximately 497,000 students enrolled in grades K-3 (for purposes of the FY 2023 screening), and approximately 757,000 in grades 1-6 throughout the state. The cost to districts will vary depending on the screening methods ODC approves and schools choose as well as how many optional screenings are administered. As a point of reference, a common dyslexia screening tool, Dynamic Indicators of Basic Early Literacy Skills (DIBELS) 8<sup>th</sup> Edition, which was developed and is maintained by the University of Oregon, provides reading benchmark screening and progress monitoring for \$1 per student per year. Another option, aimswebPlus Reading, published by Pearson, is offered for \$6.50 per student per year, which also offers screening and

progress monitoring. There are a host of other screening measures that may be approved. There are also likely to be additional training costs associated with the particular screening measure and monitoring solution chosen. Therefore, it seems possible that school district and other public school costs for screening tools would be at least in the hundreds of thousands of dollars annually statewide but could reach into the millions of dollars. New costs may be less to the extent that districts and schools are already in compliance with the bill's requirements.

## **Intervention services**

According to the International Dyslexia Association, as many as 15% to 20% of the population has some symptoms of dyslexia. The bill's required screenings may increase the identification of students exhibiting signs of dyslexia. If so, district and other public school costs may increase to provide intervention services to more students. These costs will depend on how the intervention services are implemented. As a point of reference, the eight school districts that participated in a dyslexia screening and intervention pilot program from the 2012-2013 school year to the 2014-2015 school year were required to design and implement a tiered program of reading instructional support that included core instruction (tier I), core instruction plus strategic, small group reading intervention (tier II), and core instruction plus individualized, intensive instruction (tier III). In addition, the pilot project evaluation reports indicate that participating school districts were required to provide professional development in evidence-based reading instruction and multi-sensory structured language instruction to both general education teachers and intervention specialists serving students in grades K-2.

## **Special education services and state revenues**

Additional students identified as at risk for dyslexia may lead to an increase in the number of students receiving special education services for a learning disability. As a result, school district and other public school expenditures and revenues may increase. For school funding purposes, students with dyslexia are included in special education category two, which includes students identified as specific learning disabled or developmentally disabled or identified as having a minor health impairment. Statewide, school districts and community schools reported about 95,200 students as having a specific learning disability in FY 2020, representing 5.7% of statewide enrollment.

Increased costs for special education and related services for students with dyslexia may be partially offset by a gain in revenue from state foundation aid. The school foundation aid formula provides special education aid to assist districts to educate students with disabilities. In general, the formula provides additional aid of \$4,005 per pupil for students in special education category two. This amount is equalized according to the district's state share index, which provides larger shares of state aid to low-wealth districts.<sup>1</sup> Community school students are

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<sup>1</sup> H.B. 166 of the 133<sup>rd</sup> General Assembly suspends the operation of the current law state foundation formula during FY 2020 and FY 2021 and, instead, provides foundation aid in the same amounts as FY 2019. Foundation aid was subsequently reduced by about \$300 million in FY 2020 to help balance the state budget in the wake of the economic disruption caused by the COVID-19 pandemic. The Office of Budget and Management has implemented spending controls that carry these reductions into FY 2021 for the time being.

provided the full per-pupil amount through a transfer from the resident district's state foundation aid.

### **Potential long-term savings**

There may be longer term savings associated with providing early intervention services to students identified under the bill. Research on outcomes from the pilot project suggests that early identification and intervention services may prevent students from needing costlier interventions when they are older. An evaluation of the three years of the pilot project and a follow-up year for certain districts indicated “that the percentage of students identified as having an educational disability (which includes all disability types, not just a Specific Learning Disability in Reading) decreased for all three years of the Dyslexia Pilot Project and remained lower than the baseline in the follow-up year. Although the decreases in the percentage of students with disability are modest relative to the baseline, they indicate a promising outcome: The number of at-risk students entering special education eligibility as a result of their needs not being fully met in the general education program was less than it had been in the year prior to the Dyslexia Pilot Project, thus lowering the overall percentage of students with disabilities over the course of the Project.”<sup>2</sup> If fewer students, therefore, require special education services as a result of more proactive intervention at an earlier age, school district costs for those services may decrease over time. Accordingly, state foundation formula revenues may decrease.

### **Multidisciplinary teams**

The bill requires districts and other public schools to establish a multidisciplinary team consisting of trained and certified personnel and a stakeholder with expertise in the identification, intervention, and remediation of dyslexia. This team will administer the screening and intervention measures and assess the results. The creation and operation of this team may increase administrative costs to districts and schools dependent on the guidelines ODC provides.

### **Teacher professional development**

By the beginning of the 2023-2024 school year, the bill requires public school teachers providing instruction to students in grades K-1, including those providing special education instruction in those grades, to complete a professional development program in the characteristics of dyslexia and understanding methods of teaching for students with dyslexia from a list of courses approved by ODE. The provision extends to teachers providing instruction to students in grades 2-3, also including those providing special education instruction in those grades, by the beginning of the 2024-2025 school year, and to teachers providing special education to students in grades 4-12 by the beginning of the 2025-2026 school year. The courses must be from a list of those approved by ODE and must meet certain requirements. Teachers must complete a number of clock hours of instruction determined by ODC, which must be no less than six hours and no more than 18 hours, in approved courses to meet the requirement. The

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<sup>2</sup> Morrison, Julie Q. et al., Evaluation of the Dyslexia Pilot Project: Year 4. University of Cincinnati, October 2016, pg. 5. Accessible online at <https://education.ohio.gov/getattachment/Topics/Special-Education/Students-with-Disabilities/Specific-Learning-Disability/Dyslexia-Pilot-Project/DPP-Year-4-Evaluation-Report-10-27-16.pdf.aspx?lang=en-US>.



courses may be delivered online or in a classroom setting. ODC may recommend that the professional development must also include a practicum. Any professional development course completed by a teacher prior to the bill's effective date that is ultimately approved by ODE under the bill counts toward the number of instructional hours required.

The bill requires ODE to provide this professional development. According to public school staffing data reported to ODE, school districts and community schools reported employing about 106,000 full-time equivalent teachers in FY 2019. Tens of thousands of teachers are likely to be required to complete the required courses. The costs will depend on the number of clock hours required, the guidelines ODC adopts, how ODE implements the program, and whether a practicum is ultimately required. There appear to be a number of free courses online that provide teacher training on dyslexia. The bill requires ODE to provide a list on its website of resources for teacher training that are available at minimal or no cost. Alternatively, ODE could opt to produce online courses in-house. Otherwise, an internet search indicates, anecdotally, that third-party courses, which did not include a practicum, for which a fee is required may total several hundred dollars or more. If a practicum is required, which may require a teacher to be supervised working with a student, the costs would be higher, perhaps substantially so.

## **Scholarship student assessments**

The bill clarifies existing law that students participating in the Educational Choice ("EdChoice") Scholarship Program, the Jon Peterson Special Needs Scholarship Program, or the Cleveland Scholarship Program are exempt from achievement assessment requirements for scholarship renewal if they meet one of the following criteria:

- The student has a disability and is excused from the requirement by federal law, their individualized education program, or a separate plan adopted by the chartered nonpublic school.
- The chartered nonpublic school that the student attends has received a waiver from administering assessments to all of its students.
- The student is in grades 3-8 and takes an alternative assessment provided by the Ohio Department of Education.
- The student is not required to take the ACT or SAT due to a significant or intellectual disability.

It is unclear how many students these provisions apply to. However, the bill may result in more students renewing their scholarships if they otherwise would have been ineligible by not taking state tests in the above circumstances. If so, deductions of state foundation aid to school districts to pay for performance-based EdChoice and Jon Peterson Special Needs scholarships may increase while district expenditures may decrease due to educating fewer students. EdChoice scholarships are the lesser of the tuition at the chartered nonpublic school the student chooses to attend or \$4,650 for students in grades K-8 and \$6,000 for students in grades 9-12. Jon Peterson Special Needs scholarships are the lesser of the tuition for the alternate provider or the special education funding calculated for the student, which is equal to the formula amount (\$6,020) plus the applicable special education amount, up to \$27,000.

Additionally, more students may qualify for renewal of income-based EdChoice scholarships and Cleveland scholarships. However, these scholarships are limited by an appropriation.

## **Department of Education administrative costs**

Several other provisions of the bill appear likely to lead to additional administrative costs for ODE, which is required to:

- Establish ODC. The bill requires ODC to produce, by December 31, 2021, the dyslexia guidebook regarding the best practices and methods for universal screening, intervention, and remediation. It also permits ODC to make the various recommendations regarding teacher certification and professional development noted above.
- Assist school districts and other public schools in establishing multidisciplinary teams to support the identification, intervention, and remediation of dyslexia.
- Develop reporting mechanisms for districts and schools to submit the required information and data to the Department.
- Develop academic standards for kindergarten in reading and writing that incorporates a structured literacy program.
- Produce a report to the General Assembly by December 31, 2021, concerning the financial costs incurred by no more than four school districts that have already implemented dyslexia screenings, identification, and remediation services similar to those prescribed in the bill.



# OHIO LEGISLATIVE SERVICE COMMISSION

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Legislative Budget  
Office

H.B. 450  
133<sup>rd</sup> General Assembly

## Fiscal Note & Local Impact Statement

[Click here for H.B. 450's Bill Analysis](#)

**Version:** As Enacted

**Primary Sponsor:** Rep. Stephens

**Local Impact Statement Procedure Required:** Yes

Tom Wert, Senior Budget Analyst

### Highlights

- Because the specific requirements for certificates of transition are not yet determined, costs for county treasurers and fiscal officers to prepare them are unknown. However, it is conceivable that the aggregate statewide costs to local governments to prepare certificates of transition could exceed \$100,000.
- The bill provides greater discretion for the Auditor of State to perform agreed-upon procedure audits for political subdivisions. This change potentially results in cost savings for the Auditor of State and entities receiving the agreed-upon procedure audits. In general, agreed-upon procedure audits cost up to 50% less to conduct than traditional financial audits.

### Detailed Analysis

#### Certificates of transition

The bill requires outgoing country treasurers and fiscal officers<sup>1</sup> to provide a certificate of transition to the successor officer that will result in increased costs for counties, municipal corporations, townships, school districts, and other public entities. The Auditor of State may also incur a slight increase in costs for the Auditor's role in prescribing information to be included in

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<sup>1</sup> The bill uses the definition of "fiscal officer" as used in the Tax Levy Law. Under the bill a fiscal officer includes county auditors, city auditors, village clerks, township fiscal officers, treasurers of boards of education, and many others. Please see the LSC bill analysis for additional details.

and for testing the accuracy of certificates of transition under the bill. Although the bill requires the certificates to contain an inventory of documents, accounts, and other information, it requires the Auditor, with input from county treasurers and fiscal officers, to prescribe the specific information that must be included. Because the specific requirements for a certificate of transition are not yet determined, the additional workloads for county treasurers and fiscal officers to prepare certificates of transition is unknown. As such, it is difficult to determine the magnitude of any increased costs that local governments would incur. However, it is conceivable that the aggregate statewide cost among the entities responsible for complying with the certificate of transition requirement could exceed \$100,000.

### **Agreed-upon procedure audits**

The bill also eliminates the statutory eligibility requirements for political subdivisions to receive agreed-upon procedure audits from the Auditor of State. Instead, the bill continues the agreed-upon procedure audits under rules established by the Auditor of State. This change gives the Auditor of State greater discretion to perform agreed-upon procedure audits and may result in cost savings for the Auditor of State and certain audited entities. However, it is difficult to quantify any savings because the number of additional agreed-upon procedure audits that would be performed and the number of entities that would receive them in place of traditional full financial audits is unknown. Agreed-upon procedure audits are expedited audit procedures that are established by rules created by the Auditor. According to the Auditor of State, costs to perform agreed-upon procedure audits are typically 50% less than traditional full audits. The costs of audits are mainly covered by fees charged to the audited political subdivision and deposited into the Public Audit Expense-Local Government Fund (Fund 4220), but in some cases may also be supplemented by GRF funding under the Auditor of State's budget.



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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
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Legislative Budget  
Office

H.B. 665  
133<sup>rd</sup> General Assembly

## Fiscal Note & Local Impact Statement

[Click here for H.B. 665's Bill Analysis](#)

**Version:** As Enacted

**Primary Sponsors:** Reps. Jones and Wilkin

**Local Impact Statement Procedure Required:** Yes

Shannon Pleiman, Senior Budget Analyst

### Highlights

- The bill increases, from \$800 to \$1,600, the maximum amount that a county treasurer must annually transfer to a county or independent agricultural society. If every agricultural society (94 total currently) in the state is receiving the \$800 maximum under current law and then receives the new maximum of \$1,600 under the bill, it will increase payments from counties to agricultural societies by over \$75,000 in total statewide.
- The bill changes several cap amounts the board of county commissioners must annually reimburse or appropriate both county and independent agricultural societies. This could allow counties to appropriate more funds to agricultural societies.
- If an agricultural society and the Ohio Expositions Commission (EXP) have to cancel their annual fairs due to unfavorable weather or other unavoidable causes but still conduct live horse racing, the bill requires the Department of Agriculture to make payments to agricultural societies and EXP from the Ohio Fairs Fund (Fund 7083) according to current law. In FY 2019, these payments amounted to just under \$800,000.
- Expanded tax exemption for certain property of an agricultural society may reduce local government property tax revenue.

## **Detailed Analysis**

### **County payments to agricultural societies**

The bill makes several adjustments to the payments a county must transfer to both county and independent agricultural societies. First, the bill increases, from \$800 to \$1,600, the maximum amount that a county treasurer must annually transfer to a county or independent agricultural society operating within the county if all of the following occur: (1) the agricultural society held an annual fair, (2) the agricultural society has made an annual report to the Director of Agriculture concerning the fair, and (3) the Director presents a certificate to the county auditor indicating that the agricultural society has complied with applicable laws of Ohio. The amount transferred cannot exceed the amount paid in regular class premiums (cash awards to contestants exhibiting grains, fruit, vegetables, livestock, etc.) paid by the agricultural society. Currently, there are 87 county fairs and seven independent fairs scheduled for the 2020 season. If every agricultural society in the state is currently receiving the \$800 maximum under current law and then receives the new maximum of \$1,600 under the bill, it will increase payments from counties to agricultural societies by \$75,200 (94 societies x \$800 difference of the maximum payment under the bill and current law) in aggregate statewide, effectively doubling the amount.

Second, the bill changes several cap amounts the board of county commissioners must annually reimburse or appropriate agricultural societies that could potentially affect the costs for counties. It removes the \$500 cap on the annual amount the board must reimburse an agricultural society for junior club expenses but retains the \$100 minimum. Additionally, the bill removes the \$2,000 cap but retains \$1,500 minimum on the amount a board must annually appropriate to a county agricultural society if the agricultural society (1) owns or leases real estate used as a fairground, (2) has control and management of the lands and buildings on the fairground, and (3) requests an appropriation from the board. Lastly, the bill changes the amount a board must annually appropriate to an independent agricultural society to encourage agricultural fairs, from \$500 to \$2,000 to at least \$1,500, if: (1) there was no county agricultural society or annual county fair in the county and (2) the agricultural society requests an appropriation from the board.

### **Department of Agriculture payments to agricultural societies and Ohio Expositions Commission**

The bill specifies that if an agricultural society or the Ohio Expositions Commission (EXP) cancels its annual fair due to unfavorable weather or other unavoidable causes but still holds live horse racing, the Department of Agriculture (AGR) must make payments from the Ohio Fairs Fund (Fund 7083) to the agricultural society or EXP prescribed by the law. Currently and unchanged by the bill, payments from Fund 7083 are distributed as follows: (1) 12% of the fund balance is distributed to agricultural societies that hold annual fairs to be used for general operations, (2) each agricultural society that conducts horse races at its annual fair receives \$4,000 to be used for purse money, and \$1,000 for racetrack maintenance and other expenses necessary for conducting horse races, and (3) \$120,000 for EXP to conduct stakes races. Any shortfall of revenue is to be prorated and any excess revenue is to be distributed to agricultural societies conducting stakes races and to EXP. In FY 2019, these payments amounted to \$798,242.

Fund 7083 receives its revenue from 0.5% of pari-mutuel wagers on racing, or a lesser amount on a prorated basis if sufficient funds from the tax are not available, plus 0.25% of the amount of exotic racing wagers. As of May 2020, the current cash balance of Fund 7083 is \$878,000.

## **Property tax exemption**

The bill amends a property tax exemption for county fairgrounds owned by an agricultural society, extending the tax exemption also to other property owned by such an agricultural society and used in furtherance of the agricultural society's purposes. This change may result in tax exemption of real property that is currently taxable, resulting in revenue losses for units of local government.

## **Debt authorization**

The bill expands the total amount of debt that an agricultural society can incur by allowing the total annual payments for debt obligation incurred by a county agricultural society to not exceed 25% of its prior three-year average of annual revenues. Under current law, the *total net indebtedness* of an agricultural society cannot exceed an amount equal to 25% of the agricultural society's annual revenues. Thus, this provision may increase the amount of debt an agricultural society may incur.

## **Standards and guidelines for amusement and water parks**

Lastly, the bill allows amusement parks and water parks in the state to open and begin operation on the bill's effective date (90 days after the bill is signed into law) until December 1, 2020, notwithstanding an executive order regarding mass gatherings or any law governing the Ohio Department of Health's (ODH) power to issue orders to stop the spread of infectious diseases. Further, it requires AGR, in consultation with ODH, to establish standards and guidelines to limit the spread of infectious disease at those amusement parks and water parks. It is unclear what effect this will have on AGR and ODH since these parks began opening on June 19, 2020. If AGR and ODH are still required to develop standards and guidelines they may realize an increase in administrative time to develop the required standards and guidelines. Under current law, AGR and local boards of health (with oversight of ODH) regulate these types of parks. Additionally, there may be costs to local boards of health to ensure compliance with the standards and guidelines established and possibly to investigate complaints or provide educational assistance.



# OHIO LEGISLATIVE SERVICE COMMISSION

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H.B. 674  
133<sup>rd</sup> General Assembly

## Fiscal Note & Local Impact Statement

[Click here for H.B. 674's Bill Analysis](#)

**Version:** As Enacted

**Primary Sponsor:** Reps. Hillyer and Becker

**Local Impact Statement Procedure Required:** Yes

Terry Steele, Senior Budget Analyst

### Highlights

- The bill specifies that liquor pods be classified as mixed beverages rather than spirituous liquor for purposes of liquor control laws and alcoholic beverage taxes. This classification may result in a loss of tax revenue to the GRF, the magnitude of which will ultimately depend on sales of these pods.
- The bill exempts brewpubs and certain wineries with A-1-A permits from a requirement to obtain a food service establishment license with local boards of health.
- The bill authorizes rules to be adopted that allow the Division of Liquor Control to deliver spirituous liquor directly to personal consumers in original containers. If the Division were to adopt these rules for direct-to-consumer delivery, presumably it would do so in a manner designed to generate a profit.
- The bill creates a new F-11 permit (\$60) available to a nonprofit organization of at least 250 members that allows the organization to sell beer from craft breweries. The permit revenue would be deposited into the Undivided Liquor Permit Fund (Fund 7066).

### Detailed Analysis

#### Intoxicating liquor pods

The bill, for purposes of liquor control laws and alcoholic beverage taxes, treats a pod containing spirituous liquor (more than 21% alcohol) as a mixed beverage, even though the beverage exceeds the statutory minimum level of alcohol for spirituous liquor. Subjecting these



pods to the alcoholic beverage tax rather than the liquor gallonage tax may reduce GRF revenue. LBO economists believe the revenue loss, if any, would likely be less than \$1.0 million in the first year, but could grow to exceed \$1.0 million in ensuing years depending on the growth of the consumption of the product. Currently, the mixed drink gallonage tax is \$1.20 per gallon, whereas the spirituous liquor tax is \$3.38 per gallon.

## **F-11 permits**

The bill creates a new F-11 permit, which is available for a nonprofit organization of at least 250 members. The permit allows the nonprofit to conduct an event that meets specific criteria at which the permit holder may sell beer from participating craft breweries. These types of events would include craft brew festivals, for example. The cost of the permit is \$60, and these permits expire after 72 hours. It is unclear how frequently such permits would be issued. This permit revenue would be deposited into Fund 7066.

## **Food sales by brewpubs and certain wineries**

The bill exempts certain brewpubs (A-1-A permits) from the requirement to obtain a retail food establishment license or food service operation license from a board of health. The bill allows these establishments to instead serve unopened, commercially prepackaged meals without this license, or to maintain a schedule with a mobile retail food establishment or mobile food service operation. Presumably, some local boards of health would see a reduction in license revenue from these A-1-A permit holders who currently have a retail food establishment license and instead elect to use the authority granted in the bill. As of July 2020, there were 326 active A-1-A permits, and approximately 280 wineries operating in Ohio. It is unclear as to how many wineries would qualify and elect to acquire an A-1-A permit under the bill.

## **Delivery of spirituous liquor**

The bill permits the Superintendent of the Division of Liquor Control to adopt rules allowing for the delivery of spirituous liquor to personal consumers in original containers. It is unclear how such a program would work operationally, or what impact such a program would have on state liquor sales overall. Presumably, the Division of Liquor Control would elect to implement such a program only if the revenue collected through such a program would exceed any implementation costs.



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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

S.B. 39  
133<sup>rd</sup> General Assembly

## Fiscal Note & Local Impact Statement

[Click here for S.B. 39's Bill Analysis](#)

**Version:** As Enacted

**Primary Sponsors:** Sen. Schuring

**Local Impact Statement Procedure Required:** Yes

Ruhaiza Ridzwan, Senior Economist

### Highlights

- Nonrefundable tax credits authorized by the bill would reduce receipts from the state foreign and domestic insurance premium taxes, which are deposited into the GRF.
- Under the bill, the aggregate revenue losses for all preliminarily approved projects may not exceed \$100 million per year for FYs 2020, 2021, 2022, and 2023. A credit cannot be claimed until the project, or a portion of a large project that is planned to be completed in phases, is completed, so revenue losses are unlikely before FY 2022.
- Because the credits are nonrefundable, the revenue losses in any one fiscal year are limited by the taxpayer's tax liability in the year claimed. Unused tax credits can be carried forward for five years.
- The GRF would bear 96.68% of any revenue loss beginning in FY 2022 under current law. Any reduction in total GRF tax receipts would also reduce the amount distributed to the Local Government Fund (LGF, 1.66%) and Public Library Fund (PLF, 1.66%). Any reduction to the LGF and PLF would decrease distributions from the funds to counties, municipalities, townships, public libraries, and other political subdivisions in the state.
- The bill may increase the Development Services Agency's administrative costs related to application filings of transformational mixed-use development projects and assisting the Tax Credit Authority with application and approval processes for awarding the tax credits.
- Reinstatement of a nonrefundable credit for campaign contributions to candidates for certain public offices against the state personal income tax (PIT) would reduce GRF

receipts by approximately \$3.2 million per year, starting in FY 2021, and would reduce receipts to the LGF and PLF by about a combined \$0.1 million per year.

## **Detailed Analysis**

### **Tax credit for transformational mixed-use development**

The bill specifies that the owner of one or more parcels of land in Ohio within which a transformational mixed-use development is planned, or an insurance company that contributes capital to be used in the planning or construction of such a development, may apply to the Tax Credit Authority<sup>1</sup> for certification and preliminary approval of a transformational mixed-use development project tax credit.<sup>2</sup> The application must be filed in the form and manner prescribed by the Director of the Development Services Agency (DSA), and must include a development plan. The bill defines “transformational mixed-use development” to mean a project that consists of new construction or the redevelopment, rehabilitation, expansion, or other improvement of vacant buildings or structures, or a combination of the foregoing, and that (1) will have a transformational economic impact on the development site and the surrounding area, (2) integrates some combination of retail, office, residential, recreation, structured parking, and other similar uses into one mixed-use development, and (3) satisfies certain criteria listed in the bill regarding the physical size of the project or a specified payroll requirement. A transformational mixed-use development may include a portion of a larger contiguous project that is planned to be completed in phases as long as the phases collectively meet the criteria listed in the bill.

If the Authority determines that (1) the project qualifies as a transformational mixed-use development, satisfying all other criteria prescribed by the bill or by rule, (2) the estimated “increase in tax collections” as defined by the bill will exceed 10% of the estimated development costs for the project reported in the application’s financial plan, (3) the project will not be completed unless the applicant receives the credit, and (4) if the development site is located within ten miles of a major city, the estimated development costs to complete the project plus, if applicable, the estimated expenditures that have been or will be incurred to complete all other contiguous phases of the project, exceed \$50 million, the Authority may issue to the applicant a statement that certifies the project and preliminarily approves a tax credit.

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<sup>1</sup> Currently, the Tax Credit Authority consists of the Director of the Development Services Agency, two members appointed by the Governor, one member appointed by the President of the Senate, and one member appointed by the Speaker of the House of Representatives. The Director serves as the Chairperson of the Authority.

<sup>2</sup> “Development costs” means expenditures paid or incurred by the property owner in completing a certified transformational mixed-use development project, including architectural or engineering fees paid or incurred before the date the project is certified by the Authority. If the project is completed in phases, “development costs” include only expenditures associated with the portion of the project that is certified by the Authority.

The bill does not specify a limit to the number of transformational mixed-use development projects that the Authority could certify in a fiscal year.<sup>3</sup> But the Authority is prohibited from certifying any projects after June 30, 2023, and the Authority is not allowed to preliminarily approve more than \$100 million of estimated tax credits in each of FYs 2020, 2021, 2022, and 2023. Not more than \$80 million of estimated tax credits in each such fiscal year may be preliminarily approved in connection with projects that are located within ten miles of a major city, and not more than \$40 million of estimated tax credits may be preliminarily approved in connection with a single project.

The amount of the preliminarily approved credit is 10% of the development costs if the applicant is the property owner or, if the applicant is an insurance company that contributed capital to the development, 10% of such contribution. Award of the tax credit is contingent upon completion of the transformational mixed-use development. The bill specifies certain conditions that the Director must consider in determining whether or not to certify a project. The Director's determination is final, but an applicant may revise and resubmit a previously denied application.<sup>4</sup>

The credit may be claimed against the foreign and domestic insurance premium taxes, in the calendar year specified in the certificate. If the credit exceeds the amount of tax otherwise due in that year, the company is allowed to carry forward the excess for not more than five years.

Under the bill, an applicant who is the property owner and is preliminarily approved for a tax credit may sell or transfer the rights to that credit to one or more persons for the purpose of raising capital for the certified project. The bill requires such applicant to notify the Director upon selling or transferring the rights to the credit.<sup>5</sup>

After a project is certified and before it is completed, a property owner that is preliminarily approved may request that the value of the tax credit certificates awarded in connection with the project be computed using an alternative method for the purpose of receiving the entire 10% of tax credit. The Authority is required to grant the request if the Authority determines that it is reasonably certain that the increase in tax collections will exceed 10% of the estimated development costs within one year after the project is completed and the determination is affirmed by a third party engaged by the Authority and at the expense of the property owner. Otherwise, the Authority must deny the request to use the alternative method to compute such tax credit and the Authority must compute the amount of each credit awarded

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<sup>3</sup> The Authority may also reallocate unused certifications from a prior fiscal year or certifications that are rescinded for new applicants.

<sup>4</sup> The Authority is also authorized to rescind the approval of an application that is preliminarily approved for a tax credit and required to send a notice of the rescission to the property owner and each insurance company that is preliminarily approved for a tax credit in connection with the project, if the property owner does not provide an updated schedule and demonstrate the required progress in completing the project. A property owner that receives such notice of rescission may submit a new application concerning the same project.

<sup>5</sup> The notice must identify the person or persons to which the credit was sold or transferred and the credit amount sold or transferred to each such person. The bill specifies that only an applicant that owns the property may sell or transfer a credit.

in connection with the project using a standard method below. The Authority's determination must be delivered in writing and is final and not appealable.

The bill requires the property owner that is preliminarily approved to notify the Tax Authority upon completion of a project, including a report prepared by a third-party certified public accountant that contains a detailed accounting of the actual development costs attributed to the project. The Authority must determine the "increase in tax collections" since the date the project was certified unless the Authority has previously granted a request by the property owner to compute such credit using the alternative method, in consultation with the Tax Commissioner and the tax administrator of any municipal corporation that levies an income tax within the project site and the surrounding area. The Tax Commissioner and such tax administrators must provide the Authority with any information that is necessary to determine the increase in tax collections. The Authority must issue a tax credit certificate to each applicant, or to any persons to whom such an applicant sold or transferred the rights to the credit. The value of the credit using the standard method is the lesser of (1) 10% of the actual project development costs (or 10% of an insurance company's actual capital contribution), (2) 5% of those costs plus any amount by which the increase in tax collections exceeds 5% of the development costs, or (3) the estimated credit amount that was preliminarily approved.

The amount of development costs or capital contributions for which a tax credit may be claimed is subject to inspection and examination by the Superintendent of Insurance. The bill requires the Authority to certify to the Superintendent the name of the applicant, whether the applicant is the property owner or an insurance company that contributed capital to the development, the name of each person to which a tax credit certificate was issued, the actual amount of development costs attributed to the project, the credit amount shown on each tax credit certificate, and any other information required by the rules adopted under this bill.

The Authority is required to publish certain information about each transformational mixed-use development on the DSA website by August 1 following certification of the project and update the published information annually until the project is complete and the credit or credits are fully claimed. The Director of DSA is required to adopt certain rules related to the transformational investment tax credit program and any other rules necessary to implement and administer the bill's requirements. The bill specifies deadlines related to such rules.

## **Fiscal effect**

The bill would reduce revenue from the state foreign and domestic insurance premiums taxes. Revenue from these taxes is deposited into the GRF. The amount of revenue loss would depend on the number of approved projects, contributions to those projects, and the size of taxpayers' liabilities. The aggregate revenue losses for all projects approved during each of FYs 2021, 2022, and 2023 is limited to \$100 million per fiscal year, but time lags involved in completing projects and administering the program imply that there likely would be no revenue losses in FY 2021, and potential losses resulting from the bill may start in FY 2022. Under the terms of the bill, each approved project could result in revenue losses of \$40 million, though the per-project amount could be less if the "increase in tax collections" was less than expected or if actual project costs were less than expected. Because the credit is nonrefundable, the loss is limited by

each taxpayer's tax liability. The revenue loss from a credit may be spread over up to six fiscal years, the initial year it is claimed and up to five subsequent years.

Under current law, the Local Government Fund (LGF) and Public Library Fund (PLF) would each receive transfers of 1.66% of GRF tax revenue starting in FY 2022, meaning that they will each bear a portion of the revenue loss: about \$1.7 million for each fund for \$100 million worth of tax credits per year. Any reduction to the LGF would reduce allocations to counties, municipalities, townships, and other local government entities. Any reductions to the PLF would decrease allocations to public libraries.

The bill would increase DSA's administrative costs to assist the Authority in certifying transformational mixed-use development projects and administering application and approval processes for awarding tax credits related to such projects. Any increase in such costs may be paid from line item 195649, Business Assistance Programs (Fund 4510); operating costs of the Office of Strategic Business Investments of DSA are currently funded by this line item.<sup>6</sup> The bill may increase the Department of Insurance's administrative costs related to inspections and examinations associated with such tax credits. Any increase in such costs may be paid from the Department of Insurance Operating Fund (Fund 5540).<sup>7</sup> The bill may increase costs for the Department of Taxation and for municipal income tax administrators to research the amount of increase in tax collections that may be due to a project.

## **Tax credit for campaign contributions**

The bill authorizes taxpayers to claim a nonrefundable credit for contributions of money made to the campaign committee of candidates for (1) statewide public offices and (2) the General Assembly against the state personal income tax (PIT). The amount of the credit for a taxable year is limited to the lesser of \$50 in the case of an individual return or \$100 in the case of a joint return. The credit is authorized for taxable years beginning on or after January 1, 2020. The bill declares an emergency to allow taxpayers to claim the campaign contribution tax credit for 2020 contributions to candidates for statewide office.

### **Fiscal effect**

According to the Tax Expenditure Report published in conjunction with the executive operating budget proposal, the credit would reduce the GRF share of PIT receipts by about \$3.2 million in FY 2021; similar revenue losses would continue in subsequent fiscal years. In FY 2021 and subsequently, revenue losses to the LGF and PLF would amount to roughly \$55,000 (each) per year. As noted above, any reduction to the LGF would reduce allocations to counties, municipalities, townships, and other local government entities. Any reductions to the PLF would decrease allocations to public libraries.

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<sup>6</sup> Line item 195649 is used to pay for administrative expenses associated with the operation of various loan programs offered by DSA and overseen by the Office of Strategic Business Investments. Fund 4510 is funded by loan commitment fees and Facilities Establishment Fund reimbursements approved by the Controlling Board; application fees and penalties are collected through tax credit programs.

<sup>7</sup> Fund 5540 receives funding primarily from fees paid by insurance agents and by insurance companies.

## **Commercial real estate broker liens**

The bill modifies the law governing commercial real estate broker liens. This provision has no direct fiscal effect on the state and local governments.



# OHIO LEGISLATIVE SERVICE COMMISSION

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Office

**S.B. 252**  
**133<sup>rd</sup> General Assembly**

## **Fiscal Note & Local Impact Statement**

[Click here for S.B. 252's Bill Analysis](#)

**Version:** As Enacted

**Primary Sponsors:** Sens. Hackett and Craig

**Local Impact Statement Procedure Required:** Yes

Ruhaiza Ridzwan, Senior Economist

### **Highlights**

- The bill may minimally increase the Department of Insurance's administrative costs related to regulating health insurers. Any increase in the Department's administrative costs would be paid from the Department of Insurance Operating Fund (Fund 5540).<sup>1</sup>
- The bill specifies that a health plan issuer that fails to comply with the bill's requirements is deemed to have engaged in an unfair and deceptive act or practice in the business of insurance, which carries civil penalties. Any revenue from the penalties, which would depend on health plan issuers' compliance with the requirements, would be deposited into Fund 5540 and be used to offset departmental administrative costs.
- The bill's requirements for health plan issuers are likely to increase costs to the state and local governments to provide health benefits to their employees and beneficiaries. LBO does not have an estimate of the magnitude of any such cost increases.

### **Detailed Analysis**

The bill prohibits a health plan issuer that covers the treatment of stage four advanced metastatic cancer from making coverage of a drug that is prescribed to treat such cancer or associated conditions dependent upon a covered person demonstrating either a failure to successfully respond to a different drug or a history of failing to respond to a different drug or

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<sup>1</sup> Revenue to Fund 5540 comes from various fees imposed on insurance companies, primarily insurance agent license fees and agent appointment fees.



drugs. The bill specifies that the prohibition applies only to uses of a drug that is (1) approved by the U.S. Food and Drug Administration to treat such cancers, (2) described in the national comprehensive cancer network drugs and biologics compendium for such treatment, or (3) consistent with the best practices for the treatment of stage four advanced metastatic cancer, as supported by peer-reviewed medical literature.

The bill specifies that a health plan issuer that fails to comply with this requirement is deemed to have engaged in an unfair and deceptive act or practice in the business of insurance and is subject to sections 3901.19 to 3901.26 of the Revised Code.

The bill includes provisions that exempt its requirements from the current restriction on mandated benefits. Under current law, no mandated health benefits legislation enacted by the General Assembly may be applied to sickness and accident or other health 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 applies to sickness and accident insurers, health insuring corporations, fraternal benefit societies, multiple employer welfare arrangements, and public employee benefit plans.

## **Fiscal effect**

The bill's prohibition is likely to increase utilization of more expensive prescription drugs for such cancer patients, thus increasing costs to the state and local governments to provide health benefits to employees and their dependents. In general, "fail first" drug coverage is used as a tool to manage prescription costs by health plan issuers. Treatment options for a metastatic cancer involve various types of drugs, some of which are very expensive.<sup>2</sup> For example, according to GoodRx, the prices for some medications that are used to treat advanced breast cancer range between \$47 for Megace and about \$5,600 for Tykerb.<sup>3</sup> The costs of state self-insured health benefit plans are currently paid out of the State Employee Health Benefit Fund (Fund 8080); funding for Fund 8080 is derived from GRF and non-GRF revenues. LBO staff is unable to quantify the magnitude of the bill's fiscal impact on local governments due to lack of information on the specific prescription benefits offered under their employee health benefit plans. If some of the local government plans already comply with the bill's prohibition those plans would experience no fiscal impact associated with this bill.

The bill may minimally increase the Department of Insurance's administrative costs for regulating health insurers. Any increase in the Department's administrative costs would be paid from the Department of Insurance Operating Fund (Fund 5540). In addition, any civil penalties that may arise from health issuers' failure to comply with the bill's requirements would be deposited into Fund 5540 and be used to offset such costs. Under continuing law, the

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<sup>2</sup> Source: Breast Cancer Treatment (Adult) (PDQ®)—Patient Version, available at the National Cancer Institute website ([https://www.cancer.gov/types/breast/patient/breast-treatment-pdq#\\_515\\_toc](https://www.cancer.gov/types/breast/patient/breast-treatment-pdq#_515_toc)).

<sup>3</sup> Source: GoodRx Breast Cancer Medications at: <https://www.goodrx.com/breast-cancer/drugs>.

Superintendent of Insurance may impose a penalty of up to \$3,500 per violation (i.e., for each unfair or deceptive act or practice in the business of insurance) but no more than \$35,000 in any six-month period, a penalty of not more than \$10,000 for a violation of a cease and desist order, or an assessment of one-half of the expenses incurred by the Superintendent to conduct any investigations and hearings related to alleged violations, up to \$100,000.

## Appendix

### All House Bills Enacted in 2020

House Bill	LIS Required?	Subject
<b>1</b>	Yes	Modifies intervention in of lieu of conviction and sealing requirements
<b>7</b>	No	Creates water quality protection and preservation programs
<b>8</b>	No	Modifies foster caregiver training
<b>11</b>	No	Revises tobacco cessation and prenatal initiatives and makes an appropriation
<b>16</b>	No	Grants state college residency to military personnel and dependents
<b>17</b>	No	Enhances the homestead exemption for a spouse of a killed safety officer
<b>18</b>	Yes	Exempts veterans disability severance pay from the state income tax
<b>24</b>	No	Revises humane society laws
<b>32</b>	No	Provides a ceremonial procedure for retiring the state flag
<b>33</b>	No	Establishes animal abuse reporting requirements
<b>65</b>	No	Modifies the requirements of parental notice of serious risks to the health and safety of children receiving childcare and makes other changes
<b>66</b>	No	Enacts the Theft Victim's Restitution Act
<b>67</b>	No	Grants veterinary education credits for providing spay and neutering services
<b>81</b>	No	Modifies the law pertaining to employee medical examinations and makes other changes to the Workers' Compensation Law
<b>123</b>	Yes	Enacts the Safety and Violence Education Students (SAVE Students) Act
<b>129</b>	No	Permits the wearing of hearing protection while riding a motorcycle
<b>136</b>	Yes	Prohibits the death penalty if the person is mentally ill at the time of the offense
<b>150</b>	Yes	Reduces taxes on new banks and mortgage lenders
<b>151</b>	No	Modifies the chiropractor loan/repayment program
<b>158</b>	No	Waives the fee for indigent persons petitioning for limited driving privileges
<b>160</b>	No	Revises the law pertaining to the sale of alcoholic ice cream

House Bill	LIS Required?	Subject
<b>164</b>	No	Modifies the law pertaining to student religious expression and makes other Education Law-related changes for the 2020-2021 school year
<b>168</b>	No	Establishes an affirmative defense to the release or threatened release of hazardous substances from a facility
<b>197</b>	No	Makes technical and corrective changes to the Tax Law and provides measures for recovery from the COVID-19 pandemic
<b>203</b>	No	Specifies the requirements for mobile dental facility operations
<b>210</b>	No	Modifies the procedures pertaining to the screening for tuberculosis for childcare and preschool employees
<b>211</b>	No	Revises the law for obtaining a title to watercraft or outboard motors left on a property
<b>230</b>	No	Designates the month of May as “Brain Cancer Awareness Month”
<b>231</b>	No	Enacts the Allison Rose Suhy Act regarding food allergy training
<b>242</b>	Yes	Authorizes the use of auxiliary containers
<b>263</b>	No	Revises occupational licensing requirements for former criminals
<b>264</b>	No	Allows for the refinancing of loans for public water and wastewater infrastructure projects and declares an emergency
<b>272</b>	No	Expands court jurisdiction to any constitutional basis
<b>276</b>	No	Designate SEAL Edwards J. Byers Jr., Medal of Honor Recipient Highway
<b>285</b>	No	Establishes the Driver’s License Reinstatement Fee Debt Reduction Program
<b>287</b>	No	Modifies Medicaid home and community-based waiver services for relatives of active duty military
<b>295</b>	No	Establishes requirements for low-speed electric scooters
<b>308</b>	Yes	Modifies Workers’ Compensation and disability retirements for PTSD
<b>312</b>	No	Permits certain intrastate equity crowdfunding
<b>325</b>	No	Designates February 18 as “Toni Morrison Day”
<b>339</b>	No	Enacts the Insurance Code Correction Act

House Bill	LIS Required?	Subject
<b>340</b>	Yes	Revises Ohio Drainage Law
<b>341</b>	No	Modifies provisions regarding the administration of addiction treatment drugs, the sale of certain drugs at wholesale, and naloxone access and education
<b>352</b>	No	Modifies civil rights laws regarding employment
<b>364</b>	No	Designates February 13 as “Aortic Aneurysm Awareness Day”
<b>388</b>	Yes	Revises the law pertaining to out-of-network care
<b>404</b>	No	Allows state university trustees to attend meetings electronically
<b>405</b>	No	Creates the Adoption Linked Deposit Program
<b>409</b>	No	Revises the requirements related to attendance at computer-based community schools
<b>412</b>	No	Establishes the Rare Disease Advisory Council
<b>431</b>	No	Creates the Sexual Exploitation Database
<b>436</b>	Yes	Modifies screening and intervention for children with dyslexia
<b>442</b>	No	Modifies the requirements for certified public accountants
<b>444</b>	No	Makes revisions to the Township Law
<b>450</b>	Yes	Modifies procedures for the transition of duties of fiscal officers and treasurers
<b>473</b>	No	Permits the State Motto to be used alongside the State Seal
<b>481</b>	No	Authorizes the conveyance of state-owned property
<b>606</b>	No	Grants immunity to essential employees who transmit COVID-19
<b>614</b>	No	Requires a study and reform of the Ohio Unemployment Compensation System
<b>665</b>	Yes	Modifies laws regarding agricultural societies and amusement ride safety
<b>669</b>	No	Expands the definition of premises and sales for liquor permits
<b>674</b>	Yes	Revises various liquor laws

## All Senate Bills Enacted in 2020

Senate Bill	LIS Required?	Subject
<b>4</b>	No	Makes capital appropriations for school facilities assistance and public works and makes other changes
<b>9</b>	No	Requires health plan issuers to release certain claim information to group plan policy holders
<b>10</b>	No	Expands the penalty for theft in office and restitution for audit costs
<b>21</b>	No	Allows corporations to become benefit corporations
<b>27</b>	No	Imposes requirements on the final disposition of fetal remains from surgical abortion
<b>33</b>	No	Modifies criminal and civil laws for critical infrastructure damage
<b>39</b>	Yes	Authorizes insurance premium tax credits for certain capital contributions to transformational mixed-use development projects, makes other changes, and declares an emergency
<b>40</b>	No	Enacts the Forming Open and Robust University Minds Act
<b>55</b>	No	Enhances the penalty for drug offenses near addiction services providers
<b>68</b>	No	Allows for community service in lieu of driver's license reinstatement fees
<b>89</b>	No	Modifies the law related to career-technical education and compensation, joint vocational school districts located in enterprise zones, makes changes to STEM report cards, and revises the eligibility for EdChoice scholarships
<b>120</b>	No	Authorizes the Auditor of State to conduct performance audits of all state institutions of higher education
<b>123</b>	No	Designates Dunkleosteus Terelli as the state fossil fish
<b>140</b>	No	Permits concealed carry of nonweapon knives and revises the Weapons Law
<b>163</b>	No	Creates the ALS Awareness license plate
<b>175</b>	No	Grants civil immunity to nonprofit corporations for certain injuries, deaths, or losses resulting from the carrying of handguns and revises the duty to retreat provisions of the law

Senate Bill	LIS Required?	Subject
<b>178</b>	No	Allows a podiatrist to administer a flu vaccine
<b>201</b>	No	Creates alternate employer organizations
<b>252</b>	Yes	Prohibits “fail first” coverage of drugs used to treat stage four metastatic cancer
<b>256</b>	No	Modifies various sentencing guidelines with respect to offenders under the age of 18
<b>259</b>	No	Authorizes the conveyance of state-owned real property
<b>260</b>	No	Modifies provisions regarding abortion-inducing drugs
<b>263</b>	No	Prohibits pharmacy benefit managers from taking certain actions with respect to reimbursements made to providers participating in the 340B Drug Pricing Program
<b>276</b>	No	Enacts the Ohio Revised Limited Liability Company Act
<b>284</b>	No	Revises the law pertaining to insurers receiving credit for reinsurance and mental health and substance abuse parity
<b>310*</b>	No	Makes capital appropriations for the FY 2021-FY 2022 capital biennium and provides federal COVID-19 funding to political subdivisions
<b>311</b>	No	Limits the Director of Health’s order issuing authority
<b>312</b>	No	Creates the Hardin County Court of Common Pleas Domestic Relations Division
<b>318</b>	No	Extends the Women’s Suffrage Centennial Commission
<b>331</b>	No	Implements the recommendations of the Sunset Review Committee
<b>375**</b>	No	voids the Director of Health’s order related to county fairs

\*Not required for budget bills

\*\*Vetoed by the Governor